

PENRITH CITY COUNCIL

MAJOR ASSESSMENT REPORT

Application number:	DA19/0886
Proposed development:	Construction of Single Storey Child Care Centre for 96 Children, At-Grade Parking for 30 Vehicles, Remediation Works & On-Site Sewage Management System
Property address:	110 - 112 Mt Vernon Road, MOUNT VERNON NSW 2178
Property description:	Lot 4 DP 865818
Date received:	18 December 2019
Assessing officer	Lauren Van Etten
Zoning:	SEPP WSA - Affected by Obstacle Limitation SEPP WSA - Affected by Wildlife Buffer Zone E4 Environmental Living - LEP 2010
Class of building:	Class 9b
Recommendations:	Approve

Executive Summary

Council is in receipt of a development application for the construction of a child care centre at 110 - 112 Mt Vernon Road, Mount Vernon. The subject site is zoned E4 Environmental Living under the provisions of Penrith Local Environmental Plan 2010. The proposal is a permissible land use in the E4 zone with consent.

Key issues of concern initially identified for the proposed development included:

- Incompatibility with the established rural area due to setbacks and solid acoustic fences;
- Inadequate landscaped setbacks and inappropriate species given the on-site sewage management (OSSM) area restrictions on planting;
- Non-compliance with Council's OSSM and Greywater Reuse Policy;
- Inadequate information regarding acoustic impacts;
- Insufficient detail regarding the management of stormwater quality and quantity;
- Safety concerns with the revised stormwater plan within the outdoor play area;
- Insufficient detail regarding biodiversity categorisation;
- Insufficient traffic modelling relative to road capacity limits; and
- Strong public opposition to the proposed development with matters raised including amenity impacts, flooding impacts, on-site sewage management detail, noise, construction and traffic impacts and incompatibility with the surrounding locality.

Between March and November 2020, four requests for information were sent, meetings were held and amended plans were considered. The proposal was amended to satisfactorily address the preceding concerns, specifically including the following measures:

- The building front setback increased from 25m to 35m;
- The landscaped front setback increased from 5m to 15m to soften and screen the proposal as viewed from Mt Vernon Road;
- The car park reduced from 32 spaces to 30 spaces to widen side landscape setbacks;
- The side setback and acoustic fence setback increased from 3m to 5m alongside the building and towards the rear;
- The side setback increased from 1m to 3m forward of the building line along the eastern boundary;
- The acoustic fence height reduced from 2.4m to 1.8m forward of the building line with a 3m landscaped side setback;
- Amended acoustic, traffic and contamination reports were submitted;
- An alternative stormwater solution was provided, replacing the absorption pit with a level spreader;
- Updated architectural plans and stormwater plans were submitted reflecting all changes and including a gazebo plan with the OSD underneath;
- A Biodiversity Development Assessment Report was provided;
- An alternative OSSM system was proposed and associated report provided; and
- An amended landscape plan responded to the alternative OSSM system design.

The application was notified and advertised in accordance with Penrith Development Control Plan 2014, publicly exhibited from 17/01/20 to 26/02/20 and re-exhibited from 25/05/20 to 08/06/20. Council received 24 submissions in response, 10 of which were unique.

As the development application is the subject of 10 unique submissions by way of objection, the development application is to be determined by the Penrith Local Planning Panel as per the Local Planning Panels Direction issued by the Minister for Planning under Section 9.1 of the Environmental Planning and Assessment Act 1979.

An assessment under Section 4.15 of the Environmental Planning and Assessment Act 1979 has been undertaken and the application is recommended for approval, subject to recommended conditions.

Site & Surrounds

The subject site is situated on the northern side of Mt Vernon Road in Mount Vernon and is surrounded by E4 Environmental Living zoned properties occupied by detached dwellings. The M4 Motorway is approximately 3km to the east and Elizabeth Drive and Mamre Road are approximately 2km to the south. Approximately 500m to the north-west lies the Western Sydney Employment Area zoned industrial under the SEPP (WSEA) and 600m south-west lies part of the Wianamatta South Creek Catchment that is zoned Environment and Recreation under the Aerotropolis SEPP.

The site is rectangular in shape with a 61.7m frontage and a depth up to 164m. The site is 1.03ha in area, is orientated in a north/south direction and has a cross site slope of up to 2m to the western boundary. There is an access easement adjoining the western boundary of the site which allows access to the lots behind the site.

The surrounding area is predominantly characterised by rural-residential development having residential buildings mostly built on 1 hectare allotments. The existing streetscape is generally defined by pockets of native vegetation, sporadic manicured gardens, 15m+ building setbacks and a combination of older and modern style single and two storey dwelling houses. There are no pedestrian pathways, nor kerb and gutters.

The subject site was previously occupied by a dwelling house, associated structures and several trees (at least 20). Council recently approved a development application (DA17/1331) for a dwelling house, attached secondary dwelling and swimming pool however this consent has been surrendered. From aerial images and Council's records, it appears that vegetation was cleared in accordance with this consent prior to its surrender and further unauthorised clearing was thereafter undertaken in October 2018. Council also approved DA18/0459 for demolition which has been undertaken. The site is now occupied by grassland.

Proposal

The proposed development involves:

- Construction of a single storey child care centre (798m²), verandah (207.8m²) and gazebo (128m²).
- Hours of operation from 7:00am to 6:00pm, Monday to Friday.
- Provision for 96 children with the occupancy rate of each age group as follows:
 - 0-2 years: 16 children;
 - 2-3 years: 20 children; and
 - 3-6 years: 60 children.
- Construction of an at grade car park to accommodate 30 car spaces (including 2 accessible spaces).
- The car park is to be accessed from Mt Vernon Road via a one-way entry and one-way exit driveway (5.4m and 6.4m respectively).
- The width of the driveways is to accommodate splays that enable medium rigid vehicle waste and emergency vehicle movements.
- Provision of a bus space and waste collection space within the car park.
- The centre will provide a minibus which has a capacity for 22 children (plus 1 driver and 1 adult supervisor) and undertake 1 trip in the AM and PM peak periods.
- Remediation works to remove isolated areas of asbestos contamination within the subject site.
- Minor earthworks with the construction of an on-site sewage management system that is to be located within the front setback.
- Fascia signage (3m x 0.5m in height) along the southern facade.
- Associated landscaping to enhance on-site amenity, mitigate stormwater runoff and integrate with the rural landscaped setting.
- An acoustic fence varying in height from 1.8m forward of the building line to 2.4m behind the building line along the side and rear of the outdoor play areas.
- The acoustic fence is to be made of 16mm thick plywood mounted on 9mm thick fibre cement sheet or similar with all gaps sealed.
- Regarding the staff, it is noted that 14 staff are required as per the *Education and Care Services National Regulations*, Part 4.4, Clause 123.
- The additional 5 staff proposed include 1 director/nominated supervisor, 1 administration staffer, 2 educator floaters to cover staff meal breaks and 1 cook.

Education and Care Services National Regulations

It is noted that the proposed 14 staff is based on the requirements of the Regulations, more specifically as detailed in Part 4.4, Clause 123:

- (a) for children from birth to 24 months of age—1 educator to 4 children; (therefore 4 staff are required for the 16 children proposed);
- (b) for children over 24 months and less than 36 months of age—1 educator to 5 children; (therefore 4 staff are required for 20 children proposed);
- (c) for children aged 36 months of age or over (not including children over preschool age)—1 educator to 11 children; (6 staff are required for the 60 children proposed); and
- (d) for children over preschool age, 1 educator to 15 children.

Background

A pre-lodgement meeting was held on 27 November 2018. Key issues discussed related to site coverage, acoustics, wastewater management, stormwater drainage and traffic impacts.

It is also noted that an application was previously lodged for a child care centre and then withdrawn (DA19/0343) given issues with rural character compatibility (stemming from 2.4m high boundary fences, an inconsistent front setback and excessive site coverage) along with inadequate information being provided regarding wastewater management, contamination, water sensitive urban design, waste management, parking, access and circulation and public health matters.

Plans that apply

- Local Environmental Plan 2010 (Amendment 4)
- Development Control Plan 2014
- State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017
- State Environmental Planning Policy (Western Sydney Aerotropolis) 2020
- State Environmental Planning Policy No 55—Remediation of Land
- State Environmental Planning Policy No 64—Advertising and Signage
- Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

Planning Assessment

- **Section 1.7 - Application of Part 7 of Biodiversity Conservation Act 2016**

In accordance with Clause 1.7, this Act has effect subject to the provisions of Part 7 of the Biodiversity Conservation Act 2016 which contains additional requirements with respect to assessments, consents and approvals under this Act.

In accordance with Section 7.2 of the Biodiversity Conservation Act 2016 (BC Act), an activity is likely to significantly affect threatened species if it is carried out in an area of outstanding biodiversity value. The subject site is within an area of outstanding biodiversity value and subsequently the proposal required a biodiversity development assessment report (BDAR) as per Section 7.7 of the BC Act. Council requested this report throughout the assessment process given the nature of the groundcover had not been identified within the supporting documentation, nor had this Act been addressed. Under the Local Land Services Act, Section 60B, which the BC Act references, native vegetation includes groundcover. It is also noted the site was cleared of trees within 2018 without consent.

The BDAR, prepared by Anderson Environment and Planning and dated 26 October 2020, indicates the plant community types within the subject site are indicative (albeit in a degraded state) of PCT849 Cumberland Shale Plains Woodland and PCT850 Cumberland Shale Hills Woodland, the latter associated more closely with the rear of the property untouched by this proposal.

Given the low vegetation integrity score outlined in the BDAR, no credits have been generated. However, the report's assessment of direct impact on the remaining native vegetation, and indirect/prescribed impacts on biodiversity values defined under the Biodiversity Conservation Act 2016 and Regulation 2018, does not fully consider the impacts of the proposed development, particularly relative to the Cumberland Plain Recovery Plan and biodiversity values for connectivity and species movement.

While it is acknowledged that landscape plans will in part cater for species that are tolerant of this development, the required fencing will further contribute limitations to the species that will be able to make use of these resources/move through the site. The suggestion that the development will not increase vehicle strike risk cannot be supported. While no threatened fauna species were identified making use of the resources during the field survey, the BDAR indicates a variety of threatened species that have been identified within range of the site.

Therefore, the clearing of the degraded native vegetation is satisfactory on the condition that mitigation efforts be applied to the unused portion of the site (at the rear of the property), with respect to the full range of current biodiversity values afforded by the site and its potential in relation to the relevant Recovery Plan.

A vegetation management plan to achieve ecological restoration at the rear of the property has therefore been recommended as a consent condition. This is in addition to fauna management requirements.

- **Section 4.15 - Evaluation**

The proposed development has been assessed in accordance with the matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979, and having regard to those matters, the following issues have been identified for further consideration.

- **Section 7.12 - Developer Contributions**

The site and proposal are subject to Penrith City Council's City-Wide Section 7.12 Development Contributions Plan for Non-Residential Development. Based on the applicable rate under this Development Contributions Plan, the following development contribution applies to the proposal:

$$1\% \times \$3,346,084.70 \text{ (cost of construction works)} = \$33,461.00$$

A condition of consent requiring the payment of this development contribution, prior to the issue of a Construction Certificate, has been recommended.

Section 4.15(1)(a)(i) The provisions of any environmental planning instrument

State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017

An assessment against the relevant criteria under State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 has been undertaken and a detailed discussion is provided below.

- **Clause 22 Centre-based child care facility—concurrence of Regulatory Authority required for certain development**
The proposal complies with regulation 107 (indoor unencumbered space requirements) of the Education and Care Services National Regulations. The proposal also complies with the outdoor space requirements under regulation 108 (outdoor unencumbered space requirements). The proposal provides 344m² of indoor unencumbered space (309m² is required) and provides 1540m² of unencumbered outdoor space (665m² is required). Accordingly, in this instance, Clause 22 does not apply to the proposal and concurrence of the Regulatory Authority is not required.
- **Clause 23 Centre-based child care facility—matters for consideration by consent authorities**
Clause 23 requires that before determining a development application for development for the purpose of a centre-based child care facility, the consent authority must take into consideration any applicable provisions of the Child Care Planning Guideline. An assessment was undertaken against the provisions of the Child Care Planning Guideline dated August 2017, and details are summarised below.

Child Care Planning Guideline (August 2017)		
Section	Objectives	Proposal

3.1 Site Selection and Location	<ul style="list-style-type: none"> <i>To ensure that appropriate zone considerations are assessed when selecting a site.</i> <i>To ensure that the site selected for a proposed child care facility is suitable for the use.</i> <i>To ensure that sites for child care facilities are appropriately located.</i> <i>To ensure that sites for child care facilities do not incur risks from environmental, health or safety hazards.</i> 	<ul style="list-style-type: none"> The proposed use is a permitted land use in the E4 zone with consent. The site is considered suitable for the development for the reasons outlined below. The site is not identified as being affected by flooding, land slip, bushfire or other environmental hazards and is safe and healthy for children. The site is not located along a major collector road. The site is located in proximity to Kemps Creek School (4.9km), Bill Anderson Reserve (4km), Plough and Harrow Park (5.8km) and Cecil Hills neighbourhood shops (7km). Bus routes including the 813 route are serviced by a bus stop 300m from the subject site. While there is no pedestrian connectivity to local community businesses, shops, services or the like given the rural nature of the area, the centre will provide a minibus as part of the proposal. While the area is rural-residential area, it is noted it is nearby several precincts that have been rezoned via the SEPP Aerotropolis, which will incorporate expansive parklands and blue corridors that the child care centre will be in proximity to in the future. The site, which has an area of 1.033 hectares is of a sufficient size and width to accommodate the proposed centre-based child care facility. The application has demonstrated that the site is suitable in respect to environmental impacts, specifically acoustic, privacy and traffic impacts, and does not incur risks from environmental hazards (i.e. contamination will be subject to remediation).
3.2 Local Character, Streetscape and the Public Domain Interface	<ul style="list-style-type: none"> <i>To ensure that the child care facility is compatible with the local character and surrounding streetscape.</i> <i>To ensure clear delineation between the child care facility and public spaces.</i> <i>To ensure front fences and retaining walls respond to and complement the context and character of the area and do not dominate the public domain.</i> 	<ul style="list-style-type: none"> The surrounding area is characterised by rural-residential development and dwellings surrounded by and integrated into a landscape setting, with open style fencing, generous setbacks and limited built forms and hardstand areas. The proposal provides an appropriate design response within the E4 Environmental Living zone, and contributes to the local area by being designed in character with the locality and existing streetscape. A combination of materials, finishes and architectural features are proposed that reflect the residential dwellings in the area - i.e. the use of non-reflective materials, earthy tones, timber cladding, timber deck and a stone feature wall as an entry focal point. While a 798m² footprint, excluding the verandah and gazebo, is larger than the neighbouring dwellings, further afield there are dwellings of comparable sizes and there are dwellings that are two storeys. The proposed footprint occupies less than 10% of the site area as a whole. The proposal provides a 35m front setback, substantially behind the buildings on adjacent properties which are setback 18m and 19m respectively. The proposed rear setback of 65m is consistent with the surrounding development. It is noted that the acoustic fence along the northern side of the play area is not screened as viewed from properties to the northern rear. A recommended condition will require

landscape screening along the northern side of the acoustic fence to ensure its scale is integrated into the landscaped setting, as the fences are along the eastern and western sides of the play area.

- The proposed 15m x 38m landscaped area within the front setback results in appropriate opportunities for landscaping.
- Clear delineation between the child care facility and the street is provided through the landscaped verge, along with a clear access path from the parking area to the legible entry.
- While the parking area is forward of the proposed building, this location remains predominantly behind the established building line on adjoining properties and is substantially landscaped, to integrate the car park with the surrounding area.
- While there are 2 driveways proposed, they facilitate one way movement with one for ingress and one for egress. Given the efficiencies of this dual driveway arrangement and the 43m distance between them, the impact of these driveways on the streetscape character is negligible.
- No front boundary fence is proposed, consistent with the open style fencing typical in rural areas, while allowing for surveillance of the street. The existing rural fence along the side boundaries will be retained in keeping with the character of the area.
- An acoustic fence which is solid is also proposed within the site. The design was amended, as Council requested, to increase the front and side setback in order to provide greater landscaped areas to integrate the development into the landscape context and soften the necessary solid acoustic walls.

