

PENRITH CITY COUNCIL

MAJOR ASSESSMENT REPORT

Application number:	DA20/0227
Proposed development:	Additions and Alterations to the Existing Dwelling
Property address:	32 Pamela Parade, LEONAY NSW 2750
Property description:	Lot 103 DP 226473
Date received:	3 May 2020
Assessing officer	Matthew Warbrick
Zoning:	Zone R2 Low Density Residential - LEP 2010
Class of building:	Class 1a
Recommendations:	Approve

Executive Summary

Council is in receipt of a development application for additions and alterations to the first floor component of the existing two storey dwelling at 32 Pamela Parade Leonay. Under Penrith Local Environmental Plan (LEP), the proposal is defined as a dwelling house. The subject site is zoned R2 Low Density Residential and the proposal is a permissible land use in the R2 zone with Council consent.

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

The Development Application is reported to the Local Planning Panel for determination as the property owner is a employee of Penrith City Council.

Site & Surrounds

The subject site is situated on the south western side of Pamela Parade Leonay backing onto Leonay Golf Course. It is 663m² in area, is orientated in a north east direction and the site is considered to be relatively flat.

An inspection of the site was undertaken on 26th May 2020 and the site is currently occupied by a two storey dwelling, inground swimming pool and ancillary structures.

The surrounding area is characterised by a mix of single and double storey residential dwellings.

Proposal

The proposed development involves:

- Additions and alterations to the first floor of the existing two storey dwelling.

Plans that apply

- Local Environmental Plan 2010 (Amendment 4)
- Development Control Plan 2014
- Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

Planning Assessment

• Section 4.15 - Evaluation

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

Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

An assessment has been undertaken of the application against relevant criteria with Sydney Regional Environmental Plan No 20—Hawkesbury-Nepean River (No 2—1997) and the application is satisfactory subject to recommended conditions of consent.

Local Environmental Plan 2010 (Amendment 4)

Provision	Compliance
Clause 1.2 Aims of the plan	Complies
Clause 2.3 Permissibility	Complies - See discussion
Clause 2.3 Zone objectives	Complies
Clause 2.7 Demolition requires development consent	Complies - See discussion
Clause 4.3 Height of buildings	Complies - See discussion
Clause 7.7 Servicing	Complies

Clause 2.3 Permissibility

Additions and alterations to an existing dwelling house is permissible land use within the R2 Low density Residential under Penrith LEP 2010 with Council consent.

Clause 2.7 Demolition requires development consent

The proposed development requires minor demolition work to be carried out. A waste management plan accompanies the application and will form part of the approved documentation for the development and a condition on the consent is provided, requiring compliance with AS2601 - 2001 - The demolition of structures.

Clause 4.3 Height of buildings

The subject site is identified through Penrith Local Environmental Plan 2010 - Height of Buildings Map - Sheet HOB_006 as being located in an area identified (I), which details the maximum building height permissible is 8.5m.

The proposed application details the maximum building height proposed development is 7.665m. This demonstrates compliance with the clause.

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

There are no draft environmental planning instruments that apply to the proposal.

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

Development Control Plan 2014

Provision	Compliance
DCP Principles	Complies
C1 Site Planning and Design Principles	Complies
C2 Vegetation Management	Complies
C3 Water Management	Complies
C4 Land Management	Complies
C5 Waste Management	Complies
C6 Landscape Design	Complies
C7 Culture and Heritage	N/A
C8 Public Domain	N/A
C9 Advertising and Signage	N/A
C10 Transport, Access and Parking	Complies
C11 Subdivision	N/A
C12 Noise and Vibration	N/A
C13 Infrastructure and Services	Complies
D2.1 Single Dwellings	Complies - see Appendix - Development Control Plan Compliance
D2.2. Dual Occupancies	N/A
D2.3 Secondary Dwellings	N/A
D2.4 Multi Dwelling Housing	N/A
D2.5 Residential Flat Buildings	N/A
D2.6 Non Residential Developments	N/A

Section 4.15(1)(a)(iiia) The provisions of any planning agreement

There are no planning agreements applying to this proposal.

