

PENRITH CITY COUNCIL

MAJOR ASSESSMENT REPORT

Application number:	DA21/0370
Proposed development:	Construction of Detached Dual Occupancy Dwelling & Swimming Pool
Property address:	1226 - 1232 Mamre Road, MOUNT VERNON NSW 2178
Property description:	Lot 45 DP 30266
Date received:	27 May 2021
Assessing officer	Sufyan Nguyen
Zoning:	SEPP WSA - Affected by Obstacle Limitation SEPP WSA - Affected by Wildlife Buffer Zone E4 Environmental Living - LEP 2010
Class of building:	Class 1a , Class 10b
Recommendations:	Approve

Executive Summary

Council is in receipt of a development application for the construction of a detached dual occupancy dwelling and swimming pool at 1226-1232 Mamre Road, Mount Vernon. The subject site is zoned E4 Environmental Living under Penrith Local Environmental Plan 2010 and the development proposal is permissible with Council consent.

The original development proposal was for a torrens title subdivision x 2 lots and the construction of a dwelling and swimming pool on the new allotment. The subdivision pattern was an unconventional configuration given that it resembled a tall L-shape, which divided approximately half of the site. Given that the immediate surrounding area is characterised by a mix of regular allotments and battle-axe lots, the applicant deleted the subdivision component and modified the proposal to a detached dual occupancy dwelling at the request of Council due to the subdivision configuration being incompatible with the future desired character of the locality.

It should be noted that the building footprint of the detached dual occupancy dwelling has a total gross floor area (GFA) of 550.6m² and the existing dwelling has a total GFA of 335m², which is non-compliant with the 600m² maximum building footprint control for the overall site, as stipulated in Penrith Development Control Plan 2014 (DCP). However, given the single storey design, the overall bulk and scale is considered to be minor relative to the site's 2.024 ha land area and surrounding rural context.

In addition, the proposed detached dual occupancy dwelling is situated in front of the existing dwelling as opposed to normally being required to be situated behind it. However, an appropriate front setback and a 21.60m separation distance are provided for the detached dual occupancy dwelling, which is considered acceptable in this instance, also noting the spatial arrangement of other nearby dwellings.

The site is identified as bushfire prone land. The submitted bushfire assessment report rates the development as BAL-LOW in accordance with AS 3959 "Construction of Buildings in Bushfire-Prone Areas", which does not warrant any specific construction methods. However, an asset protection zone and an upgrade to internal access is required. A desktop analysis of the site concurs with this recommendation and a recommended consent condition is to be imposed to ensure appropriate bushfire protection measures will be in place.

The application was advertised and notified to nearby and adjoining properties and publicly exhibited for a period of 14 days in accordance with the DCP. During this exhibition period, no public submissions were received in response.

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

Site & Surrounds

The subject site has a property address of 1226-1232 Mamre Road, Mount Vernon and is legally described as Lot 45 DP 30266. The site has a land area of 2.024 ha and is rectangular in shape, with a south-west orientated frontage to Mamre Road. The site contains a single dwelling with ancillary structures, including a double garage, sheds, awnings and a tennis court, in addition to rows of palm trees along each side of a driveway. It is noted that the site has an internal fence which surrounds the existing dwelling and resembles a battle-axe lot for the remaining parcel of land. It should also be noted that a small portion of the rear of the site is identified as bushfire prone land and that the site is affected by the Western Sydney Airport Obstacle Limitation Surface and Wild Buffer Zone maps. The surrounding area is characterised by residential and rural land uses with expanses of green open spaces and vegetation.

Proposal

The applicant seeks development consent for the construction of a detached dual occupancy dwelling and swimming pool at 1226-1232 Mamre Road, Mount Vernon. The development proposal comprises of a single storey, four bedroom dwelling with an attached quadruple garage and alfresco area and a swimming pool, which has a building footprint of 550.6m². The proposal includes stormwater drainage to an in-ground 10,000L rainwater tank, landscaping works and an on-site sewage management system; being a separate AWTs and effluent disposal area for the proposed and existing dwellings.