3.3 Building Orientation, Envelope and Design

- *To respond to the streetscape, while optimising solar access and opportunities for shade.*
- *To ensure that the scale is compatible with adjoining development and the impact on adjoining buildings is minimised.*
- *To ensure that setbacks from the boundary are consistent with the predominant development within the immediate context.*
- *To ensure that the built form, articulation and scale of development relates to its context and buildings are well designed to contribute to an area's character.*
- *To ensure that child care facilities are designed to be accessible by all potential users;*
- *To ensure that buildings are designed to create safe environments for all users.*

- The built form responds to the predominant built form, height and landscaped setbacks in the area to respond to the streetscape quality.
- The proposal responds to the site with minimal cut and fill and sensitive design to minimise overshadowing to the neighbouring residential properties. The facility is flush with natural ground level along the southern and eastern sides, as viewed from the streetscape to provide access from the parking area.
- Within a portion of the rear of the centre and associated gazebo, the level difference reaches 1.5m although there is no fill proposed but rather a pier and beam construction. Given the built form is one storey, setback from the western boundary by 7m-10m, buffered by proposed landscaping and adjoins a right of way, the visual impacts of this form as viewed from the closest (western) neighbouring property are considered negligible.
- The proposed landscaped setbacks within the front portion of the lot provide appropriate separation to the streetscape.
- The proposed tree species are likely to result in shade opportunities and 45% of the required rear outdoor play area is covered (33m²).
- The facility is oriented to the north, including the external play area, to maximise solar access and orient the development away from the residential neighbours and towards the extensive rear setback. In addition, the varying ceiling height also improves natural light relative to the depth of the play rooms.
- Play areas are located 5m away from common boundaries, buffered by fencing and landscaping.
- The side setbacks provide adequate access for building maintenance. These setbacks were widened as requested by Council to 3m-5m to allow room for planting and access for maintenance.
- Entry is limited to one secure point which is directly accessible from the parking area and visible from the street frontage.
- Subject to the recommendations within the submitted Access Report, the design will be accessible by all potential users. It is noted that a condition of consent is recommended to ensure that the Access Report is updated to reflect the amended plans.

3.4 Landscaping	<ul style="list-style-type: none"> • <i>To provide landscape design that contributes to streetscape and amenity.</i> 	<ul style="list-style-type: none"> • The proposal provides a 15m setback of landscaping along the front boundary. • Four canopy trees are included within the front setback that will reach a mature height of 10m-20m to soften the built form and contribute to the streetscape and 10 acacia implexa trees are also proposed therein, which will reach 3m-8m in height. • Shrubs that are unlikely to grow have been removed, as have inappropriate species within the effluent management area. • It is noted that no species have been proposed which are detrimental to children with allergies. • Water tolerant species are proposed across the site. • In considering the existing streetscape and future desired character, this landscaping is sufficient to screen the proposal and improve the amenity of the site via high quality landscaping that incorporates local vegetation.
3.5 Visual and Acoustic Privacy	<ul style="list-style-type: none"> • <i>To protect the privacy and security of children attending the facility.</i> • <i>To minimise impacts on privacy of adjoining properties.</i> • <i>To minimise the impact of child care facilities on the acoustic privacy of neighbouring residential developments.</i> 	<ul style="list-style-type: none"> • The proposed development has been designed to minimise direct overlooking of indoor rooms and outdoor play spaces from public areas via appropriate site and building layout and the use of fencing and landscape works as a buffer to side boundaries. • The increased front setback also ensures both the indoor and outdoor play areas are not directly opposite the neighbouring dwellings. The outdoor play area in particular is distanced further from neighbouring dwellings and their principal private open spaces in the amended layout. • The operational management mechanisms within the submitted Acoustic Report will further manage outdoor play times and the number of children accessing outdoor areas at any one time to minimise acoustic impact to neighbouring properties. • The development proposes acoustic fencing around the perimeter of the play area to minimise acoustic impacts to neighbouring properties as well as other operational management mechanisms as recommended in the Acoustic Report.
3.6 Noise and Air Pollution	<ul style="list-style-type: none"> • <i>To adopt design solutions to minimise the impacts of noise on the children.</i> • <i>To ensure that outside noise levels of the facility are minimised to acceptable levels.</i> 	<ul style="list-style-type: none"> • The subject site is not located near major roads, rail lines or other noisy environments. • The future impacts of the airport were considered in the Acoustic Report. • Appropriate design measures have been undertaken including appropriate setbacks, use of landscaping and acoustic fencing to minimise acoustic impacts on neighbouring properties. • The site is not located close to any major roads or industrial areas and is therefore not exposed to major sources of air pollution. • Refer to the Appendix of this report to see further discussion regarding the Acoustic Report that was provided and the noise attenuation measures proposed. Council's Environmental Management Officer reviewed the amended Acoustic Report and found it satisfactory subject to recommended consent conditions.

3.7 Hours of Operation	<ul style="list-style-type: none"> Hours of operation within areas where the predominant land use is residential should be confined to the core hours of 7.00am to 7.00pm weekdays. 	<ul style="list-style-type: none"> Proposed operating hours are considered appropriate as they are 7:00am to 6:00pm, Monday to Friday, as per the Acoustic Report.
3.8 Traffic, Parking and Pedestrian Circulation	<ul style="list-style-type: none"> To provide parking that satisfies the needs of users and demand generated by the centre. To provide vehicle access from the street in a safe environment that does not disrupt traffic flows. To provide a safe and connected environment for pedestrians both on and around the site. 	<ul style="list-style-type: none"> Under Penrith Development Control Plan 2014, child care centres are required to provide 1 car space per 10 children, plus 1 car space per employee. The development proposes to employ 19 individuals and provide for 96 children requiring 29 car spaces to be provided on site. The proposal complies with this requirement with 30 parking bays (19 staff and 11 visitor bays) being provided. A separate pedestrian access path was proposed from the street to the main entry. However, Council's Development Engineer noted that vehicles may be encouraged to park on the verge area which is a safety hazard to motorists and pedestrians and is not supported in rural areas. To discourage cars parking on the verge area within the road reserve, the path that leads from the car park to the front boundary was removed at Council's request. It is noted this is still shown on the stormwater plans and it will be crossed out on the approved plans. Refer to the Appendix of this report for further detail regarding the traffic reports that were submitted, reviewed and supported by Council's Traffic Engineer. In brief, no adverse traffic generation impacts are expected from the development and the local road network has adequate capacity to cater for the traffic volumes generated by the development.

State Environmental Planning Policy (Western Sydney Aerotropolis) 2020

Clause 53 - Savings and transitional provisions

The Aerotropolis SEPP commenced on 1 October 2020, after the subject development application was lodged. The SEPP contains savings provisions which means that the SEPP does not strictly apply to the proposed development. More specifically, Clause 53(1) states that a development application for development on land to which this Policy applies that was lodged and not finally determined before the commencement of this Policy is to be determined as if this Policy had not commenced.

Notwithstanding the above, consideration has been given to the relevant clauses and the proposed development, specifically in relation to the future Western Sydney Airport provisions.

Part 3 Development controls—Airport safeguards

Clause 19 - Aircraft noise

The objectives of this clause are to prevent certain noise sensitive development on land near the airport, to minimise the impact of aircraft noise for other noise sensitive development, and to ensure that land use and development near the airport does not hinder or have other adverse impacts on the ongoing, safe and efficient 24 hours a day operation of the airport.

In addition, sub-clause (2) states that development consent must not be granted to noise sensitive development if the development is to be located on land that is in an ANEF or ANEC contour of 20 or greater. Noise sensitive development, as defined within Clause 19, includes centre-based child care facilities.

While the development is to be located on land that is in an ANEC contour between 20 and 25, it is noted that an Acoustic Report was submitted with the application and it did address the acoustic impact of the future airport insofar as it was identified within 2017 Noise Modelling ANEC Tool supplied by the Department of Infrastructure, Regional Development and Cities. The 2017 ANEC map in Figure 6-2 shows that the project site location (110-112 Mt Vernon Road, Mount Vernon) has an ANEC of ≤ 20 with the 2030 preferred 05 runway option.

Council's Environmental Management Officer reviewed the proposal and raised no objections, subject to conditions, noting the proposal can comply with internal noise criteria that is required for the development, subject to the implementation of a range of construction and operational management controls, including the provision of acoustic barrier fencing.

Clause 21 - Wildlife hazards

The Aerotropolis SEPP contains a map that relates to wildlife buffer areas. This map is titled the "Wildlife Buffer Zone Map". The map shows that the subject site is within a 13 kilometre 'wildlife buffer zone' of the airport site.

The objective of Clause 21 is to regulate development on land surrounding the airport site where wildlife may present a risk to the operation of the airport. Certain types of development then trigger the requirements for further consideration under Clause 21. The proposed development is not one of the types of uses that warrant additional consideration under the SEPP with regard to wildlife and the operation of the airport.

Clause 24 - Airspace operations

The subject site is also identified as being located within the Obstacle Limitation Surface (OLS) Map area. Clause 24 of the SEPP relates to development that would penetrate the prescribed air space for the airport and be a 'controlled activity'. The proposed development does not penetrate the prescribed air space given the OLS height relative to ground level is 129m, nor is it a controlled activity, therefore not triggering any additional considerations under this clause.

State Environmental Planning Policy No 55—Remediation of Land

SEPP 55 aims to provide a framework for the assessment, management and remediation of contaminated land throughout the state. Clause 7 of SEPP 55 prevents consent authorities from consenting to a development unless it has considered whether the land is contaminated and is satisfied that the land is suitable (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out.

Council's Environmental Management Officer reviewed the proposal and raised no objection, subject to recommended conditions, noting several key aspects, as outlined below.

Contamination investigation of the site has identified the limited presence of surficial fragments of bonded asbestos that is attributed to the previous demolition of structures. Accordingly, a Detailed Site Investigation (DSI) and Remedial Action Plan (RAP) supported the application. It is noted that the DSI has been reviewed by a SafeWork NSW approved Asbestos Assessor.

The DSI required additional soil sampling to be undertaken to delineate the area(s) of the site impacted by bonded asbestos and to characterise stockpiled material/stockpile footprints. The DSI referred to the RAP for details of the further sampling that is to be undertaken. The DSI concluded that 'it is considered that the site can be remediated and made suitable for the intended proposed residential development, pending ... delineation sampling, visual inspection and subsequent remediation and validation works, if required'. The DSI highlighted that the sampling of asbestos undertaken to date was limited to identifying asbestos presence/absence only and further characterisation of the site is required.

The RAP was updated from the original version to extend the scope of works to include further delineation of asbestos contamination and sampling of stockpiles/stockpile footprints. The RAP has been technically reviewed by the SafeWork NSW approved Asbestos Assessor responsible for reviewing the DSI. The RAP proposes remediation by excavation of contaminated soil and material from the site for disposal off site. This remediation strategy is supported. The RAP provides a comprehensive and satisfactory remediation and validation strategy in compliance with applicable legislation, standards and guidelines. It also includes environmental management requirements that will be implemented during further site investigation, remediation and validation works.

It is noted that there are two typographical errors in the RAP. Firstly, the RAP references the original DSI/ESI dated 8 April 2019 rather than the latest version of the DSI dated 17 March 2020. Further, Table 9 of the RAP contains conflicting test pit reference numbers (relating to test pits 6, 7 and 8) in different columns. However, as these issues are related to typographical errors only, it is considered satisfactory that conditions of consent be imposed to ensure compliance with the updated DSI dated 17 March 2020 prepared by Envirotech.

Compliance with the RAP and recommendations of the DSI will facilitate satisfactory investigation, remediation and validation of the site. A number of conditions have been recommended addressing this aspect of the development and requiring that validation of the site be completed to Council's satisfaction prior to the commencement of any works on the site.

Having regard to the above, it is considered that the site is suitable for the proposed development in accordance with Clause 7 of SEPP 55.

State Environmental Planning Policy No 64—Advertising and Signage

SCHEDULE 1 of SEPP 64 - Signage

Criteria Assessment

1. Character of the Area

Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?

Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?

The proposed fascia sign size is sympathetic to the building architecture, general built environment and surrounding character of the area. The design of the sign is complementary to the streetscape given it is

setback behind landscaping, mounted to the wall and constrained in size as is required by the DCP for rural signage.

2. Special Areas

Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?

The proposed fascia sign does not detract from the amenity or visual quality of any heritage areas, any environmentally sensitive areas, natural/conservation areas, open space areas, waterways, landscapes or residential areas as it is not freestanding in the landscape but is rather mounted to a wall.

3. Views and Vistas

*Does the proposal obscure or compromise important views?
Does the proposal dominate the skyline and reduce the quality of vistas?
Does the proposal respect the viewing rights of other advertisers?*

The sign will not compromise or obscure important views or vistas. The proposed sign is mounted to the fascia of a one story child care facility and will not dominate the skyline.

4. Streetscape, setting or landscape

*Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?
Does the proposal contribute to the visual interest of the streetscape, setting or landscape?
Does the proposal reduce clutter by rationalising and simplifying existing advertising?
Does the proposal screen unsightliness?
Does the proposal protrude above buildings, structures or tree canopies in the area of the locality?
Does the proposal require ongoing vegetation management?*

The proposed fascia sign is designed in a satisfactory scale, proportion and form and is in keeping with the character of the streetscape. The proposed sign will contribute to the visual interest of the building and the local area, subject to detailed design being provided prior to the issue of a Construction Certificate. The proposed sign does not protrude above any buildings.

5. Site and building

*Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?
Does the proposal respect important features of the site or building, or both?*

The proposed sign is in proportion with the scale of the building, is compatible with the building's characteristics by way of size and location, and enhance its features and appearance.

6. Associated devices and logos with advertisements and advertising structures

Have any safety devices, platforms, lighting devices or logos been design as an integral part of the signage or structure on which it is to be displayed? The proposed business identification sign will display the name of the company that runs the child care facility. The detailed design will be provided to Council prior to the issue of a Construction Certificate.

7. Illumination

*Would illumination result in unacceptable glare?
Would illumination affect safety for pedestrians, vehicles or aircraft?
Would illumination detract from the amenity of any residence or other form of accommodation?
Can the intensity of the illumination be adjusted, if necessary?
Is the illumination subject to a curfew?*

No illumination is proposed nor is it considered acceptable in the rural setting. The signage condition shall be updated to ensure no illumination is proposed.

8. Safety

Would the proposal reduce the safety for any public road?

Would the proposal reduce the safety for pedestrian and cyclists?

Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?

As a fascia sign, it is envisioned that the proposed signage will not reduce the safety to roads, pedestrians or cyclists during the installation process and in perpetuity.

Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

An assessment has been undertaken of the proposal against relevant criteria within Sydney Regional Environmental Plan No. 20—Hawkesbury-Nepean River (No. 2—1997) and the proposal is compliant with relevant provisions subject to recommended conditions regarding sediment and erosion control measures.

Local Environmental Plan 2010 (Amendment 4)

Provision	Compliance
Clause 1.2 Aims of the plan	Complies - See discussion
Clause 2.3 Permissibility	Complies - See discussion
Clause 2.3 Zone objectives	Complies - See discussion
Clause 4.3 Height of buildings	N/A
Clause 4.4 Floor Space Ratio	N/A
Clause 7.1 Earthworks	Complies - See discussion
Clause 7.4 Sustainable development	Complies - See discussion
Clause 7.6 Salinity	Complies
Clause 7.7 Servicing	Complies

Clause 1.2 Aims of the plan

The site is encumbered by a Section 88B restriction under the *Conveyancing Act 1919* which requires that "all fences shall be of a rural open character". However, under Clause 1.9A (1), for the purpose of enabling development on land in any zone to be carried out in accordance with this Plan or with a consent granted under the Act, any agreement, covenant or other similar instrument that restricts the carrying out of that development does not apply to the extent necessary to serve that purpose. Given the fencing is setback from the side boundaries and screened by extensive landscaping, it is considered the intent of the restriction will still be achieved, however strict compliance is not considered necessary given the provisions of Clause 1.9A(1).

Clause 2.3 Permissibility

The subject site is zoned E4 Environmental Living under the provisions of Penrith Local Environmental Plan 2010. The proposal is defined as a centre-based child care facility which is a permissible land use in the E4 zone with consent.

Clause 2.3 Zone objectives

The proposal is considered consistent with the relevant objectives of the E4 zone, as outlined below.

- *To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.*
- *To ensure that residential development does not have an adverse effect on those values.*

As detailed in the Appendix to this report and as discussed in relation to the SEPP for child care centres, the proposal reflects the materials and form of surrounding dwellings. The proposal has been amended to integrate into the landscaped setting via greater front and side setbacks, greater landscaping opportunities and reduced fence heights. With a landscaped front setback of 15m to the car park and side setbacks of 3m-5m, the amended proposal will maintain the rural character and visual quality of the area. In addition, it is noted there is no tree removal as part of the application and a vegetation management plan will compensate for any lost biodiversity. The proposal is considered low impact in relation to the aesthetic values of the rural-residential area.

- *To minimise conflict between land uses within the zone and land uses within adjoining zones.*

Given compatibility with the rural character, and the likely impacts regarding traffic, noise, wastewater, stormwater and waste detailed elsewhere in this report, the proposed child care centre is considered to minimise conflict between the proposed use and surrounding uses.