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

In accordance with Section 94 of the Environmental Planning and Assessment Regulation 2000, an assessment of the fire protection and structural capacity of the proposed dwelling is necessary and this has been conditioned for assessment and certification at Construction Certificate and Occupation Certificate stage.

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

Likely impacts of the proposed development as identified throughout the assessment process include:

(i) Context and Setting (environmental impacts and impacts on built environment)

The proposal is consistent with the bulk, scale, colour and design of other development in the locality.

The development will have only minor impact on the amenity of the area and the streetscape.

The development is compatible with the surrounding and adjacent land uses.

(ii) Access and transport

The development will have no adverse impact on the local road system.

The existing access arrangements and car parking on site will be adequate for the development.

(iii) Heritage

The property is not subject to any Heritage Order or identified as a heritage item under a planning instrument.

(iv) Soil

The proposed development will have no impact on soil erosion and sedimentation.

(v) Natural and Technological Hazards

The development is not subject to flooding, subsidence or slip.

(vi) Site Design

The proposed development is sensitive to environmental conditions and site attributes.

The proposed development safeguards the health and safety of the occupants.

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

The site is suitable for the following reasons:

- Site characteristics are retained
- Existing landscape design is maintained
- Residential amenity is achieved and maintained.

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 notified to the nearby and adjoining residents and no submissions were received.

Section 4.15(1)(e) The public interest

The proposed development will not generate any significant issues of public interest.

Conclusion

In assessing this application against the relevant environmental planning policies, being 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

1. That DA20/0227 for additions and alterations to the existing dwelling at 32 Pamela Parade LEONAY NSW 2750, be approved subject to the attached conditions .

CONDITIONS

General

1 [A001 - Approved plans that are architecturally drawn](#)

The development must be implemented substantially in accordance with the plans prepared by O'Brien Design & Drafting, numbered 32_PL_A.01 to 32_PL_A.10 inclusive, Issue A, dated 15.04.2020 as stamped approved by Council, the application form, and any supporting information received with the application, except as may be amended in red on the attached plans and by the following conditions.

2 [A008 - Works to BCA requirements \(Always apply to building works\)](#)

The work must be carried out in accordance with the requirements of the Building Code of Australia. If the work relates to a residential building and is valued in excess of \$20,000, then a contract of insurance for the residential development shall be in force in accordance with Part 6 of the Home Building Act 1989.

{Note: Residential building includes alterations and additions to a dwelling, and structures associated with a dwelling house/dwelling such as a carport, garage, shed, rural shed, swimming pool and the like}.

3 [A019 - OCCUPATION CERTIFICATE \(ALWAYS APPLY\)](#)

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

4 [A046 - Obtain Construction Certificate before commencement of works](#)

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

Demolition

5 [B002 - AS FOR DEMOLITION AND DISPOSAL TO APPROVED LANDFILL SITE](#)

All demolition works are to be conducted in accordance with the provisions of AS 2601-1991 "The Demolition of Structures". **Prior to demolition**, all services shall be suitably disconnected and capped off or sealed to the satisfaction of the relevant service authority requirements.

All demolition and excavated material shall be disposed of at a Council approved site or waste facility. Details of the proposed disposal location(s) of all excavated material from the development site shall be provided to the Principal Certifying Authority **prior to commencement of demolition**.

6 [B003 - ASBESTOS \(amended from Council adopted version\)](#)

Prior to commencement of demolition works on site, a portaloo with appropriate washing facilities shall be located on the site and the Principal Certifying Authority is to be satisfied that:

- Measures are in place so as to comply with the WorkCover Authority's "Short Guide to Working with Asbestos Cement" and
- The person employed to undertake the works is a licensed asbestos removal contractor and is holder of a current WorkCover Asbestos Licence.

Any demolition works involving the removal of all asbestos shall only be carried out by a licensed asbestos removal contractor who has a current WorkCover Asbestos Licence.