Plans that apply

- Local Environmental Plan 2010
- Development Control Plan 2014
- State Environmental Planning Policy (Infrastructure) 2007
- State Environmental Planning Policy (Western Sydney Aerotropolis) 2020
- State Environmental Planning Policy No 55—Remediation of Land
- Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

Planning Assessment

• **Section 4.14 - Bushfire prone land assessment**

The proposed development has been assessed in accordance with the matters for consideration under Section 79BA Consultation and development consent—certain bush fire prone land of Environmental Planning and Assessment Act 1979, and having regard to those matters, the following issues have been identified for further consideration.

The site is identified as being bushfire prone land and the submitted bushfire hazard assessment report prepared by Harris Environmental Consulting, reference no. 4257BF, version no. 1.0, dated 28 April 2021, rates the proposal as requiring a BAL-LOW construction level given the surrounding managed and grassland areas, with an up-slope to the north-east of the site. However, an asset protection zone and an upgrade to the internal access is required. A desktop assessment noted that these findings are consistent with the categories of AS 3959-2009 and concurs with these recommendations and as such, a recommended consent condition will be imposed in this regard. This will ensure that appropriate bushfire protections measures will be in place to minimise any bushfire risks to the future occupants.

In addition, the site has no connection to reticulated water, however, the proposal includes a 10,000L in-ground rainwater tank, which will provide adequate services for water supply that can be used for firefighting purposes.

• **Section 4.15 - Evaluation**

The proposal has been assessed in accordance with the matters for consideration under Section 4.15 of the Act, 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

State Environmental Planning Policy (Infrastructure) 2007

The State Environmental Planning Policy (Infrastructure) 2007 provides the legislative planning framework for infrastructure delivery and the provision of services across NSW. In this regard, the subject site is situated along Mamre Road, a classified road and therefore consideration must be given to Clause 101 Development with frontage to classified road. Given that the proposal is of a minor scale and suitable vehicle access is currently provided, it is not considered likely that the proposal will result in any major impacts to the functionality of Mamre Road. The annual average daily traffic volume of Mamre Road is less than 20,000 vehicles, which raises no concerns regarding amenity impacts on the future residents and therefore, an acoustic assessment report is not required, nor any additional conditions for acoustic privacy.

State Environmental Planning Policy (Western Sydney Aerotropolis) 2020

State Environmental Planning Policy (Western Sydney Aerotropolis) 2020 (SEPP WSA) contains a map that relates to wildlife buffer areas and air space operations for the airport. The map titled the "Wildlife Buffer Zone Map" shows that the subject site is within a 13 kilometre 'wildlife buffer zone' of the Western Sydney Airport site. The Obstacle Limitation Surface Map also shows that the site is within this area

Consideration has been given to Clause 21 of SEPP WSA and the proposed development. The objective of Clause 21 is to regulate development on land surrounding the Western Sydney 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 proposal is not one of the types of uses that warrant additional consideration under SEPP WSA with regard to wildlife and the operation of the airport.

Clause 24 of SEPP WSA relates to development that would penetrate the prescribed air space for the airport and be a 'controlled activity'. The proposed development neither penetrates the prescribed air space, nor is it a controlled activity, therefore not triggering any additional considerations under this clause.

In addition, the development site is situated outside of the 20 ANEF contour shown on the ANEC 2063 Chart and therefore acoustic mitigation measures are not warranted.

State Environmental Planning Policy No 55—Remediation of Land

State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55) provides aims to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment. Under Clause 7 of SEPP 55, it must be considered as to whether the land is contaminated, and if so, Council must be satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which development is proposed to be carried out.

In this regard, the subject site has been used for residential purposes for a number of years and the nature of the use of the site for residential use will continue to be as such. In addition, a review of historical aerial mapping indicates that the site does not appear to contain any unknown imported fill or waste material, which further demonstrates that the site is suitable for the development proposal.

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—HawkesburyNepean River (No. 2—1997) which aims to protect this river system.