- *To ensure land uses are compatible with the available infrastructure, services and facilities and with the environmental capabilities of the land.*

Council's Traffic Engineer and Environmental Management Officer reviewed the proposal and raised no objection. Given the adequate surrounding road capacity anticipated post development, the compliant OSSM system and remediation works proposed, the proposed land use is compatible with the available infrastructure and with the environmental capabilities of the land.

- *To preserve and improve natural resources through appropriate land management practices.*

Subject to recommended conditions requiring a vegetation management plan, the proposal will preserve and improve natural resources on the site.

Clause 7.1 Earthworks

Clause 7.1 stipulates that prior to granting development consent for earthworks, Council must consider matters such as impacts on existing drainage patterns, environmental functions and processes, existing and likely amenity of adjoining properties and future land uses and any new impacts.

The proposed child care centre will generate minor earthworks associated with the build and to facilitate on-site wastewater management. While the facility is to be flush with natural ground level along the southern and eastern sides, as viewed from the streetscape, there is approximately 1.5m in level difference proposed along the north-western corner of the proposed building. While initially fill was proposed, on Council's request this was removed. Rather than stepping the building, a pier and beam construction has been proposed.

Overall, given the minor earthworks proposed, the proposal is consistent with the objectives of this clause as the earthworks are not considered detrimental to environmental functions and processes or neighbouring uses within the area. Standard conditions of consent are recommended with regard to erosion and sediment control measures, the use of fill material and the disposal of excavated material.

Clause 7.4 Sustainable development

The proposal satisfies the objectives of this clause in that it incorporates design elements to increase energy efficiency and reduce the consumption of natural resources. The submitted BCA Report and Section J Report detail ways in which the built form of the proposal has considered sustainability in its overall design. More specifically, the proposal includes window sizes and locations that will permit adequate solar penetration as well as natural ventilation. There is also substantial landscaping proposed to mitigate urban heat. In addition, as was requested by Council, lighter finishes were incorporated for both the walls and the roof in order to reduce heat absorption and increase energy efficiency. It is noted, however, that the lighter colour of the walls was not requested and is not considered contextually appropriate. A recommended condition of consent will require a brown tone to the walls to subdue their appearance.

Section 4.15(1)(a)(ii) The provisions of any draft environmental planning instrument

Draft State Environmental Planning Policy (Remediation of Land) 2018

The proposal has been assessed against the applicable provisions of Draft State Environmental Planning Policy (Remediation of Land) 2018 and the associated guideline document, and is considered to be acceptable. Refer also to the discussion under State Environmental Planning Policy No. 55 - Remediation of Land.

Draft State Environmental Planning Policy (Environment) 2017

The intent of the new State Environmental Planning Policy (Environment) 2017 is to combine seven existing State Environmental Planning Policies into a simple, modern and accessible instrument.

The proposal has been assessed against the applicable provisions of Draft State Environmental Planning Policy (Environment) 2017 and is considered to be acceptable. Refer also to the discussion under Sydney Regional Environment Plan No. 20 - Hawkesbury Nepean River (No. 2 - 1997) and the Appendix to this report.

Section 4.15(1)(a)(iii) The provisions of any development control plan

Development Control Plan 2014

Provision	Compliance
C1 Site Planning and Design Principles	Complies - see Appendix - Development Control Plan Compliance
C2 Vegetation Management	Complies
C3 Water Management	Complies - see Appendix - Development Control Plan Compliance
C4 Land Management	Complies
C5 Waste Management	Complies - see Appendix - Development Control Plan Compliance
C6 Landscape Design	Complies - see Appendix - Development Control Plan Compliance
C7 Culture and Heritage	N/A
C8 Public Domain	N/A
C9 Advertising and Signage	Complies - see Appendix - Development Control Plan Compliance
C10 Transport, Access and Parking	Complies - see Appendix - Development Control Plan Compliance
C11 Subdivision	N/A
C12 Noise and Vibration	Complies - see Appendix - Development Control Plan Compliance
C13 Infrastructure and Services	Complies - see Appendix - Development Control Plan Compliance
D1.1. Rural Character	Complies - see Appendix - Development Control Plan Compliance
D1.2. Rural Dwellings and Outbuildings	Does not comply - see Appendix - Development Control Plan Compliance
D1.3. Farm buildings	N/A
D1.4 Agricultural Development	N/A
D1.5. Non-Agricultural Development	Complies - see Appendix - Development Control Plan Compliance
D5.1. Application of Certification System	N/A
D5.2. Child Care Centres	Complies - see Appendix - Development Control Plan Compliance
D5.3. Health Consulting Rooms	N/A
D5.4. Educational Establishments	N/A
D5.5 Parent Friendly Amenities	N/A
D5.6. Places of Public Worship	N/A
D5.7. Vehicle Repair Stations	N/A
D5.8. Cemeteries, Crematoria and Funeral Homes	N/A
D5.9. Extractive Industries	N/A
D5.10 Telecommunication Facilities	N/A

Section 4.15(1)(a)(iv) The provisions of the regulations

Fire Safety

Under Part 9 of the Environmental Planning and Assessment Regulation 2000, owners of buildings must provide the FRNSW Commissioner with a copy of the Fire Safety Certificate for the building (along with the current Fire Safety Schedule). The Fire Safety Certificate is issued when essential fire safety measures have been assessed by a qualified person as being capable of performing to the standard defined by the Schedule. A condition of consent is recommended to ensure that this occurs on an annual basis.

Prescribed Conditions

The relevant prescribed conditions of the regulations, such as the requirement for compliance with the BCA, have been imposed as recommended conditions of consent where applicable.

Advertising and Notification

Advertising and neighbour notification was carried in accordance with the requirements of the regulations and Penrith Development Control Plan 2014.

Section 4.15(1)(b) The likely impacts of the development

(i) Natural and Built and Environments

- *Context and Setting*

The siting, form, size and external appearance of the development has been designed to respect the existing rural and environmental qualities of the area and the siting of surrounding residences. The development provides a single storey design, materials that reflect the adjoining built forms and setbacks compatible with the adjoining residential dwellings. Landscaping has been provided along all boundaries which will provide a visual screen and is consistent with the surrounding locality. The proposal generally complies with the Child Care Planning Guideline and the rural land DCP controls.

- *Noise Impacts*

As detailed in the Appendix to this report, the application was accompanied by an Acoustic Impact Assessment prepared by Acoustic Logic. This report concludes that the noise emissions associated with the proposed child care centre to the surrounding nearest residential receivers will comply with the relevant guidelines recommended by the Australian Acoustical Consultants and other regulatory criteria, subject to the implementation of a range of construction and operational management controls, including the provision of acoustic barrier fencing. These recommendations form a recommended condition of consent. The development is not considered likely to have adverse noise impacts on the surrounding locality.

- *Traffic, Access and Parking*

As detailed in the Appendix to this report, the proposed on-site parking provision complies with the rates specifies in Penrith Development Control Plan 2014. The dimensions of the parking bays and circulation aisle will comply with Australian Standards.

The application was accompanied by a Traffic and Parking Impact Assessment and a Traffic Volume Environmental Capacity Report, both prepared by GTK Consulting. These reports found that the volumes of traffic to be generated by the development are unlikely to result in any considerable impacts on the local road network. Council's Traffic Engineer has reviewed the proposal and supporting documentation and raised no objections.

- *Stormwater Impacts*

As detailed further within the Appendix to this report, Council's Development Engineer reviewed the proposal, as amended, and raised no objections in relation to stormwater impacts. An on-site stormwater detention (OSD) tank has been provided to limit stormwater discharge during large storm events and therefore minimise any scouring or erosion on downstream properties. The OSD system will ensure there are no adverse impacts on adjoining properties in relation to stormwater flows.

- *Biodiversity Impacts*

The proposal does not involve the removal of any trees from the site and biodiversity impacts as a result of the proposal are considered to be negligible. A vegetation management plan to achieve ecological restoration at the rear of the property has been recommended as a consent condition. This is in addition to fauna management requirements and conditioning of the proposed landscape treatments.

- *Wastewater Impacts*

As detailed in the Appendix to this report, Council's Environmental Management Officer is satisfied that wastewater from the development can be satisfactorily managed on the site, subject to recommended consent conditions.

(ii) Social and Economic Impacts

- *Social Impacts*

The development application was referred to Council's Social Planner who raised no objections to the proposal noting that child care centres are an important component of Penrith's local communities, providing facilities for parents and carers that thereby supports employment, economic activity and community participation. The proposed increase in child care places will increase the availability of child care in the local area.

Section 4.15(1)(c) The suitability of the site for the development

The site is considered suitable for the development for the following reasons:

- The site is zoned to permit the proposed use.
- The use is compatible with surrounding and adjoining land uses.
- The grade of the site is suitable for the design proposed.
- The site is able to drain to Council's satisfaction.
- The site can be suitably remediated.
- The site is not located along a major collector road.
- The site is of a sufficient size and width to accommodate the proposed child care centre.
- The site is suitable in respect to environmental impacts, specifically acoustic, privacy and traffic impacts.

Section 4.15(1)(d) Any Submissions

Community Consultation

In accordance with Clause 4.4 of Appendix F4 of Penrith Development Control Plan 2014, the proposed development was extensively notified and advertised in the local newspaper. The proposal was publicly exhibited between 17/01/20 and 26/02/20 and re-exhibited between 25/05/20 and 08/06/20. Council received 24 submissions in response to the proposal, 10 of which were unique. The issues raised are discussed below.

<i>Issue Raised</i>	<i>Comments</i>
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Proximity to other child care centres and the need for a child care centre.

The Educational Establishments and Child Care Facilities SEPP and associated Child Care Planning Guideline were gazetted on 1 September 2017. The SEPP has been introduced to facilitate the effective delivery of educational establishments and early education and care facilities across the state.

Clause 25(2)(a) of the Educational Establishments and Child Care Facilities SEPP stipulates that a child care facility may be located at any distance from an existing or proposed early education and care facility.

The objective of this clause is to identify development standards for particular matters relating to a centre-based child care facility that, if complied with, prevents the consent authority from requiring more onerous standards for those matters.

In addition, Clause 26(b) of the SEPP stipulates that any provision of a development control plan that specifies a requirement for demonstrated need or demand for child care services does not apply to development for the purpose of a centre-based child care facility.

Non-compliance with Penrith Development Control Plan 2014, Child Care Centre controls.

In accordance with Clause 26 of the Educational Establishments and Child Care Facilities SEPP, a development control plan that specifies a requirement, standard or control in relation to the design principles set out in Part 2 of the Child Care Planning Guideline, or any of the matters for consideration set out in Part 3 or the regulatory requirements set out in Part 4 of that Guideline (other than those concerning building height, side and rear setbacks or car parking rates), do not apply.

Contamination from previous uses.

A Detailed Site Investigation (DSI) and Remedial Action Plan (RAP) accompanied the application and identified the limited presence of surficial fragments of bonded asbestos. It is noted that the DSI has been reviewed by a SafeWork NSW approved Asbestos Assessor.

The DSI required additional soil sampling to be undertaken to delineate the area(s) of the site impacted by bonded asbestos and to characterise stockpiled material/stockpile footprints. The DSI referred to the RAP for details of the further sampling that is to be undertaken.

The RAP was updated from the original version to extend the scope of works to further delineate asbestos contamination and sampling of stockpiles/stockpile footprints. The RAP has been technically reviewed by the SafeWork NSW approved Asbestos Assessor responsible for reviewing the DSI. The RAP proposes remediation by excavation of contaminated soil and material from the site for disposal off site. The RAP provides a comprehensive and satisfactory remediation and validation strategy in compliance with applicable legislation, standards and guidelines.

The DSI did include an investigation of the historical uses of the site. The DSI and RAP were updated to refer to the NSW EPA Guidelines for Assessing Former Asbestos Contaminated Sites and demonstrated that the investigation and remediation works comply with these guidelines.

Council's Environmental Management Officer has reviewed these reports and raised no objection in this regard.

There will be an increase in noise for adjoining properties.

It is acknowledged that there may be an increase in the noise generated from the site. However, the application was accompanied by an Acoustic Report which demonstrates that the development will comply with relevant noise criteria specified in Australian Standards and guidelines.

The report was amended in response to a request from Council's Environmental Management Officer to incorporate cross sections of the acoustic fence, including construction requirements, and to address the total traffic noise to be generated. The Acoustic Report, as amended, was found to be satisfactory.

The Acoustic Report also includes operational and design mechanisms to ensure that there is not an adverse noise impact to the surrounding properties through, for example, restricting the number of children outside at any one time and restricting hours for deliveries, cleaning and waste collection, in addition to certain construction requirements for windows and an acoustic fence. These recommendations will be required to be implemented through both construction and the life of the development via a recommended condition of consent.

It is noted concerns were raised by submitters in relation to noise impacts given people are spending more time at home in light of the COVID-19 pandemic. That being said, as the relevant acoustic criteria is met by the proposal, it is not considered that the proposal will adversely impact on the aural privacy of adjoining neighbours given the noise attenuation measures previously noted.

Construction noise will adversely affect the neighbour amenity.

It is acknowledged that some disruption may be experienced during the construction phase of the development. However, to minimise potential noise impacts, a recommended condition of consent will limit the hours of demolition and construction works to be undertaken in accordance with the NSW Environment Protection Authority Noise Control Guidelines.

The development will generate substantial traffic and increase safety risks given the state of the existing road outside the subject site.

In regard to the proposal's impact on the surrounding road network, traffic volume counts on Mt Vernon Road were submitted to determine the current traffic demand and whether the road will remain within its environmental capacity post development (as per the RMS Guide to Traffic Generating Developments). This information was requested by Council's Traffic Engineer.

The submitted Traffic Impact Assessment suggests a peak trip generation of 77 and 68 vehicles per hour for the AM and PM peaks respectively. Council's Traffic Engineer has reviewed this information and advised that no adverse traffic generation impacts are expected from the development and that the local road network has adequate capacity to cater for the traffic volumes to be generated by the development.

Regarding concerns with the state of the existing road and dips within it, Council's Traffic Engineer noted that there is sufficient sight distance to enable traffic turning into and out of the site to carry out their turning movements without unduly interfering with mainstream traffic flow as per AS 2890.1:2004. A recommended condition of consent will ensure sight distances are maintained between vehicles leaving the car park and pedestrians accessing the road frontage.

The development is out of character and scale with the surrounding residential area.

The proposed development is generally consistent with the requirements of the Educational Establishments and Child Care Facilities SEPP, Penrith Local Environmental Plan 2010 and Penrith Development Control Plan 2014.

Originally, the height and presentation of the acoustic fence was a key concern which did not integrate into the landscape. The DCP states that fencing is to be of an open rural nature. Given structures in rural areas are required to be setback at least 5m and that the acoustic fence is solid, it was considered the fence should be treated like any other structure in this regard.

On Council's request, the proposal was amended to reduce the height of the acoustic fence to 1.8m forward of the building line and the 2.4m high component setback from between 3m to 5m. Although it is still not an open style fence, it is now contextually appropriate given it is largely setback 5m and surrounded by an adequate landscape buffer. The landscape buffer surrounding the side fences includes shrub style planting that will reach, if not exceed, the height of the fence, coupled with some canopy tree plantings. In addition, although the acoustic fence is fibre cement for acoustic reasons, timber posts will be mounted on the exterior to better blend with the area's earthy tones and typical materials.

It is noted that all boundary fencing is to be retained as is, of an open rural style, whereas no fencing along the front boundary is proposed in keeping with the character of the area.

The proposal provides a combination of features and materials that reflect rural materials and finishes and

designs, while providing a scale that is compatible with the surrounding rural-residential development given it is single storey in height with comparable and/or greater front, side and rear setbacks and extensive landscaping.

The proposal provides a 35m front setback, substantially behind the buildings on adjacent properties which are setback 18m and 19m respectively. The proposed rear setback of 65m is consistent with the surrounding development. The proposed 15m x 38m landscaped area within the front setback results in appropriate opportunities for landscaping.

Across the site as a whole, the additional landscaping proposed covers approximately 2,500m², which provides an appropriate embellishment relative to the built form and hardstand area of that is proposed. In addition, approximately 5,500m² of existing vegetation the rear of the property will be improved via a vegetation management plan required as a recommended consent condition. Collectively, the permeable area that will be retained results in a ratio of landscaped area to built form that is approximately 80:20.

The proposed siting, setbacks and design not only retain the rural character, but also maintain the amenity of the area relative to the streetscape and surrounding properties.

The site does not have capacity to accommodate an on-site sewage management system.

Initially, an on-site sewage management (OSSM) system was proposed within the rear half of the property. The accompanying wastewater report contained inadequate information as the hydraulic load generated by the development required a commercial system rather than the system proposed. After requests from Council's Environmental Management Officer regarding the proposed system, an alternative on-site sewage management system was proposed within the front portion of the property.