All asbestos laden waste, including asbestos cement flat and corrugated sheeting must be disposed of at a tipping facility licensed by the Environmental Protection Authority to receive asbestos wastes.

7 [B004 - Dust](#)

Dust suppression techniques are to be employed during demolition to reduce any potential nuisances to surrounding properties.

8 [B005 - Mud/Soil](#)

Mud and soil from vehicular movements to and from the site must not be deposited on the road.

Environmental Matters

9 [D009 - Covering of waste storage area \(Add if more than 40%\)](#)

All waste materials stored on-site are to be contained within a designated area such as a waste bay or bin to ensure that no waste materials are allowed to enter the stormwater system or neighbouring properties. The designated waste storage areas shall provide at least two waste bays / bins so as to allow for the separation of wastes, and are to be fully enclosed when the site is unattended.

10 D010 – Appropriate disposal of excavated or other waste

All excavated material and other 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. Where the disposal location or waste materials have not been identified in the waste management plan, details shall be provided to the Certifying Authority as part of the waste management documentation accompanying the Construction Certificate application.

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.

BCA Issues

11 E001 - BCA compliance

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)

12 E Special - hard wired smoke alarms

In accordance with the requirements of clause 94 of the Environmental Planning and Assessment Regulation, you are required to install a hard wired smoke detector in the existing dwelling. This detector is to comply with the requirements of AS3786 and must be located in accordance with 3.7.5 of the Housing Provisions. A certificate from a Licensed Electrician attesting to the installation of the smoke detector is to be submitted to the Principal Certifying Authority prior to the issue of the Occupation Certificate.

Construction

13 H017 - Loads on existing buildings (if first floor addition)

A certificate from a qualified practising Structural Engineer attesting to the adequacy of the structure to support the anticipated loads is to be submitted for consideration and approval prior to the issue of a Construction Certificate.

14 H030 – External Finishes

The external facade of the dwelling addition including the roof is to be finished in accordance with the stamped approved plans and match the existing dwelling.

Where a variation to the external facade is required, the Certifying Authority shall ensure the colours and materials compliment the existing dwelling.

15 H041 - Hours of work (other devt)

Construction works or subdivision works that are carried out in accordance with an approved consent that involve the use of heavy vehicles, heavy machinery and other equipment likely to cause offence to adjoining properties 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 work is permitted on Sundays and Public Holidays.

Other construction works carried out inside a building/tenancy and do not involve the use of equipment that emits noise are not restricted to the construction hours stated above.

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

Roads Act Requirements

16 I003 - Roads Act approval 1

Penrith City Council is the Roads Authority under the Roads Act 1993 responsible for approving:

- Works on the road reserve, or
- The placement of hoardings, structures, containers, waste skips etc. on the road reserve.

The application for a Construction Certificate is to accompany documentation specifying that a Roads Act application, including payment of appropriate application and Inspection fees under the Roads Act, has been sought from Penrith City Council for the following works:

- (i) Placing of hoardings, containers, waste skips, etc. in the road reserve.
- (k) Replacement of damaged kerb and gutter for the full property frontage.

- All works on the road reserve including the placement of hoardings, containers, waste skips and the like on the road reserve shall be carried out in accordance with Penrith City Council's specifications.

Prior to the issue of an Occupation Certificate, Penrith City Council (being the Roads Authority under the Roads Act) shall approve the works completed on or over the road reserve. Contact Council's Asset Management Department on (02)47327777 to arrange an inspection of the works (and payment of inspection fees, if required).

Engineering

17 K016 - Stormwater

Roofwater drains shall be discharged via the existing stormwater system for the dwelling.

18 K041 - 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, whichever occurs first. 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 (02) 4732 7777 or visit Penrith City Council's website for more information.

Landscaping

19 L008 - Tree Preservation Order

No trees are to be removed, ringbarked, cut, topped or lopped or wilfully destroyed other than those within 3 metres of 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.

20 L012 - Existing landscaping (for existing development)

Existing landscaping is to be retained and maintained at all times.

Payment of Fees

21 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

22 **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.

23 **Q05F - Occupation Certificate for Class10**

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

The 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.

Appendix - Development Control Plan Compliance

Development Control Plan 2014

D2 Residential Development

D2	Residential Development – Single Dwellings	Complies Y/N	Comments
2.1.2	Front setback – Minimum 5.5m or average of adjoining properties.	Yes	Existing front setbacks have been retained, with the exception of the first-floor addition being brought forward to align over the existing front garage wall. Front setback to first floor is 8.265m demonstrating consistency with the averages of the front setbacks to adjoining dwellings along Pamela Parade.
	Secondary Street (where applicable) – Minimum 3m to external walls and minimum 5.5m to garage entrances	N/A	
	Encroachments - Verandahs and pergolas are permitted to encroach 1.5m beyond the setback	N/A	The development does not propose to encroach beyond the existing front dwelling setback.
	Side setback – minimum 900mm	Yes	The side setback to retained at 1.38m for the proposed development.
	Rear setback – minimum 4m for single storey component or 6m for 2 storey component	Yes	The existing rear setbacks to the dwelling are retained for the proposed development at 13.6m
	(non-habitable building or structure can be closer if minimal adverse impact on the subject property or any adjoining property)	N/A	

	<p>Building envelope compliance (encroachments permitted if improved design, appearance or utility and minimal impact)</p>	No	<p>Variation</p> <p><i>The development seeks to vary the control. The following is noted</i></p> <ul style="list-style-type: none"> - <i>The encroachment of the building envelope is a result of the design of the development to be positioned directly over an external wall of the existing garage</i> - <i>The encroachment of the building envelope is consistent with the building envelope encroachment of the neighbouring dwelling (No 34 Pamela Parade).</i> - <i>The encroachment is not out of character existing development on the street.</i> - <i>The design of the facade incorporating the balcony and railing reduces the bulk of the addition.</i> - <i>Overshadowing from the encroachment of the building envelope is not increased on the neighbouring property (No 34 Pamela Parade).</i> - <i>The application was notified to surrounding and adjoining neighbours and no submissions were received.</i> <p><i>The variation is supported in this instance</i></p>
2.1.3	<p>Cut and fill does not exceed 600mm measured from NGL.</p>	N/A	No earthworks are proposed with this development
	<p>Ground floor levels max 800mm above NGL</p>	N/A	Ground floors remain unchanged
	<p>Retaining wall forward of garage are masonry</p>	N/A	

	<p>Lots with a side cross slope exceeding 5%, must respond to the slope of the land with either split level, drop edge beam, or bearer and joist design (or a combination of these)</p>	N/A	
	<p>Where front to back slopes are steep (i.e. approximately greater than 9%) house designs must respond to the topography of the land with either split level, dropped edge beam, or timber frame floor (bearer and joist) design - or a combination of these.</p>	N/A	
	<p>Garden retaining walls within lots are not to exceed 0.9m in height. Any remaining slope is to be graded out.</p>	N/A	
	<p>Driveway gradient to not exceed 20%</p>	Yes	Existing driveway to remain <i>unchanged</i>
	<p>On lots sloping downhill from the street, the privacy of adjoining dwellings down slope should be preserved by providing screening vegetation between observable platforms and adjoining private open space areas, or integrating features such as timber screens to decks, or partially opaque windows where privacy is essential and screening vegetation is impractical.</p>	N/A	
2.1.4	<p>The minimum landscaped area of a site is</p> <p>Zone Minimum landscaped area % of the site</p> <p>R2 50%</p>	Yes	Existing landscape area is to remain unchanged.
2.1.5	<p>Articulate all building forms and facades</p>	Yes	Proposed design creates a high level of articulation, incorporating an open balcony to the building façade and using a variety of building materials that complement the existing dwelling design.