The amended OSSM system proposes the primary disposal area and part of the reserve area within the front landscaped setback. The remaining reserve area required is proposed within the side setbacks, between the acoustic fencing and the side boundaries. The accompanying amended wastewater report is comprehensive and has been prepared by an appropriately qualified and experienced wastewater consultant.

It is noted that reserve area 2 is not located in accordance with Council's On-Site Sewage Management and Greywater Reuse Policy as it will be located 3m uphill/upslope of the western property boundary, whereas a minimum setback distance of 6m is considered appropriate. A recommended consent condition will require the submission to Council of an amended plan prior to issue of a Construction Certificate, showing reserve area 2 to the rear of the internal fence and in accordance with Council's On-Site Sewage Management and Greywater Reuse Policy. This aspect of the development is considered to be suitable for conditioning given there is ample room at the rear of the outdoor play area for a reserve area of 96m².

Regarding concerns as to the clay soil absorption limitations, the wastewater report identifies that the soil characteristics of the site dictate the need for a combination of both absorption and evapotranspiration methods for effluent disposal and that absorption alone is not suitable. The wastewater report stipulates the detailed construction requirements and specifications that need to be adhered to in constructing the evapotranspiration bed (ETA bed). A recommended consent condition requires the construction of the beds to be supervised by an appropriate person and in accordance with the wastewater report. The sizing and design of the proposed ETA bed fully responds to the characteristics of the site and is in accordance with all applicable guidelines (including NSW Health guidelines), Council policy and Australian Standards that apply to on-site sewage management. The proposed ongoing servicing and monitoring of the system by appropriate persons should ensure its satisfactory ongoing performance.

Council's Environmental Management Officer has reviewed the amended wastewater report and proposed OSSM system and considers that it demonstrates that wastewater from the development can be satisfactorily managed on the site, subject to recommended consent conditions.

<p><i>The site is affected by overland flows via a natural watercourse through the middle of the site which will result in stormwater runoff to the neighbouring properties.</i></p>	<p>Council's Development Engineers reviewed the site and the proposal and noted that there may be a natural depression within the middle of the site due to the slope of the land. However, the subject site is not flood affected by either mainstream flooding or by overland flows. Although the subject site is located outside of a mandatory on-site detention area, an on-site stormwater detention (OSD) tank has been provided to limit stormwater discharge during large storm events and therefore minimise any scouring or erosion on downstream properties. The OSD system will ensure there are no adverse impacts on adjoining properties in relation to stormwater flows.</p> <p>It should be noted that the stormwater plans for the proposal were amended and that the originally proposed absorption pit was removed due to the low permeability of the soil. A level spreader system has been proposed in lieu of the absorption pit. The level spreader area will be fenced off from the children's play area for safety reasons. Council's Development Engineer has reviewed the proposed stormwater design and raised no objections in this regard.</p>
<p><i>Nature of submissions as 'unique'.</i></p>	<p>A submission is considered unique when it is not in a pro-forma template and is thus unique in its content. It is acknowledged that Council received 24 submissions in response to the proposal, 10 of which were considered unique.</p>
<p><i>Proximity to public transport, local services and medical facilities.</i></p>	<p>Under Clause 23 of the Educational Establishments and Child Care Facilities SEPP, consideration is to be given to any applicable provisions of the associated Child Care Planning Guideline. Given the rural context of the site, it is acknowledged that proximity to public transport and other services is limited. It is also acknowledged that the bus service on Mt Vernon Road is infrequent during the day.</p> <p>However, the local town centres of Erskine Park, Horsley Park and Cecil Hills are within a 15 minute drive of the site. While the subject site is rural in nature, child care centres are permissible within rural areas, subject to integration with the surrounding character and appropriate arrangements to access facilities and services as required.</p> <p>Given the centre will provide a minibus which has capacity for 22 children (plus 1 driver and 1 adult supervisor), access to essential services and facilities is available should the need arise. An emergency evacuation and management plan has also been provided as part of the application and Council's Social Planner reviewed the proposal and raised no objections in this regard.</p> <p>In addition, it is noted that future development associated with the nearby Aerotropolis will mean the proximity to services is likely to change in the future.</p>
<p><i>Financial impacts on other rural child care centres.</i></p>	<p>The financial impacts of the proposal on other child care centres is not a matter for consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979.</p>

Referrals

The application was referred to the following stakeholders and their comments have formed part of the assessment:

Referral Body	Comments Received
Building Surveyor	No objections - subject to conditions
Development Engineer	No objections - subject to conditions
Environmental - Environmental management	No objections - subject to conditions
Environmental - Waterways	No objections - subject to conditions
Environmental - Public Health	No objections - subject to conditions
Environmental - Biodiversity	No objections - subject to conditions
Traffic Engineer	No objection subject to conditions
Social Planning	No objections

Section 4.15(1)(e) The public interest

The proposal generally complies with the Child Care SEPP and related Planning Guideline as well as Council's LEP and DCP provisions. In terms of amenity impacts, the proposal will result in negligible overshadowing and overlooking impacts and will contribute to the visual aesthetic and rural character via the setbacks and landscaping proposed. Regarding acoustic amenity, with the noise attenuation measures recommended, the proposal is not considered likely to have adverse impacts on the amenity of the area in terms of noise generation. The proposal provides for sufficient on-site car parking and the surrounding road network can safely sustain the proposed increase in traffic generation. The proposal does not involve the removal of any significant trees and the proposed landscaping and required vegetation management plan will contribute to both remnant biodiversity and the rural character of the area. Subject to remediation works, the proposal will not pose any environmental hazards to the proposed users or adjoining neighbours. Given provision for on-site stormwater detention and wastewater management, the proposal will not place unreasonable demand on public amenities or services. Lastly, the proposal will increase the availability of child care in an area offering high quality open space for children.

For the above reasons, on balance, the proposal is considered to be in the public interest.

Conclusion

In assessing this proposal against the relevant environmental planning policies, primarily being State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017, State Environmental Planning Policy No. 55 - Remediation of Land, Penrith Local Environmental Plan 2010 and Penrith Development Control Plan 2014, the proposal satisfies the aims, objectives and provisions of these policies. The site is suitable for the proposed development, the proposal is in the public interest, and there is unlikely to be negative impacts arising from the proposed development. Therefore, the application is worthy of support, subject to recommended conditions.

Recommendation

That DA19/0886 for construction of a child care centre for 96 children, at-grade parking for 30 vehicles, signage, remediation works and on-site sewage management system at 110-112 Mt Vernon Road, Mount Vernon, be approved subject to the following conditions.

CONDITIONS

General

1 A001

The development must be implemented substantially in accordance with the following stamped approved plans and documents, the application form and any supporting information received with the application, except as may be amended in red on the approved plans and documents and by the following conditions.

Drawing Title	Drawing No	Revision	Prepared By	Dated
External Finishes	DA00, 18307	A	Project Works Design Pty Ltd	25/03/20
Site Plan	DA01, 18307	C	Project Works Design Pty Ltd	10/12/20
Floor Plan	DA03, 18307	B	Project Works Design Pty Ltd	01/09/20
Elevations & Sections	DA04, 18307	A	Project Works Design Pty Ltd	01/09/20
Roof Plan	DA05, 18307	B	Project Works Design Pty Ltd	01/09/20
Notes and Acoustic Fence Detail	DA07, 18307	A	Project Works Design Pty Ltd	25/03/20
Stormwater Concept Plans, <i>as amended by the architectural plans</i>	171195, Drawing 101 - 105	G	Australian Consulting Engineers	04/11/20
Landscape Concept Plan	1/5, 2/5 and 4/5	6	Tessa Rose Playspace and Landscape Design	02/12/20

Supporting Documentation:

- Waste Management Plan dated 30/04/19
- Access Report prepared by Lindsay Perry Associates, dated 16 October, 2019, Revision 2
- Geotechnical Investigation Report written by Greywack Geotechnics, COCD0206 - GEO AA, Revision 01 dated March 2019
- Operational Plan of Management
- DA Acoustic Assessment (Revision 6) prepared by Acoustic Logic and dated 08/09/2020
- 'Detailed Site Investigation' prepared by Envirotech and dated 17 March 2020 (REP-19-7579-A1)
- Remedial Action Plan prepared by Envirotech and dated 17 March 2020 (REF-19-7963-A1)
- 'Site and Soil Assessment for On-Site Wastewater Management Commercial System' (Report Reference: SJDSSSE_001) prepared by Roberts Resources and dated 3 September 2020
- Traffic Volume Environmental Capacity report prepared by GTK Consulting, dated October 2020
- Emergency Management and Evacuation Plan

2 A012 - Food Act

The proprietor of the food business shall ensure that the requirements of the NSW Food Act 2003, NSW Food Regulation 2010 and the Australian and New Zealand Food Standards Code are met at all times.

3 A019 - Occupation Certificate

The development shall not be used or occupied until an Occupation Certificate has been issued.

A satisfactory inspection from an authorised officer of Council's Environmental Health Department is required prior to the issue of an Occupation Certificate. The occupier is to contact the Environmental Health Department to organise an appointment at least 72 hours prior to the requested inspection time.

4 A021 - Business Registration

The business is to be registered with Penrith City Council by completing the "Registration of Premises" form. This form is to be returned to Council prior to the issue of an Occupation Certificate and operation of the business.

5 **A026 - Advertising sign (not for residential)**

A separate development approval for the erection of a sign or advertising structure, other than an advertisement listed as exempt development or otherwise approved by this consent, is to be obtained.

6 **A029 - HOURS OF OPERATION AND DELIVERY TIMES**

The approved operating hours are from 7am to 6pm, Mondays to Fridays. Delivery and service vehicles generated by the development are limited to:

- Mondays to Fridays, 7am to 6pm,
- Saturdays, 7am to 1pm if inaudible on neighbouring residential premises, otherwise 8am to 1pm, and
- No delivery is permitted on Sundays and Public Holidays.

7 **A038 - LIGHTING LOCATIONS**

Exterior lighting shall be located and directed in such a manner so as not to create a nuisance to surrounding land uses. The lighting shall be the minimum level of illumination necessary for safe operation. The lighting shall be in accordance with AS 4282 "Control of the obtrusive effects of outdoor lighting" (1997). Only downlights are permitted for the car parking area.

8 **A039 - Graffiti**

The finishes of all structures and buildings are to be maintained at all times and any graffiti or vandalism immediately removed/repaired.

9 **A046 - Obtain Construction Certificate before commencement of works**

A **Construction Certificate** shall be obtained prior to commencement of any building works.

10 **A Special (BLANK)**

The elevation and section drawings shall be amended to include a ridge RL, which is no higher than 6.2m above existing ground level. These plans are to be included in the application for a Construction Certificate to the satisfaction of the Certifying Authority

11 **A Special (BLANK)**

The Child Care Centre is to comply with the requirements of the Education and Care Services National Regulation under the Education and Care Services National Law at all times.

12 **A Special (BLANK)**

The child care centre operator is required to obtain an operating licence from the NSW Department of Education and Communities prior to operation of the child care centre.

13 **A Special (BLANK)**

The external walls of the building shall be dark brown in order to contrast with the light roof and better blend and integrate with the surrounding area and its earthy tones. Details in this regard shall be shown on the Construction Certificate plans.

14 **A Special (BLANK)**

Prior to the issue of a Construction Certificate, the Access Report prepared by Lindsay Perry Associates, dated 16/10/19, shall be updated to reflect the stamped approved plans. All recommendations of the updated Access Report shall be reflected on the Construction Certificate plans.

15 **A Special (BLANK)**

Prior to the issue of a Construction Certificate, plans and details shall be submitted to Council, and approved, detailing the proposed fascia signage to ensure the detail integrates with the style, character and function of the building and reflects the area's rural/landscape character. The proposed wall signs shall be deleted from the plans prior to the issue of a Construction Certificate.

16 **A Special (BLANK)**

Childproof fencing shall be provided to all outdoor play areas, and to the entrance of the child care centre. Details in this regard shall be shown on the Construction Certificate plans.

17 **A Special (BLANK)**

The centre shall provide and make available during operation, a bus which has capacity for at least 22 children (plus 1 x driver and a minimum 1 x adult supervisor) and which is made available for morning pickup and afternoon drop off of children. This bus shall include mechanisms to allow use by children with a disability.

18 **A Special 1**

A maximum of 16 children aged 0-2, 20 children aged 2-3 and 60 children aged 3-6 are to be enrolled to attend the premises at any one time.

19 **A Special Condition (BLANK)**

Prior to the issue of a Construction Certificate, documentation is to be submitted to Council, and approved, demonstrating compliance with Section 3.1 of Council's WSUD Policy to ensure the development will achieve a 80% non-potable water reuse. An amended MUSIC model and stormwater concept plan demonstrating compliance with Section 3.1 of Council's WSUD Policy shall be submitted in this regard.

Heritage/Archaeological relics

20 **C003 - Uncovering relics**

If any archaeological relics are uncovered during the course of the work, no further work shall be undertaken until further directed by Penrith City Council or the NSW Heritage Office.

The applicant is advised that depending on the possible significance of the relics, an archaeological assessment and an excavation permit under the Heritage Act 1977 may be required before any further work can be recommenced in that area of the site.

Environmental Matters

21 **D001 - Implement approved sediment& erosion control measures**

Erosion and sediment control measures shall be installed **prior to the commencement of works on site** (including approved site investigation and remediation works and the clearing of site vegetation). The erosion and sediment control measures are to be maintained in accordance with the approved erosion and sediment control plan(s) for the development and the Department of Housing's "Managing Urban Stormwater: Soils and Construction" 2004.

The approved sediment and erosion control measures are to be maintained throughout the construction phase of the development until the development has been completed, including landscaping, driveway and on-site parking works. These measures shall ensure that mud and soil from vehicular movements to and from the site does not occur during the construction of the development.

Dust suppression techniques are to be employed during site remediation and construction works to reduce any potential nuisance to surrounding properties.

22 **D010 – Appropriate disposal of excavated or other waste**

All excavated material and other construction wastes generated as a result of the development are to be re-used, recycled or disposed of in accordance with the approved waste management plan. Waste materials not specified in the approved waste management plan are to be disposed of at a lawful waste management facility.

All asbestos laden waste must be disposed of at a waste management facility licensed by the NSW Environment Protection Authority to receive asbestos waste.

All receipts and supporting documentation must be retained in order to verify lawful disposal of materials and are to be made available to Penrith City Council on request.

23 **D013 - Approved noise level 1**

Noise levels from the premises shall not exceed the relevant noise criteria detailed in the acoustic report titled 'DA Acoustic Assessment' (Revision 7) prepared by Acoustic Logic and dated 08/09/2020. The recommendations provided in Section 8.1 of the acoustic report shall be implemented and incorporated into the design and construction of the development (including acoustic fencing), and shall be shown on plans accompanying the Construction Certificate application. The recommendations and management controls provided in Section 8.2 of the acoustic report shall be implemented during the operation of the development.

A certificate is to be obtained from a suitably qualified acoustic consultant certifying that the building and associated acoustic fencing has been constructed to meet the noise criteria in accordance with the approved acoustic report. This certificate is to be submitted to the Principal Certifying Authority and Penrith City Council prior to the issue of an Occupation Certificate and approval of the certificate obtained from Penrith City Council prior to the issue of an Occupation Certificate.

The provisions of the Protection of the Environment Operations Act 1997 apply to the development, in terms of regulating offensive noise.

24 **D014 - Plant and equipment noise**

All mechanical plant and equipment is to comply with the noise criteria outlined in the approved acoustic report titled 'DA Acoustic Assessment' (Revision 7) prepared by Acoustic Logic and dated 08/09/2020.

Prior to the issue of a Construction Certificate, further details on the type and location of all mechanical plant and equipment associated with the development it is to be provided to Penrith City Council for consideration and approval. Suitable data and information assessed by a suitably qualified acoustic consultant on the noise impacts associated with this plant and equipment is to be supplied to demonstrate compliance with the established noise criteria.

Prior to the issue of an Occupation Certificate, a Compliance Certificate, prepared by a suitably qualified acoustic consultant, is to be submitted to and approved by Penrith City Council. The certificate is to demonstrate that all plant and equipment has been installed to comply with the established noise criteria.

25 **D06A – Approval for bulk earthworks/major filling operations (Use for bulk earthworks/ major filling operations)**

No fill material shall be imported to the site until such time as a Validation Certificate (with a copy of any report forming the basis for the validation) for the fill material has been submitted to Council. The Validation Certificate shall:

- state the legal property description of the fill material source site,
- be prepared by an appropriately qualified person (as defined in Penrith Development Control Plan) with consideration of all relevant guidelines (e.g. EPA, ANZECC, NH&MRC), standards, planning instruments and legislation,
- clearly indicate the legal property description of the fill material source site,
- provide details of the volume of fill material to be used in the filling operations,
- provide a classification of the fill material to be imported to the site in accordance with the Environment Protection Authority's "Environmental Guidelines: Assessment, Classification & Management of Non-Liquid Wastes" 1997, and
- (based on the fill classification) determine whether the fill material is suitable for its intended purpose and land use and whether the fill material will or will not pose an unacceptable risk to human health or the environment.