<p>Bulk and Scale</p> <p>Two storey buildings to be designed as a combination of one and two storey elements with a variety of setbacks from boundaries</p> <p>External walls are not to be longer than 8m between distinct corners or features such as projecting verandahs and awnings or banks of windows.</p> <p>All balconies and decks higher than 800mm above existing ground level shall incorporate privacy measures such as screening or landscape planting.</p>	<p>Yes</p>	<ul style="list-style-type: none"> - The development is designed using a variety of building setbacks - The proposed balcony overlooks the front setback of the street and a small portion of the side setback of the neighbouring property to the north west. The balcony does not provide any overlooking impact onto any habitable rooms of the adjoining property or create an undue privacy impacts to surrounding and adjoining properties.
<p>Garage setback at least 1m behind the building line of the dwelling</p>	<p>N/A</p>	<p>Existing garage setback is to remain unchanged</p>
<p>Total width of all garage doors facing a primary or secondary road frontage must not exceed;</p> <p>i) If the lot has a width less than 15m measured at the building line – 4.8m</p> <p>ii) If the lot has a width of more than 15m measured at the building line – 6m.</p>	<p>N/A</p>	
<p>Corner lot is to be designed and orientated so as to address both street frontages and include appropriate design features and articulation</p>	<p>N/A</p>	
<p>Parking is to be provided at the rate of:</p> <p>i) A minimum of one space behind the building alignment</p> <p>ii) Two spaces for each dwelling with two or more bedrooms, at least one of which is located behind the building alignment. Stacked parking is acceptable for additional spaces.</p>	<p>Yes</p>	

2.1.6	Ensure that the proposed development provides a minimum of 3 hours sunlight between 9am and 3pm on 21 June, to living zones of the dwelling, and the living zones of any adjoining dwellings;	Yes	The increased over shadowing created from the development does not significantly impact on the surrounding proprieties. Shadow diagrams submitted with the application demonstrate complinace with the clause.
	Ensure that the proposed development provides a minimum of 3 hours sunlight between 9am and 3pm on 21 June, to 40% of the main private open spaces of the dwelling and main private open spaces of any adjoining dwellings	Yes	The increased over shadowing created from the development does not significantly impact on the surrounding proprieties. Shadow diagrams submitted with the application demonstrate complinace with the clause.
	Where existing overshadowing by buildings and fences reduces sunlight to less than this, sunlight is not further reduced by more than 20%	N/A	
2.1.7	Retaining walls: a) generally should be no taller than 600mm; b) should be separated from any associated fence by a planter-bed at least 500mm wide, minimising the apparent overall height of fencing; c) should be separated from any driveway by a landscaped verge at least 500m wide, to prevent impact damage from vehicles.	N/A	
	Fences should be generally no taller than 1.8m or up to 2.4m on sloping sites, including the height of any retaining wall.	N/A	
	Fences along boundaries forward of the front building alignment should not be taller than 1.2m and consist of see-through construction	N/A	
2.1.8	<i>This Section only applies only to:</i>	N/A	

- a) frontages to the Nepean River;
- b) escarpment footslopes in Leonay and Emu Heights;
- c) the Cranebrook escarpment;
- d) Glenmore Park, adjacent to the Mulgoa Nature Reserve;
- e) wooded hillsides in South St Marys;
- f) individual streetblocks identified by Council's Register of Significant Trees and Gardens; and
- g) in Kingswood: Werrington Creek.

Development must:

- 1) maintain natural topography and features such as rock outcrops;
- 2) preserve established trees, preferably as blocks or corridors of several trees;
- 3) ensure that long term survival of established trees is not affected by the location of buildings and pavements or construction works;
- 4) preserve clusters of established trees as blocks or corridors;
- 5) consider a wider side boundary setback as landscaped corridor to preserve trees and provide vistas between neighbouring buildings;
- 6) on sloping sites garages may be located at street-level within the front set-back, subject to an "open" design similar to a screened carport;
- 7) on sloping sites dwellings should be split-level designs, with the lowest floor level no higher than 1m above natural ground level;
- 8) in general, new plantings should be species indigenous to the local soil type, reinforcing visual and habitat values.