An appropriately qualified person/s (as defined in the Penrith Development Control Plan) shall:

- Supervise the filling works,
- (On completion of filling works) carry out an independent review of all documentation relating to the filling of the site, and shall submit a review findings report to Council and any Principal Certifying Authority,
- Certify by way of a Compliance Certificate or other written documentation that fill materials have been placed on the site in accordance with all conditions of this consent and that the site will not pose an unacceptable risk to human health or the environment. A copy of the Compliance Certificate or other documentation shall be submitted to Council and any Principal Certifying Authority.

The contact details of any appropriately qualified person/s engaged for the works shall be provided with the Notice of Commencement.

If the Principal Certifying Authority or Penrith City Council is not satisfied that suitable fill materials have been used on the site, further site investigations or remediation works may be requested. In these circumstances the works shall be carried out prior to any further approved works.

{Note: Penrith Development Control Plan 2014 defines an appropriately qualified person as "a person who, in the opinion of Council, has a demonstrated experience, or access to experience in hydrology, environmental chemistry, soil science, eco-toxicology, sampling and analytical procedures, risk evaluation and remediation technologies. In addition, the person will be required to have appropriate professional indemnity and public risk insurance."}

26 **D - Hours of work**

Construction works, including site investigation and remediation works, shall be restricted to the following hours in accordance with the NSW Environment Protection Authority Noise Control Guidelines:

- Mondays to Fridays, 7am to 6pm
- Saturdays, 7am to 1pm if inaudible on neighbouring residential premises, otherwise 8am to 1pm
- No construction work is permitted on Sundays and Public Holidays.

In the event that the construction work relates to work inside the building and does not involve external walls or the roof, and does not involve the use of equipment that emits noise, then the works are not restricted to the hours stated above.

The provisions of the Protection of the Environment Operations Act 1997 in regulating offensive noise also apply to all construction works.

27 **D Fauna Protection**

Prior to works being undertaken, any resident fauna within the development footprint is to be excluded from the site, without harm and in accordance with legislation, policy and guidelines for the safe handling and protection of native wildlife.

28 **D Native Vegetation Protection Measures**

No clearing of native vegetation within the rear portion of the site is permitted without the prior consent of Penrith City Council. Prior to any works commencing, fencing is to be erected to protect the vegetation at the rear of the property, as indicated in red on the stamped approved plans.

29 **D special BLANK**

Site investigation, remediation and validation works shall be carried out generally in accordance with the 'Detailed Site Investigation' prepared by Envirotech and dated 17 March 2020 (REP-19-7579-A1), the Remedial Action Plan prepared by Envirotech and dated 17 March 2020 (REF-19-7963-A1), as well as the National Environment Protection (Assessment of Site Contamination) Measure 1999 [NEPM 2013], Penrith Development Control Plan, the ANZECC and NHMRC Guidelines (1992), applicable NSW Environment Protection Authority Guidelines, applicable Australian Standards and State Environmental Planning Policy No. 55 - Remediation of Land.

An appropriately qualified person/s shall:

- (a). Supervise the remediation works.
- (b). Supply Penrith City Council with a copy of any relevant documentation for further testing carried out during the investigation, remediation and validation works.
- (c). After completion of works, certify by way of a Validation Report (including, where required, other written documentation such as asbestos clearance certificates) that remediation works have been carried out in accordance with all conditions of this consent and that the site is suitable for the proposed use. A copy of the Validation Report is to be submitted to the Principal Certifying Authority (PCA) and Penrith City Council if it is not the PCA within 30 days of the said works having been completed and prior to the commencement of building works. **Approval of the Validation Report is to be obtained from Penrith City Council prior to any works commencing on site** (other than works associated with site contamination investigation, remediation and validation).

The contact details of any appropriately qualified person/s engaged for the works shall be provided with the notice of commencement.

{Note: For the purpose of this condition an appropriately qualified person is defined as "a person who, in the opinion of Council, has a demonstrated experience, or access to experience in hydrology, environmental chemistry, soil science, eco-toxicology, sampling and analytical procedures, risk evaluation and remediation technologies. In addition, the person will be required to have appropriate professional indemnity and public risk insurance."}

30 **D special BLANK**

Should contamination be found during development works (outside the scope of the Council approved Remedial Action Plan), and should remediation be required, Penrith City Council is required to be notified and consulted before the remediation works commence.

31 **D special BLANK**

Due to noise requirements, restrictions apply to the maximum number of children allowed in the outdoor play areas at any one time. A maximum of:

- 5 children aged 0-2 years are permitted to play in the western outdoor babies play area at any one time, and
- 30 children aged 2-5 years are permitted to play in the northern outdoor play area at any one time.

32 **D Special BLANK**

Appropriate signage is to be installed in the car park and entrance of the centre requesting patrons to minimise noise and protect the amenity of the surrounding neighbourhood. **Prior to the issue of an Occupation Certificate**, a suitable signage plan is to be submitted to Council for approval.

The signage plan is to provide details on the location, sizing and wording of the proposed signs. **The signs are to be installed prior to the issue of an Occupation Certificate.**

A public contact number is to be displayed on the child care centre signage and this phone line must be operational during business hours.

33 **D Special BLANK**

A complaint register is to be maintained and must include complaint details and any actions taken to address those complaints. A copy of the complaint register is to be provided to Council on request.

In the event of ongoing noise complaints relating to the development being received by Penrith City Council, the owner and/or occupier of the development may be required by Council to obtain the services of a suitably qualified acoustic consultant to undertake a noise impact assessment on the development to address the concerns of the community. The noise impact assessment report is to be prepared and provided to Council for approval within 45 days of being requested. Any mitigation works are to be undertaken within thirty (30) days from the date of notice from Council, unless otherwise specified.

34 **D Special BLANK**

Prior to commencing the keeping of chickens/poultry on site, details of the proposed keeping of chickens/poultry are to be submitted to Penrith City Council for approval. Information that is to be submitted to Council for consideration and approval includes (but is not limited to):

- Proposed maximum number of hens. Roosters are not permitted to be kept on site.
- Proposed accommodation (shelter and outdoor yard area) including proposed location (distances to buildings and boundaries and the like), sizing and construction.
- Plan of Management for the keeping of chickens/poultry (including food storage and feeding method; water provision; cleaning and maintenance schedule; waste collection, storage and disposal including manure, litter and bedding).

The keeping of chickens/poultry must be in accordance with Penrith City Council's *Keeping of Animals Local Orders Policy 2016* and is to be carried out to ensure no odour, noise, fly, vermin or other environmental nuisance to surrounding properties and receivers.

35 **D Special BLANK**

All contaminated soil is to be lawfully transported and disposed of at a lawful waste facility. Suitable documentation is to be provided to Council demonstrating the lawful transportation and disposal of contaminated soil. No contaminated soil is to be retained on site. This information may be included in the Validation Report.

36 **D Vegetation Management Plan**

Prior to the issue of a Construction Certificate, the applicant is to submit to Council for approval a Vegetation Management Plan (VMP) for the whole property that:

- is prepared by a suitably qualified (minimum 5 years experience) bushland regenerator, with a minimum qualification of Certificate IV in Conservation and Land Management
- is prepared in accordance with the Cumberland Plain Recovery Plan
- is targeted at restoration of the associated plant community type as identified within the BDAR PCT850 Cumberland Shale Hills Woodland (see Figure 5, AEP BDAR)
- extends for an initial period of 5 years, with evaluation and review at the end of that period, with the potential for extension of another term subject to achieving the defined objectives
- prescribes clearly defined objectives that are aimed at the establishment and persistence of the PCT
- is cost effective and sustainable to ensure the ongoing implementation by the owner
- allows for continuation of species movement through the property, as such fencing recommendations must allow for species movement and exclusion of pests
- restores the connectivity values of the property
- ensures that the approved landscape plans are amended to be consistent with the Vegetation Management Plan, including compliance with Recommended Condition No. 95
- incorporates removal of exotic species
- incorporates replacement planting
- includes initial treatment by the bushland regenerator, to be completed prior to the issue of an Occupation Certificate
- 2nd year treatment to be conducted in association with education of site management
- 3rd-5th year treatments either to be undertaken by the bushland regenerator or site management, but subject to the approval of the bushland regenerator of the defined objectives being met, with annual reporting to Council
- the final year treatment to include an evaluation report for submission to Council, with recommendations for either an additional 5 year continuation plan or ongoing maintenance by site management
- the plan will need to take OSSM and APZ requirements into consideration and seek to integrate these requirements potentially by applying core and buffer zones, relative to achieving ecological objectives within the VMP area

Prior to the issue of an Occupation Certificate, the VMP for the property shall be registered against the land title of the property via a suitable positive covenant.

BCA Issues

37 **E009 - Annual fire safety-essential fire safety (Class 2-9 buildings)**

The owner of a building, to which an essential fire safety measure is applicable, shall provide Penrith City Council with an annual fire safety statement for the building. The annual fire safety statement for a building must:

- (a) deal with each essential fire safety measure in the building premises, and
(b) be given:

- within 12 months after the last such statement was given, or
- if no such statement has previously been given, within 12 months after a final fire safety certificate was first issued for the building.

As soon as practicable after the annual fire safety statement is issued, the owner of the building to which the statement relates:

- must also provide a copy of the statement (together with a copy of the current fire safety schedule) to the Commissioner of New South Wales Fire Brigades, and
- prominently display a copy of the statement (together with a copy of the current fire safety schedule) in the building.

38 E01A - BCA compliance for Class 2-9

All aspects of the building design shall comply with the applicable performance requirements of the Building Code of Australia so as to achieve and maintain acceptable standards of structural sufficiency, safety (including fire safety), health and amenity for the on-going benefit of the community. Compliance with the performance requirements can only be achieved by:

(a) complying with the deemed to satisfy provisions, or

(b) formulating an alternative solution which:

- complies with the performance requirements, or
- is shown to be at least equivalent to the deemed to satisfy provision, or
- (c) a combination of (a) and (b).

It is the owner's responsibility to place on display, in a prominent position within the building at all times, a copy of the latest fire safety schedule and fire safety certificate/statement for the building.

Health Matters and OSSM installations

39 F001 - General Fitout

The construction, fit out and finishes of the food premises must comply with Standard 3.2.3 of the Australian and New Zealand Food Standards Code and AS 4674-2004 *Design, Construction and Fitout of Food Premises*.

40 F006 - Water tank & nuisance

The rainwater tank must be maintained so as not to create a nuisance and it must be protected against mosquito infestation.

41 F022 - Commercial kitchen(exhaust system)

Cooking appliances which exceed a total maximum power input of 8kw for electrical, or a total gas input of 29MJ/h for a gas appliance, are required to have a kitchen exhaust system installed in accordance with Clause F4.12 of the Building Code of Australia and Australian Standard 1668, Parts 1 & 2.

Detailed plans together with calculations for the system must be provided as part of the Construction Certificate application.

The exhaust hood must completely cover the equipment to be ventilated and extended at least 200mm beyond the perimeter of the equipment. The exhaust hood must be provided with a condensation gutter around its base. The gutter must be at least 50mm wide by 25mm deep. Where abutting walls are located the hood must be constructed so as to finish flat against the wall surface.

The low edge of a canopy type exhaust hood must be at least 2000mm above floor level.

Prior to the issue of an Occupation Certificate, and operation of the business, the exhaust system shall be certified by an appropriately qualified person to comply with the Building Code of Australia and Australian Standard 1668, Parts 1 & 2. A copy of the certification and supporting documentation must be provided to Council's Environmental Health Department if Council is not the Principal Certifying Authority.

42 F027 - Hand basins

Hand basins must be serviced with hot and cold water through a single outlet, able to be mixed at a temperature of at least 40°C and fitted with a hands free operation. Where sensor taps are installed the basin must not be more than 6 metres from the hot water system. Disposable paper hand towels and soap must be provided and serviced from a dispenser adjacent to each hand basin.

43 F029 - Hand basin within staff toilets

A hand basin located within the toilet cubicle must be serviced with hot and cold water through a single outlet, able to be mixed at a temperature of at least 40°C and fitted with a hands free operation. Where sensor taps are used the basin must not be more than 6 metres from the hot water system. Disposable paper hand towels and soap must be provided and serviced from a dispenser adjacent to each hand basin.

44 F030 - Hot water service

Hot water services must be positioned at least 75mm clear of the adjacent wall surfaces, and mounted at a minimum 150mm above the floor level on a non-corrosive metal stand. The hot water system must be sized to meet the demands of the food business during peak operating and cleaning periods and be able to provide sufficient hot water throughout the working day. Discharge from the hot water system must enter the sewer through a tongue dish in accordance with Sydney Water's requirements.

45 **F031 - Floor & floor waste**

The floor of the food premises must be finished in an approved non-absorbent material, evenly laid, or graded and drained to a trapped floor waste. All floor wastes in the food preparation, service and scullery area must be fitted with a sump removable basket and grate, a minimum 200mm in diameter, and finished in all stainless steel.

46 **F032 - Floor covering**

Approved, recessed coving must be provided at all intersections of the floor with the walls within all food preparation, service, storage and scullery areas. All coving must have a minimum concave radius of 25mm and be installed so as to be integral to the surface finish of both floor and wall in such a manner as to form a continuous, uninterrupted surface.

47 **F033 - Walls – food prep area**

The walls of the food preparation area must be of solid construction and finished with glazed ceramic tiles or other approved material to a height of 2 metres. The intersection of tiles and render must have a flush finish, or be splayed at a 45 degree angle to eliminate a ledge that would allow dust and grease to accumulate.

48 **F034 - Walls – behind cooking appliances**

The walls at the rear of cooking appliances must be surfaced with an impervious material, such as stainless steel, which extends from the canopy to the floor. Where a cooking appliance is sealed to the wall, the material must be lapped over the top edge of the appliance to provide a grease and vermin proof seal. Cooking appliances must only be sealed to walls made of a non-combustible material.

49 **F035 - Ceilings**

The ceiling in the preparation, service and scullery areas must be constructed with a rigid, non-absorbent, smooth faced material free from open joints, cracks and crevices and be painted with a light coloured washable paint. The intersection of the walls and ceiling must be tight jointed, sealed and dust proofed. Drop-in panel style ceilings are not permitted.

50 **F036 - Service pipes**

Service pipes, electrical conduits and refrigeration condensate pipes shall be enclosed or chased into walls, floors or plinths. Where it can be demonstrated that this is not feasible pipes and conduits fixed on brackets, providing a minimum of 25mm clearance from the adjacent wall and 100mm from the floor or adjacent horizontal surface, can be used. All openings in walls, floors and ceilings, through which service pipes and conduits pass, must be vermin proof.

51 **F038 - Window sills**

Any window sill within a food preparation area, service or scullery area must be located 450mm above the top of any bench/sink and tiled at a splayed angle of 45 degrees.

52 **F039 - Fly screens**

Flyscreens or other approved means of excluding flies must be provided to all windows in the kitchen

53 **F042 - Sanitising dishwasher/ double bowl sink**

All utensils and equipment must undergo a washing, sanitising and rinsing cycle. The sanitising rinse cycle must achieve a water temperature of 80°C for 2 minutes or 75°C for 10 minutes.

If a dishwasher is not being installed a double bowl sink is required for washing and sanitising food equipment. The double bowl sink must be constructed of stainless steel, have a minimum bowl size of 450mm x 300mm x 300mm to enable cleaning of large pots and equipment, be fitted with a draining area at each end, and have a splashback as part of the unit at least 300mm up the wall. Wash sinks must be supplied with water at a temperature of not less than 54°C for washing.

54 **F046 - Cleaners sink**

The cleaner's sink must be serviced with hot and cold water through taps fitted with hose connectors. Cleaner's sinks must be located outside of areas where open food is handled.

55 **F047 - Fixtures & fittings**

All fixtures, fittings and equipment must be provided with smooth and impervious surfaces, free from cracks and crevices to enable easy cleaning.

All fittings and fixtures must be built into the wall and floor so as to be free from joint, gaps and cavities to enable easy cleaning or alternatively, supported on one of the following:

- a. Plinths – plinths must be an integral part of the floor, constructed of solid materials similar to the floor at least 75mm in height and coved at the intersection with the floor. All plinths must have a smooth and impervious finish. All fittings and fixtures must be properly sealed to the plinth so to be free from gaps, cracks and cavities.
- b. Wheels or castors – fittings and fixtures can be supported on wheels or castors. The wheels and castors must be capable of supporting and easily moving a full loaded fitting. All wheels and castors must be provided with a restraining device.
- c. Legs – fittings and fixtures can be supported on legs but must be constructed of a non-corrosive, smooth metal or moulded plastic. All legs must be free from cracks and crevices. All legs must have a clearance space between the floor and the underside of the fitting of at least 200mm.

NOTE: False bottoms under fittings are not permitted (AS 4674-2004 – Sections 4.2 and 4.3).

56 **F048 - Food prep benches**

All food preparation benches must be constructed in stainless steel or finished in a smooth and non-absorbent approved material that is free of joints.

57 **F053 - Coolrooms – condensation**

Condensation from coolrooms and refrigeration motors must discharge to the sewer via a tundish with air gap separation in accordance with Sydney Water requirements.

58 **F057 - Waste storage**

All garbage must be stored in accordance with the requirements of the Food Safety Standards of the Australian and New Zealand Food Standards Code and the *Protection of the Environment Operations Act 1997* to prevent the harbourage of vermin or generation of odours.

59 **F060 - Grease Arrestor**

The grease arrestor shall be installed in accordance with Sydney Water's requirements.

Utility Services

60 **G002 - Section 73 (not for**

A Section 73 Compliance Certificate under the Sydney Water Act 1994 shall be obtained from Sydney Water. The application must be made through an authorised Water Servicing Coordinator. Please refer to "Your Business" section of Sydney Water's website at www.sydneywater.com.au then the "e-developer" icon, or telephone 13 20 92.

The Section 73 Compliance Certificate must be submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

61 **G004 - Integral Energy**

Prior to the issue of a Construction Certificate, a written clearance is to be obtained from Endeavour Energy stating that electrical services have been made available to the development or that arrangements have been entered into for the provision of services to the development.

In the event that a pad mounted substation is necessary to service the development, Penrith City Council shall be consulted over the proposed location of the substation before the Construction Certificate for the development is issued as the location of the substation may impact on other services and building, driveway or landscape design already approved by Council.

62 **G006 -**

Prior to the issue of a Construction Certificate, the Principal Certifying Authority shall be satisfied that telecommunications infrastructure may be installed to service the premises which complies with the following:

- The requirements of the Telecommunications Act 1997;
- For a fibre ready facility, the NBN Co's standard specifications current at the time of installation; and
- For a line that is to connect a lot to telecommunications infrastructure external to the premises, the line shall be located underground.

Unless otherwise stipulated by telecommunications legislation at the time of construction, the development must be provided with all necessary pits and pipes, and conduits to accommodate the future connection of optic fibre technology telecommunications.

Prior to the issue of an Occupation Certificate, written certification from all relevant service providers that the telecommunications infrastructure is installed in accordance with the requirements above and the applicable legislation at the time of construction, must be submitted to the Principal Certifying Authority.

Construction

63 **H001 - Stamped plans and erection of site notice**

Stamped plans, specifications, a copy of the development consent, the Construction Certificate and any other Certificates to be relied upon shall be available on site at all times during construction.

The following details are to be displayed in a maximum of 2 signs to be erected on the site:

- the name of the Principal Certifying Authority, their address and telephone number,
- the name of the person in charge of the work site and telephone number at which that person may be contacted during work hours,
- that unauthorised entry to the work site is prohibited,
- the designated waste storage area must be covered when the site is unattended, and
- all sediment and erosion control measures shall be fully maintained until completion of the construction phase.

Signage but no more than 2 signs stating the above details are to be erected:

- at the commencement of, and for the full length of the, construction works onsite, and
- in a prominent position on the work site and in a manner that can be easily read by pedestrian traffic.

All construction signage is to be removed when the Occupation Certificate has been issued for the development.

Prior to the commencement of construction works:

(a) Toilet facilities at or in the vicinity of the work site shall be provided at the rate of one toilet for every 20 persons or part of 20 persons employed at the site. Each toilet provided must be:

- a standard flushing toilet connected to a public sewer, or
- if that is not practicable, an accredited sewage management facility approved by Council, or
- alternatively, any other sewage management facility approved by Council.

(b) All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with the appropriate professional standards. All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.

(c) If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made:

- must preserve and protect the building from damage, and
- if necessary, must underpin and support the building in an approved manner, and
- must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished. The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this condition, whether carried out on the allotment of land being excavated or on the adjoining allotment of land (includes a public road and any other public place).

(d) If the work involved in the erection or demolition of a building is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or involves the enclosure of a public place, a hoarding or fence must be erected between the work site and the public place:

- if necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place,
- the work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place, and
- any such hoarding, fence or awning is to be removed when the work has been completed.

65 **H036 - Rainwater Tank (Also impose H037, H038, H039, G005 & Q010)**

The rainwater tank(s) is to be:

- erected on a self-supporting base in the approved location on the property in accordance with the stamped-approved site plans for the development,
- structurally sound and constructed in accordance with AS/NZS 3500 1.2- 1998: National Plumbing and Drainage - Water Supply - Acceptable Solutions,
- fully enclosed and all openings sealed to prevent access by mosquitoes,
- fitted with a first flush device,
- fitted with a trickle system to top up from mains water,
- provided with an air gap, and
- installed by a licensed plumber in accordance with Sydney Water's "Plumbing requirements Information for rainwater tank suppliers and plumbers April 2003" and the NSW Code of Practice: Plumbing and Drainage.

Additionally, the following are to be provided:

- A back flow prevention device shall be provided at the water meter in accordance with Sydney Water requirements.
- In the event of a power failure, a back up supply of mains water shall be provided to at least one toilet in the dwelling.
- The rainwater tank(s) and associated piping is to be labelled 'Rainwater - Not for Drinking' in accordance with Sydney Water requirements.
- The rainwater tank and pipework is to be painted in colours matching the external finishes of the dwelling and is to be of non-reflective finish.
- The overflow for the rainwater tank is to be connected into the existing stormwater disposal system on the site.

Before a rainwater tank(s) can be used, a certificate or suitable document is to be submitted to the Principal Certifying Authority stating that the rainwater tank has been installed in accordance with:

- the Manufacturer's Specifications, and
- Sydney Water and NSW Health requirements.

This certificate or documentation is to be provided by the licensed plumber who installed the rainwater tank on the property, and is to be submitted prior to the issue of the Occupation Certificate.

66 **H037 - Safe supply of water from catchment areas (Also impose H036, H038 & H039)**

The catchment area (for the rainwater tank) includes the parts of the roof of the dwelling(s) from which water is collected and includes gutters. To ensure a safe supply of water:

- roof catchment areas must be kept clear of overhanging vegetation,
- gutters must have sufficient fall to downpipes to prevent pooling of water,
- overflow, discharge from bleed off pipes from roof mounted appliances such as airconditioners, hot water services and solar heaters must not discharge into the rainwater catchment area,
- for roofs containing lead based, tar based or asbestos material the tank supply must not be connected to drinking, bathing and gardening tap water outlets,
- appropriate measures must be installed to prevent foreign materials from contaminating the water which enters the rainwater tank.

67 **H038 - Connection of rainwater tank supply (Also impose H036, H037 & H039)**

The rainwater tank supply must not be connected to drinking and bathing water tap outlets.

68 **H039 - Rainwater tank pumps (Also impose H036, H037 & H038)**

The rainwater tank pump must not exceed 5dBA above ambient background noise level at the nearest residential property boundary. The provisions of the Protection of the Environment Operations Act 1997 apply to the development, in terms of regulating offensive noise.

Engineering

69 **K101 - Works at no cost to Council**

All roadworks, stormwater drainage works, signage, linemarking, associated civil works and dedications, required to effect the consented development shall be undertaken by the applicant at no cost to Penrith City Council.

70 **K201 - Infrastructure Bond**

An Infrastructure Restoration Bond is to be lodged with Penrith City Council for development involving works around Penrith City Council's Public Infrastructure Assets. The bond is to be lodged with Penrith City Council prior to commencement of any works on site or prior to the issue of any Construction Certificate. The bond and applicable fees are in accordance with Council's adopted Fees and Charges.

An application form together with an information sheet and conditions are available on Council's website.

Contact Penrith City Council's City Works Department on 4732 7777 or visit Penrith City Council's website for more information.

71 **K202 - S138 Roads Act – Works and Structures - Minor Works in the public road DRIVEWAYS ROAD OPENINGS**

Prior to the issue of any Construction Certificate, a Section 138 Roads Act application, including payment of application and inspection fees together with any applicable bonds, shall be lodged and approved by Penrith City Council (being the Roads Authority for any works required in a public road). These works may include but are not limited to the following:

- a) Vehicular crossings (including kerb reinstatement of redundant vehicular crossings)
- b) Concrete footpaths and/or cycleways
- c) Road opening for utilities and stormwater (including stormwater connection to Penrith City Council roads and other Penrith City Council owned drainage)
- d) Road occupancy or road closures
- e) The placement of hoardings, structures, containers, waster skips, signs etc. in the road reserve
- f) Temporary construction access
- g) Temporary ground anchors (for basement construction)

All works shall be carried out in accordance with the Roads Act approval, the development consent, including the stamped approved plans, and Penrith City Council's specifications, guidelines and best engineering practice.

Contact Penrith City Council's City Assets Department on 4732 7777 or visit Penrith City Council's website for more information.

Note:

- Where Penrith City Council is the Certifying Authority for the development, the Roads Act approval for the above works may be issued concurrently with the Construction Certificate.
- Separate approvals may also be required from the Roads and Maritime Service for classified roads.
- All works associated with the Roads Act approval must be completed prior to the issue of any Occupation Certificate as applicable.
- On completion of any awning over the road reserve, a certificate from a practising structural engineer certifying the structural adequacy of the awning is to be submitted to Council before Council will inspect the works and issue its final approval under the Roads Act.

72 **K209 - Stormwater Discharge – Minor Development**

Stormwater drainage from the site shall be discharged to a level spreader system.

The proposed development and stormwater drainage system shall be designed to ensure no adverse impact on adjoining properties by the diversion, damming or concentration of stormwater flows.

The proposed method of stormwater discharge shall be detailed in the Construction Certificate issued by the Certifying Authority.

73 [K210 - Stormwater Management](#)

The stormwater management system shall be consistent with plan/s lodged for development approval, prepared by Australian Consulting Engineers, reference number 171195, revision G, dated 04.11.2020.

Engineering plans and supporting calculations for the stormwater management systems are to be prepared by a suitably qualified person and shall accompany the application for a Construction Certificate.

Prior to the issue of any Construction Certificate, the Certifying Authority shall ensure that the stormwater management system has been designed in accordance with Penrith City Council's Stormwater Drainage for Building Developments and Water Sensitive Urban Design (WSUD) Policies.

74 [K222 - Access, Car Parking and Manoeuvring – General](#)

Prior to the issue of any Construction Certificate or Subdivision Works Certificate, the Certifying Authority shall ensure that vehicular access, circulation, manoeuvring and pedestrian and parking areas associated with the subject development are in accordance with AS 2890.1, AS 2890.2, AS 2890.6 and Penrith Development Control Plan.

75 [K224 - Construction Traffic Management Plan](#)

Prior to the commencement of any works on-site (including demolition works) or prior to the issue of any Construction Certificate, a Construction Traffic Management Plan (CTMP) shall be submitted to Council's City Assets Department for endorsement. The CTMP shall be prepared by a suitably qualified consultant with appropriate training and certification from the Roads & Maritime Service (RMS). The CTMP shall include details of any required road closures, work zones, loading zones and the like. Approval of the CTMP may require approval of the Local Traffic Committee. Please contact Council's City Assets Department on 4732 7777 and refer to Council's website for a copy of the Temporary Road Reserve Occupancy Application form.

76 [K403 - Major Filling/Earthworks](#)

All earthworks shall be undertaken in accordance with AS 3798 and Penrith City Council's Design Guidelines for Engineering Works for Subdivisions and Developments and Engineering Construction Specification for Civil Works.

The level of testing shall be determined by the Geotechnical Testing Authority/Superintendent in consultation with the Principal Certifying Authority.

77 [K405 - Turf to Verge](#)

Upon completion of all works in the road reserve, all verge areas fronting and within the development are to be turfed. The turf shall extend from the back of kerb to the property boundary, with the exception of concrete footpaths, service lids or other infrastructure which is not to be turfed over. Turf laid up to concrete footpaths, service lids or other infrastructure shall finish flush with the edge.

78 [K501 - Penrith City Council clearance – Roads Act/ Local Government Act](#)

Prior to the issue of any Occupation Certificate, the Principal Certifying Authority shall ensure that all works associated with a Section 138 Roads Act approval or Section 68 Local Government Act approval have been inspected and signed-off by Penrith City Council.

79 [K503 - Works as executed – General and Compliance Documentation](#)

Prior to the issue of an Occupation Certificate, works-as-executed drawings, final operation and maintenance management plans and any other compliance documentation shall be submitted to the Principal Certifying Authority in accordance with Penrith City Council's Engineering Construction Specification for Civil Works, WSUD Technical Guidelines and Stormwater Drainage for Building Developments Policy.

An original set of works-as-executed drawings and copies of the final operation and maintenance management plans and compliance documentation shall also be submitted to Penrith City Council with notification of the issue of the Occupation Certificate where Penrith City Council is not the Principal Certifying Authority.

80 **K504 - Stormwater Compliance**

Prior to the issue of any Occupation Certificate, the Principal Certifying Authority shall ensure that the:

a) Stormwater management systems (including on-site detention and water sensitive urban design)

- Have been satisfactorily completed in accordance with the approved Construction Certificate and the requirements of this consent.
- Have met the design intent with regard to any construction variations to the approved design.
- Any remedial works required to be undertaken have been satisfactorily completed.

Details of the approved and constructed system/s shall be provided as part of the works-as-executed drawings.

81 **K505 - Restriction as to User and Positive Covenant**

Prior to the issue of any Occupation Certificate, a restriction as to user and positive covenant relating to the:

a) Stormwater management systems (including on-site detention and water sensitive urban design)

shall be registered on the title of the property. The restriction as to user and positive covenant shall be in Penrith City Council's standard wording as detailed in Penrith City Council's Stormwater and Drainage for Building Developments Policy.

82 **K510 - Entry/ Exit signage**

Prior to the issue of any Occupation Certificate, signage which is clearly visible from the public road shall be placed within the development site.

The signage shall indicate that the western vehicular access is to be used for ingress purposes only and appropriately signposted "Entry Only". The eastern vehicular access is to be used for egress purposes only and appropriately signposted "No Entry".

83 **K601 - Stormwater management system operation and maintenance**

The stormwater management systems shall continue to be operated and maintained in perpetuity for the life of the development in accordance with the final operation and maintenance management plan.

Regular inspection records are required to be maintained and made available to Penrith City Council on request. All necessary improvements are required to be made immediately upon awareness of any deficiencies in the stormwater management systems.

84 **K Special (BLANK)**

All car parking and manoeuvring must be in accordance with AS 2890.1; AS 2890.2; AS 2890.6 and Council's requirements.

85 **K Special (BLANK)**

All visitor parking spaces must be designed to accommodate User Class 3 (i.e. minimum 2.6m wide) in accordance with Table 1.1 and Figure 2.2 of AS 2890.1 and staff parking spaces must be a minimum of 2.4m wide.

86 **K Special (BLANK)**

Appropriate signage and pavement markings are required to reinforce the direction of vehicle circulation and the locations of staff/visitor parking spaces.

87 **K Special (BLANK)**

The required sight lines around the driveway entrances are not to be compromised by landscaping, fencing or signage and sight distances are to be in accordance with Australian Standard 2890:1: 2004.

88 **K Special (BLANK)**

All vehicles are to enter and exit the site in a forward direction.

Landscaping

89 **L001 - General**

All landscape works are to be constructed in accordance with the stamped approved Landscape Concept Plan, Sheets 1, 2 and 4 of 5, Revision 6, prepared by Tessa Rose Playspace and Landscape Design and dated 02/12/20 as amended to be consistent with the Vegetation Management Plan, Condition 95, and any other condition of this consent.

Landscaping shall be maintained:

- in accordance with the approved plans, and
- in a healthy state, and in perpetuity by the existing or future owners and occupiers of the property.

If any of the vegetation comprising that landscaping dies or is removed, it is to be replaced with vegetation of the same species and, to the greatest extent practicable, the same maturity as the vegetation which died or was removed.

90 **L002 - Landscape construction**

The approved landscaping for the site must be constructed by a suitably qualified and experienced landscape professional.

91 **L003 - Report requirement**

Upon completion of the landscape works associated with the development and prior to the issue of an Occupation Certificate for the development, an Implementation Report must be submitted to the Principal Certifying Authority attesting to the satisfactory completion of the landscaping works for the development. This report shall be prepared by a suitably qualified and experienced landscape professional.

An Occupation Certificate should not be issued until such time as a satisfactory Implementation Report has been received. If Penrith City Council is not the Principal Certifying Authority, a copy of the satisfactory Implementation Report is to be submitted to Council together with the Occupation Certificate for the development.

92 **L005 - Planting of plant**

All plant material associated with the construction of approved landscaping is to be planted in accordance with the Tree Planting Specification prescribed in Penrith Development Control Plan 2014.

93 **L006 - Aust Standard**

All landscape works are to meet industry best practice and the following relevant Australian Standards:

- AS 4419 Soils for Landscaping and Garden Use,
- AS 4454 Composts, Soil Conditioners and Mulches, and
- AS 4373 Pruning of Amenity Trees.

94 **L008 - Tree Preservation Order**

No trees are to be removed, ringbarked, cut, topped or lopped or willfully destroyed (other than those within the proposed building footprint or as shown on the approved plans) without the prior consent of Penrith City Council and in accordance with Council's Tree Preservation Order and Policy.

95 **L Special (BLANK)**

Prior to the issue of a Construction Certificate, an amended landscape plan consistent with the Vegetation Management Plan shall be submitted to and approved by Council providing landscape screening along the northern side of the northern acoustic fence and including species that will provide greater screening within the western side setback and canopy trees in the southern portion of the site.

Development Contributions

96 **N001 - Section 7.12 Contribution**

This condition is imposed in accordance with Penrith City Council's Development Contributions Plan for Non-Residential Development. Based on the current rates detailed in the accompanying schedule attached to this Notice, \$33,461.00 is to be paid to Penrith City Council prior to a Construction Certificate being issued for this development (the rates are subject to quarterly reviews). If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted Section 7.12 plan.

The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule. Council should be contacted prior to payment to ascertain the rate for the current quarterly period. The Section 7.12 invoice accompanying this consent should accompany the contribution payment. The Section 7.12 Contributions Plan for Non-Residential Development may be inspected at Council's Civic Centre, 601 High Street, Penrith.

Note: The timing of contributions payable may be otherwise affected in accordance with Planning Circular PS20-003 dated 3 July 2020 and the associated NSW Government Ministerial Direction - Infrastructure Contributions.

Payment of Fees

97 P001 - Costs

All roadworks, dedications and drainage works are to be carried out at the applicant's cost.

98 P002 - Fees associated with Council land (Applies to all works & add K019)

Prior to the commencement of any works on site, all fees associated with Penrith City Council-owned land and infrastructure shall be paid to Council. These fees include Road Opening fees and Infrastructure Restoration fees.

Certification

99 Q006 - Occupation Certificate (Class 2 - 9)

An Occupation Certificate is to be obtained from the Principal Certifying Authority on completion of all works and prior to the occupation of the building.

The Occupation Certificate shall not be issued if any conditions of this consent, but not the conditions relating to the operation of the development, are outstanding.

A copy of the Occupation Certificate and all necessary documentation supporting the issue of the Certificate is to be submitted to Penrith City Council, if Council is not the Principal Certifying Authority.

100 Q01F - Notice of Commencement & Appointment of PCA2 (use for Fast Light only)

Prior to the commencement of any earthworks or construction works on site, the proponent is to:

- (a) employ a Principal Certifying Authority to oversee that the said works carried out on the site are in accordance with the development consent and related Construction Certificate issued for the approved development, and with the relevant provisions of the Environmental Planning and Assessment Act and accompanying Regulation, and
- (b) submit a Notice of Commencement to Penrith City Council.

The Principal Certifying Authority shall submit to Council an "Appointment of Principal Certifying Authority" in accordance with Section 81A of the Environmental Planning and Assessment Act 1979.

Information to accompany the Notice of Commencement

Two (2) days before any earthworks or construction/demolition works are to commence on site (including the clearing site vegetation), the proponent shall submit a "Notice of Commencement" to Council in accordance with Section 81A of the Environmental Planning and Assessment Act 1979.

Operation of OSSM

101 R101 - Operational Approval prior to use

The on-site sewage management (OSSM) system and ETA bed shall be designed, installed and operated in accordance with:

- Penrith City Council's On-Site Sewage Management and Greywater Reuse Policy,
- the Council approved amended Wastewater Report that is required further to the 'Site and Soil Assessment for On-Site Wastewater Management Commercial System' (Report Reference: SJDSSSE_002) prepared by Roberts Resources and dated 3 September 2020 and that is to address total staff numbers of 19 persons and amended reserve areas for potential future land application,
- the Council approved Hydraulic Engineers Report required to be submitted to and approved by Penrith City Council prior to the installation of the OSSM system/wastewater treatment plant (Econocycle Maxi 35) and any external drainage, and
- the conditions of this consent.

Prior to the issue of the 'Approval to Operate', a Commissioning Certificate for the OSSM system shall be provided to Penrith City Council for approval. This certificate shall certify that the wastewater treatment system and ETA bed (including associated infrastructure) has been installed, and will operate in compliance with, the requirements above.

Prior to the issue of an Occupation Certificate and before the OSSM system can be used, an 'Approval to Operate' for the OSSM system is to be sought from and issued by Penrith City Council.

102 R104 - No alterations without approval

The on-site sewage management (OSSM) system, including all associated infrastructure, including drainage lines, distribution pipes and effluent management areas, shall not be altered without the prior approval of Penrith City Council.

103 **R105 - Plumbing Code of Australia**

All drainage and sanitary plumbing shall be carried out in accordance with the requirements of the Plumbing and Drainage Act 2011 and the Plumbing Code of Australia.

104 **R109 - No effluent runoff**

There shall be no effluent runoff from the subject property to adjoining properties, public places or reserves.

105 **R111 - AWTs Servicing**

The owner/occupier shall enter into an annual service contract with the manufacturer, distributor or other person authorised (in writing) by Penrith City Council to service the aerated septic tank(s) every three (3) months from the date of commissioning in accordance with:

- the manufacturers specifications and recommendations
- the council approved amended Wastewater Report
- the Council approved Hydraulic Report

i. The three monthly service shall include a check on all mechanical, electrical and functioning parts of the aerated system including:

- the chlorinator, replenishment of the disinfectant, the UV disinfection unit, as appropriate
- all pumps and switches,
- the air blower, fan or air venturi,
- the alarm system,
- the effluent disposal area
- the slime growth on the filter media, and
- the operation of the sludge returns system.

ii. In addition to the above, the following field tests are to be carried out at every service:

- free residual chlorine using DPD colorimetric or photometric method,
- pH from a sample taken from the irrigation chamber,
- dissolved oxygen from a sample taken from the final aeration or stilling chamber (although recommended) is optional.

iii. On the yearly anniversary date of the commissioning of the system, an annual service of the system shall also be carried out which includes a check on the sludge accumulation in the septic tank (primary treatment tank) and the clarifier, where appropriate.

iv. For systems which utilise the sewage treatment principle of activated sludge or contact aeration, a sludge bulking test, known as a SV30 Test, shall also be conducted on an annual basis. This test is to determine whether the accumulated sludge is bulking, indicating that the aeration compartment(s) will require desludging.

v. On completion of each service, a service report sheet is to specify all service items and test results, the amount of chlorine compound provided, parts replaced (if applicable), the date the service was conducted and the technician's name. A copy of the service report is to be:

- given to the property owner and another to the applicant (if not the same), and
- forwarded to Penrith City Council.

Each service agent shall provide a registered business office which, if unattended during business hours, is provided with a telephone answering device or service. A means of reporting a malfunction or breakdown outside normal business hours shall be available. In the event of a breakdown or malfunction, the service agent shall, within 24 hours of the breakdown or malfunction, ensure that temporary repairs are carried out to the aerated system to ensure continued operation of the system. This may necessitate provision of adequate spare parts and temporary replacement blowers and irrigation pumps where repairs cannot be completed on site.

106 **R115 - No structures on EMA**

No concreting, driveways, vehicles or any other structure or access way is to be located over any portion of the effluent management area or the reserve areas.

Prior to the installation of the on-site sewage management (OSSM) system/wastewater treatment plant (Econocycle Maxi 35) and any external sanitary drainage, a Hydraulic Report, prepared by a suitably qualified and experienced Hydraulic Engineer, is to be submitted to Penrith City Council for approval. The Hydraulic Report is to provide hydraulic engineer certified design and details for the OSSM system, including all associated infrastructure and components, in accordance with the Council approved amended wastewater report that is required to be submitted and approved by Council further to the 'Site and Soil Assessment for On-Site Wastewater Management Commercial System' (Report Reference: SJDSSSE_002) prepared by Roberts Resources and dated 3 September 2020.

The Hydraulic Report is to include a site plan showing the location of all infrastructure required and is to be in accordance with the Council approved amended wastewater report that is required to be submitted and approved by Council further to the 'Site and Soil Assessment for On-Site Wastewater Management Commercial System' (Report Reference: SJDSSSE_002) prepared by Roberts Resources and dated 3 September 2020 and that addresses the hydraulic loading for 96 children and 19 staff. The size, specifications and design details and requirements for all aspects of the OSSM system are to be clearly included in the Hydraulic Report, including but not limited to:

- final tank/holding tank details, sizing and specification for ensuring dosing in accordance with the 'On-Site Wastewater Management Commercial System' (Report Reference: SJDSSSE_002) prepared by Roberts Resources and dated 3 September 2020
- required pump, including specification details and demonstrating that it is satisfactorily hydraulically sized taking into account the head needed, pressure dosing requirements and flow rate, including pressure loss in the pipes and the desired flow pressure needed from the laterals to evenly distribute effluent throughout the bed
- filter specifications
- matters listed in Table 5 of the 'Site and Soil Assessment for On-Site Wastewater Management Commercial System' (Report Reference: SJDSSSE_002) prepared by Roberts Resources and dated 3 September 2020

The Hydraulic Engineer's Certification is to demonstrate the even distribution of effluent across the ETA bed.

Prior to the issue of an Occupation Certificate, the Hydraulic Engineer is to certify that the OSSM system has been installed in accordance with the Council approved Hydraulic Report. This certification is to be submitted to Council for approval, prior to issue of an Occupation Certificate.

108 **R124 - Operational Wastewater Management Plan**

Prior to the issue of an Occupation Certificate, an Operational Wastewater Management Plan (OWMP) for the on-site sewage management (OSSM) system is to be provided to Penrith City Council for consideration and approval. The OWMP shall be prepared by a suitably qualified consultant in consultation with Council, and may need to be amended to include the comments provided by Council. The OWMP is to address:

- All environmental aspects of the operation of the on-site sewage management system
- All systems and controls to be implemented to minimise the potential for any adverse environmental impacts
- A program for ongoing monitoring and review to ensure that the OWMP remains contemporary with relevant environmental standards. Council is to be consulted prior to any amendments of the OWMP. Council may request a review of the OWMP or any proposed amendments.

The OWMP is to include but not be limited to the following:

- System information (including specifications and site plans)
- Monitoring and testing
- Maintenance and servicing program (for the whole system including treatment and disposal system and all associated infrastructure)
- System performance
- System failure contingency
- Odour management
- Landscape and disposal area management
- Health and safety

The OSSM system is to be operated in accordance with the requirements of the Council approved OWMP.

109 **R129 - Reserve area with plan**

The Council approved reserve areas, once approved by Council in the amended wastewater report (that is required further to the 'Site and Soil Assessment for On-Site Wastewater Management Commercial System' (Report Reference: SJDSSSE_002) prepared by Roberts Resources and dated 3 September 2020 and that is to address total staff numbers of 19 persons and amended reserve areas for potential future land application) are not to be used for any ancillary purpose. The reserve areas are not to be developed. In the event that the primary effluent disposal area is to fail, the reserve areas are to be used. Written approval is to be obtained from Penrith City Council prior to any works being undertaken.

110 **R 100 Special**

Prior to the installation of the on-site sewage management (OSSM) system/wastewater treatment plant (Econocycle Maxi 35) and any external sanitary drainage, an amended wastewater report, further to the 'Site and Soil Assessment for On-Site Wastewater Management Commercial System' (Report Reference: SJDSSSE_002) prepared by Roberts Resources and dated 3 September 2020, is to be submitted to Penrith City Council for approval. The amended report is to be prepared by a suitably qualified and experienced consultant and is to:

- include provision for the proposed staff number of 19
- relocate reserve area 2 to the north of the internal fence that is located to the north of the outdoor play area, and in accordance with *Penrith City Council's On-Site Sewage Management and Greywater Reuse Policy 2014*. Buffer distances are to be provided in accordance with Council's Policy.

Reserve area 2 is not approved in the location shown in the 'Site and Soil Assessment for On-Site Wastewater Management Commercial System' (Report Reference: SJDSSSE_002) prepared by Roberts Resources and dated 3 September 2020. The amended wastewater report is to include an amended Land Application Area and Site Design Plan showing reserve area 2 located to the north of the internal fence that is north of the outdoor play area, and in accordance with *Penrith City Council's On-Site Sewage Management and Greywater Reuse Policy 2014*.

111 **R Special BLANK**

The ETA bed and upslope diversion drains (including to the treatment tanks) are to be constructed in accordance with Sections 4.2 and 4.3, Table 5 and Figure 10 of the 'Site and Soil Assessment for On-Site Wastewater Management Commercial System' (Report Reference: SJDSSSE_002) prepared by Roberts Resources and dated 3 September 2020. The Wastewater Consultant or Hydraulic Engineer is to supervise the construction of the ETA bed.

Prior to the issue of an Occupation Certificate, certification is to be provided to Penrith City Council, certifying that the construction of the ETA bed is in accordance with the above.

This certification is to be provided by the Wastewater Consultant or Hydraulic Engineer.

Note:

- This condition refers to the construction of the ETA bed. The sizing of the ETA bed is to be in accordance with the Council approved amended wastewater report that is required to be submitted to and approved by Council, further to the 'Site and Soil Assessment for On-Site Wastewater Management Commercial System' (Report Reference: SJDSSSE_002) prepared by Roberts Resources and dated 3 September 2020.
- The requirements of this condition regarding certification for the construction of ETA bed also applies to the construction of any future ETA bed/s within the reserve areas, if required in the future.

112 **R Special BLANK**

All plumbing fixtures used within the child care centre are to have a minimum water efficiency rating of three-stars.

113 **R Special BLANK**

Prior to the issue of an Occupation Certificate, a Commissioning Certificate, prepared by the Wastewater Consultant or Hydraulic Engineer, is to be submitted to and be approved by Penrith City Council. The Commissioning Certificate is to demonstrate that satisfactory pre-commissioning checks have been completed with the entire system water and pressure tested. The Commissioning Certificate is to certify that the OSSM system is installed and shall operate in compliance with:

- Penrith City Council On-Site Sewage Management and Greywater Reuse Policy,
- the Council approved amended Wastewater Report that is required to be submitted to and approved by Council, further to the 'Site and Soil Assessment for On-Site Wastewater Management Commercial System' (Report Reference: SJDSSSE_002) prepared by Roberts Resources and dated 3 September 2020 and that is to address total staff numbers of 19 persons and amended reserve areas for potential future land application,
- the Council approved Hydraulic Engineers Report required to be submitted to and approved by Penrith City Council prior to issue of a Construction Certificate, and
- the conditions of this consent.

114 **R Special BLANK**

Warning signs are to be erected around and across the ETA bed area in order to keep pedestrian traffic off the bed. A signage plan is to be submitted to Penrith City Council for approval prior to the issue of an Occupation Certificate. This information may be submitted as part of the OWMP that is required to be submitted to and approved by Council prior to the issue of an Occupation Certificate.

115 **R Special BLANK**

The on-site sewage management (OSSM) system/wastewater treatment plant (Econocycle Maxi 35) is approved for the hydraulic loading associated with 96 children and 19 staff in attendance at the child care centre. Any proposed increase to this load based on population or any additional development on the site, may require a new wastewater report for Council's consideration and approval, and may be subject to separate application and approval requirements.

Appendix - Development Control Plan Compliance

Development Control Plan 2014

Part C - City-wide Controls

C1 Site Planning and Design Principles

The proposed child care centre meets the required front, rear and side boundary setbacks outlined within Part D1 Rural Land Uses. Consistency with the surrounding streetscape has therefore been maintained leading to the ability to maximise visual and acoustic privacy as well as adequate landscaping to assist in softening the built form of the development.

Safety and Security (Principles of Crime Prevention Through Environmental Design CPTED)

The proposal has been assessed as satisfactory with regard to the principles of CPTED and includes safety and security features applicable to the use of the site as a child care centre. The design does not include areas where concealment or crime is likely to occur and includes a visible pedestrian foyer entry from the car park. The entry foyer is centrally located and is provided with a visual connection to the pedestrian pathway. Windows are provided to the street frontages from the staff/administration areas providing opportunity for passive surveillance. Public/private boundaries are adequately reinforced by the provision of landscaping.

Maximising Access and Adaptability

The proposal has been assessed as acceptable having regard to the 7 principles of the section including equitable access, flexibility in use and simple and intuitive use. The development provides for 2 accessible parking spaces within the car park. An Access Report prepared by Lindsay Perry Associates was provided with the application and the recommendations will be required via a recommended condition of consent.

C3 Water Management

Water Quality

Section 3.1 of Council 's Water Sensitive Urban Design (WSUD) Policy requires new development over 2500m² to have a 80% on-site water reuse. The WSUD Policy does apply to this development given the its size. Therefore, the proposal is requested to demonstrate compliance via water reuse calculations or by demonstrating water efficiency and the submission of a WSUD strategy.

The submitted stormwater plans do not provide any information regarding non-potable water reuse demand and compliance with Section 3.1 of Council's WSUD Policy.

Prior to the issue of a Construction Certificate, the applicant will need to demonstrate the proposal's compliance with Section 3.1 of Council's WSUD Policy and ensure that the development will achieve a 80% non-potable water reuse. An amended MUSIC model and stormwater concept plan demonstrating compliance with Section 3.1 of Council's WSUD Policy will be required via a recommended condition of consent.

Stormwater Management and Drainage

Initially, a stormwater absorption pit was proposed and further details of this pit were requested, including a report detailing the soil's ability to absorb stormwater flows from the proposed on-site stormwater detention (OSD) tank, including expected absorption times and capacity for various storm durations.

The stormwater plans were subsequently amended and the absorption pit removed due to the low permeability of the soil. A level spreader system has been proposed in lieu of the absorption pit.

Although the subject site is located outside of a mandatory on-site detention area, an OSD tank has been provided to limit stormwater discharge during large storm events and therefore minimise any scouring or erosion on downstream properties. The OSD system will ensure there are no adverse impacts on adjoining properties in relation to stormwater flows. The OSD area was re-located from the front setback to the rear area underneath the proposed gazebo. While

safety concerns were raised as to whether this OSD area, which is partially protruding, could pose an entrapment issue for children, appropriate fencing will mitigate any safety concerns.

Details were also provided, as requested by Council, regarding emergency overland flows in the event of a blockage or system failure of the stormwater system. The submitted plans demonstrated that the stormwater system will have no adverse impacts on adjoining properties in this regard.

Council's Development Engineer has reviewed the proposed stormwater design and raised no objections in this regard subject to recommended conditions of consent.

C5 Waste Management

On-site waste management is proposed. The plans detail a waste storage room 1.8m x 3m suitable for the storage of 2 x 1,100 litre bins. The submitted Traffic Report details access to the waste storage area, which can also be observed on the plans via the width of the driveways which can accommodate waste truck swept paths. Council's Traffic Engineer reviewed the proposal in this regard and raised no objection.

Further, the collection of waste will be by a private contractor, not Council.

Overall, the proposed waste management arrangements are considered supportable.

C6 Landscape Design

Council requires that landscape design promote best practice environmentally sustainable development (ESD) principles such as the use of low maintenance, drought tolerant native or endemic species and the use of drip irrigation or the like, to reduce water consumption.

Initially, there were many trees and shrubs proposed which would not grow within the effluent areas due to their species type. There was also a lack of trees that represented the Cumberland Plain Woodland (CPW) - i.e. gums. There were also certain trees that were inappropriate given the lack of screening they would provide - i.e. blueberry ash along the side setbacks. In addition, it was requested that the side setbacks be prioritised for landscaping rather than any effluent areas given their importance in screening both the acoustic fences and the proposal at large in its rural context.

The revised landscape design is considered satisfactory. Water tolerant species are now proposed including large trees in the rear play area as well as the front setback. Two canopy trees are now included within the road verge and 9 more trees included within the front setback that will reach a mature height of between 8m and 25m to soften the built form and contribute to the streetscape. It is noted that the taller trees are spread out to ensure surveillance can be maintained from the facility to the street. Within the side setbacks, medium sized trees are proposed that are both appropriate to screen the development from neighbouring properties and that will reach maturity sustainably in effluent reserve areas. No species proposed are considered detrimental to children with allergies.

Council's Landscape Architect reviewed the amended landscape design and raised no objections, subject to recommended conditions of consent. In addition, it is noted that the effluent reserve area along the western side setback is to be removed, as required by a recommended condition of consent. Therefore, there will be greater potential for landscape screening along this side setback. An amended landscape plan will be required via a recommended condition of consent.

C9 Advertising and Signage

The proposal does not include signage details, however it does include a fascia sign location and walls to mount signage along the front property boundary.

The DCP states that only one building identification sign is to be erected on the property. The

DCP also states that in rural zones, signage shall not be freestanding in the landscape, but shall relate to walls, fences or buildings. The objectives of these controls are to ensure that the amenity, landscape and character of rural and residential areas are maintained and roadside clutter minimised.

As three signs are proposed, two of which are freestanding, the two signage walls will be crossed and required to be deleted from the approved plans. This will ensure the front setback remains open and landscaped, reflective of the rural character of the area and consistent with the objectives for rural signage.

Further, a recommended condition of consent will require the fascia signage details to be provided to ensure the detail integrates with the style, character and function of the proposed building, and is reflective of the area's landscape and rural character.

C10 Transport, Access and Parking

The proposal is assessed to comply with the general objectives of the Transport, Access and Parking section of the DCP. Specifically, the proposal has provided safe and compliant pedestrian and car parking access.

The DCP specifies that car parking for child care centres is required to be provided at a rate of 1 car space per 10 children, plus 1 car space per employee. The development proposes to employ 19 individuals and provide for 96 children, requiring 29 car spaces be provided on site. The proposal complies with this requirement with 30 parking bays (19 staff and 11 visitor bays) being provided.

In regard to the centre's impact on the surrounding road network, the submitted Traffic Impact Assessment suggests a peak trip generation of 77 and 68 vehicles per hour for the AM and PM peaks respectively. Council's Traffic Engineer requested the applicant conduct traffic volume counts on Mt Vernon Road to determine the current traffic demand and assess whether the road will remain within its environmental capacity post development.

A Traffic Volume Environmental Capacity Report prepared by GTK Consulting, dated October 2020, was subsequently submitted. This report outlines the modelling undertaken and concludes that traffic generation attributed to the proposal will operate within its maximum environmental capacity (as per the RMS Guide to Traffic Generating Developments) post development and the road network can cater for the traffic generated by the development. Council's Traffic Engineer reviewed this report and raised no objections.

In addition, it is noted that the originally proposed path from the car park out to Mt Vernon Road has been deleted from the architectural plans, as Council requested. This will discourage cars parking within the verge area given there is no kerb and gutter. The stormwater plans still show the path and this will be required to be deleted from the approved plans.

C12 Noise and Vibration

The application was accompanied by an Acoustic Impact Assessment prepared by Acoustic Logic. Council's Environmental Management Officer reviewed this assessment and the proposal and raised no objections.

The Acoustic Report recommends operational and design mechanisms to ensure that the child care centre will operate in an acoustically compliant manner and control traffic noise intrusion from Mt Vernon Road, aircraft noise intrusion from flights departing the future Western Sydney Airport and noise emissions from the operation of the facility. These recommendations include acoustic barrier fencing, external glazing, wall, roof and ceiling treatments, restricting the overall capacity and the number of children outside at any one time to 35 and restricting the hours for deliveries, cleaning and operation of mechanical plant equipment.

The Acoustic Report was amended on request from Council, incorporating cross sections of the acoustic fence, including construction requirements, and addressing the total traffic noise to be

generated. The Acoustic Report, as amended, was found to be satisfactory.

A recommended condition of consent will ensure that the recommendations provided in Section 8.1 of the Acoustic Report are incorporated into the detailed design and construction of the development (including the acoustic fencing). The recommendations and management controls provided in Section 8.2 of the Acoustic Report shall be implemented during the operation of the development. As such, the development is not considered to likely to have an adverse noise impact on the surrounding locality.

C13 Infrastructure and Services

Initially, an on-site sewage management (OSSM) system was proposed within the rear half of the property. The accompanying wastewater report contained inadequate information as the hydraulic load generated by the development required a commercial system rather than the system proposed. After requests from Council's Environmental Management Officer regarding the proposed system, an alternative on-site sewage management system was proposed within the front portion of the property.

The amended OSSM system proposes the primary disposal area and part of the reserve area within the front landscaped setback. The remaining reserve area required is proposed within the side setbacks, between the acoustic fencing and the side boundaries. The accompanying amended wastewater report is comprehensive and has been prepared by an appropriately qualified and experienced wastewater consultant.

It is noted that reserve area 2 is not located in accordance with Council's On-Site Sewage Management and Greywater Reuse Policy and does not comply with the required setback distances from property boundaries. Reserve area 2 is proposed to be 3m from the property boundary. As the ETA (evapotranspiration) bed will be located uphill/upslope of the western property boundary, a minimum setback distance of 6m is considered appropriate based on the design of the ETA bed. Accordingly, the location of reserve area 2 is not supported. A recommended condition of consent will require the submission to Council of an amended Land Application Plan prior to the issue of a Construction Certificate, showing reserve area 2 to the rear of the internal fence and in accordance with Council's On-Site Sewage Management and Greywater Reuse Policy.

Given that the wastewater load in the submitted wastewater report has been calculated based on 16 staff rather than the proposed 19 staff, the sizing of the ETA bed and reserve areas will need to be reviewed and likely increased. However, the information submitted demonstrates that there is ample room within the broader site, beyond the internal fencing, to accommodate a satisfactory reserve area. As such, this anomaly can be addressed via a recommended consent condition requiring a revised wastewater report to accommodate the 19 staff proposed within the Operational Wastewater Management Plan.

Council's Environmental Management Officer has reviewed the submitted wastewater report and proposed OSSM system and considers that it demonstrates that wastewater from the development can be satisfactorily managed on the site, subject to recommended consent conditions.

D1 Rural Land Uses

D1.1 Rural Character

The objective of this section is to retain and protect each of the elements that make up the rural character of Penrith. The key components that contribute to Penrith's rural character are the rural landscapes, agricultural lands, native vegetation, biodiversity and riparian corridors, areas of mixed rural uses and rural living areas. Of relevance to this site is the rural landscape, rural living areas and biodiversity.

The proposal retains and protects the rural landscape via the landscaped front and side setbacks, the expansive 65m rear setback of groundcover that remains untouched by the proposal and by compensating for native vegetation that is to be lost due to the development footprint on the property. The additional landscaping which covers approximately 2,500m² provides an appropriate embellishment relative to the proposed built form and hardstand area of 2,195m². This landscaping will enhance the amenity of the streetscape,

particularly considering the site's existing conditions. In addition, approximately 5,500m² of existing vegetation the rear of the property will be left as is, namely as scattered grassland cover which protects the remnant biodiversity.

Originally, the height and presentation of the acoustic fence (2.4m high and setback 3m from the side boundaries) was a key concern which did not integrate into the landscape as the objectives of the E4 zone and the rural development controls require. The DCP states that fencing is to be of an open rural nature consistent in style with that normally found in rural areas. Given structures in rural areas are required to be setback 5m from side boundaries and that this fence will be solid, it should be treated like any other structure in this regard.

On Council's request, the proposal was amended to reduce the height of the acoustic fence to 1.8m forward of the building line and increase the setback of the 2.4m high component to 5m. Although this is still not an open style fence, it is now contextually appropriate given it is surrounded by an adequate landscape buffer that is wide enough for planting, access and maintenance. The landscape buffer surrounding the side fences includes shrub style planting that will reach, if not exceed, the height of the fence, coupled with some canopy tree planting. In addition, although the fence will be fibre cement for acoustic reasons, timber posts will be mounted on the exterior to better blend with the area's earthy tones and typical materials.

It is noted that all boundary fencing is to be retained as is, and is of an open rural style, whereas no fencing along the front boundary is proposed in keeping with the character of the area.

The proposal also reflects the style of rural dwellings in the area, as discussed further below.

D1.2 Rural Dwellings

While the following controls relate to rural dwellings, Section D1.5.1 of the DCP states that non-agricultural development shall be designed with regard to the rural character of the area and the form and scale of buildings on rural land surrounding the site. Therefore, the rural dwelling controls are considered below for consistency with the objectives for non-agricultural development in rural areas.

1.2.1 Siting and Orientation of Dwellings and Outbuildings

Based on the siting and design of the building, protection of privacy will be maintained, whilst ensuring that maximum solar access is proposed. The site has been previously cleared, however suitable landscaping is proposed to ensure increased amenity on the site and in the surrounds and to integrate the development into the surrounding area.

The proposed building will be single storey, which is reflective of other buildings in the area. The roofline has been designed to provide aesthetic appeal to the building, whilst also remaining consistent with more modern dwellings in the area.

1.2.2. Setbacks and Building Separations

The minimum side setback for dwellings is 5m where the allotment is less than 2 hectares. The proposal, as amended, complies with this requirement given the building ranges from 8m-11m from the side setbacks and the acoustic fence is largely setback 5m, providing an adequate perimeter for landscaping.

1.2.3 Site Coverage

The proposal includes a building with a ground floor footprint of 798m². This is above the maximum ground floor control under this section of the DCP which is 600m². However, the surrounding area has numerous dwellings that well exceed this requirement. It is also noted a previous approval on this property (DA17/0331) approved a dwelling at 891m². Further, the proposal does comply with the requirement to have a maximum overall ground floor dimension of 45m, with a maximum of 18m at any one point, which assists in moderating site coverage. Lastly, as the land area of the site is 1.033 hectares, the proposal covers less than 10% of the site area and will not result in the site being overdeveloped. Therefore, the numeric non-compliance with this development control is acceptable as the proposal is not inconsistent with

the objective to ensure that site coverage is appropriate relative to the size of the site and the character of the area.

It should be noted that the 'ground floor footprint' is the area measured from the external face of any wall of any dwelling, outbuilding (other than a farm building), dual occupancy dwelling, garage or undercover car parking area, animal house or garden shed. Therefore, the ground floor footprint does not include the proposed verandah and gazebo.

The DCP also states that no more than 3 undercover car parking spaces shall face towards a public road or place. Any additional garages shall be setback behind the building line and screened. While the proposed car park does not comply with this control, it has been substantially setback by 15m and adequately screened with landscape embellishments to ensure that the car park does not detract from the rural landscape as viewed from the streetscape, nor result in an excessive hardstand site coverage.

Overall, the scale of the proposal is greater than that of a rural dwelling. However, the siting and design has had regard to adjoining dwellings and the proposal has been integrated within the landscape setting, noting the site as a whole will remain approximately 80% landscaped.

1.2.4 Height, Scale and Design

The DCP states that the floor level of a dwelling at any point should not be greater than 1m above or below the natural ground level immediately below the floor level of that point. The proposed development provides for a level difference of approximately 1.5m along the proposal's north-western corner, although the proposed development will result in floor levels predominantly 1m above natural ground level along the proposal's western side.

Notwithstanding, the proposed development meets the height requirements of this section of the DCP considering the proposed ceiling level does not exceed 8m above natural ground level and the proposal is substantially setback from the neighbouring property to the west. The proposed level difference is behind the landscape buffer and acoustic fence and therefore will be screened from the neighbouring property and screened from the street by the proposed building.

In this regard, the proposed height, scale and design is considered satisfactory.

1.2.5. Dual Occupancy Dwellings

The DCP states that access to dual occupancies is to be via a common driveway to both dwellings. While an entry and exit driveway is proposed in this instance, it is considered appropriate as it allows for traffic flow efficiencies which will minimise disruption to Mt Vernon Road. Given the proposed landscaping and driveway arrangement, it is considered this outcome is not disruptive to the rural landscape.

1.2.7 Materials and Colours

The materials included in the design of the proposed child care centre generally include earthy tones that are reflective of the existing character of the area, as the DCP requires.

D1.5 Non Agricultural Development

1.5.1 Rural Amenity and Design

For the aforementioned reasons, along with the noise and traffic matters discussed in relation to the Educational Establishments and Child Care Facilities SEPP and associated Child Care Planning Guideline, the proposal is considered consistent with the objectives within this section, being to protect rural character and amenity and avoid unnecessary conflicts between inconsistent land uses.

D5 Other Land Uses

D5.2 Child Care Centres

It is noted that the controls within this section are overridden by the Educational Establishments and Child Care Facilities SEPP and associated Child Care Planning Guideline, other than those concerning building height, side and rear setbacks and car parking rates. These matters have been discussed elsewhere in this Appendix under Section C10 Transport, Access and Parking (car parking rates) and under Section D1 Rural Land Uses (building height and side and rear setbacks).