The nature and scope of the development proposal is minor in scale. Subject to recommended conditions of consent in relation to construction management and ongoing stormwater management, the proposal is not considered likely to adversely impact on the Hawkesbury Nepean catchment.

Local Environmental Plan 2010

Provision	Compliance
Clause 1.2 Aims of the plan	Complies
Clause 2.3 Permissibility	Complies
Clause 2.3 Zone objectives	Complies
Clause 5.10 Heritage conservation	N/A
Clause 7.1 Earthworks	Complies
Clause 7.5 Protection of scenic character and landscape values	Complies
Clause 7.7 Servicing	Complies - See discussion
Clause 7.10 Dual occupancies and secondary dwellings in certain rural and environmental	Complies

Clause 7.7 Servicing

The proposal includes the installation of an Aerated Wastewater Treatment System (AWTS) for wastewater treatment and semi-fixed spray irrigation for treated wastewater disposal each for the existing dwelling (3 bedrooms + study) and the proposed dual occupancy dwelling (4 bedrooms). The wastewater design load and daily wastewater is based on the bedrooms and possible persons for each dwelling, being a rate of 150/day and a total of 750L/day (5 persons per dwelling). A site and soil assessment indicates that the proposed on-site sewage management (OSSM) system is suitable, with a 695m² irrigation area and AWTS to be situated in the front portion of the site for each dwelling. It is also noted that minimum buffer distances for the OSSM systems are compliant with Council's On-Site Sewage Management and Greywater Reuse Policy and therefore wastewater servicing is considered to be adequate.

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

There are no draft environmental planning instruments that specifically 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 - see Appendix - Development Control Plan Compliance
C4 Land Management	Complies
C5 Waste Management	Complies
C6 Landscape Design	Complies
C10 Transport, Access and Parking	Complies
C12 Noise and Vibration	Complies
C13 Infrastructure and Services	Complies
D1.1. Rural Character	Complies
D1.2. Rural Dwellings and Outbuildings	Does not comply - see Appendix - Development Control Plan Compliance

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

There are no planning agreements in place, which are applicable to the development proposal.

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

The relevant prescribed conditions of the Regulations, such as the requirement for compliance with the Building Code of Australia (BCA) and fire safety requirements, will be imposed as consent conditions where applicable, noting that Council's Building Surveyor raised no objections to the proposal. In this regard, the proposal complies with the relevant BCA and fire safety requirements of the Environmental Planning and Assessment Regulation 2000.

In addition, the development application has been notified and publicly exhibited in accordance with the requirements of the Regulations.

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

In accordance with Section 4.15(1)(b) of the Act, consideration must be given to the likely impacts of the development, including environmental impacts on both the natural and built environments, and the social and economic impacts in the locality.

In this regard, the development proposal is of a minor scale, being a single storey, 4 bedroom dwelling with attached garages and a swimming pool. The overall design, scale and siting is considered to be compatible with the character of the immediate surrounding rural-residential area. The proposal does not pose any adverse environmental impacts given that no vegetation is required for clearing and that adequate wastewater and stormwater management systems will be in place. It is noted that the proposal requires minor cut and fill works, which raise no concerns.

In terms of socio-economic impacts, it is not considered that such a minor development will adversely impact on adjoining or neighbouring property values or the local community, noting that no public submissions were received in relation to the proposed development.

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

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

- The development proposal is a permissible land use in the E4 zone;
- The proposal is of a minor scale;
- The proposal is unlikely to result in any significant impacts on the surrounding natural or built environments;
- The proposal will have negligible impacts on traffic flows and the surrounding environment;
- The site has existing connections to services and new infrastructure will ensure adequate servicing for the site;
- The site's soil profile is suitable for the development and the site does not contain any significant flora or fauna or valuable resources; and
- The site is in proximity to amenities and recreational activities.

Section 4.15(1)(d) Any Submissions

Community Consultation

In accordance with Appendix F2 of the DCP, the development proposal was advertised in the local newspaper, notified and publicly exhibited. The proposal was advertised in the Western Weekender newspaper on 17 June 2011 and notified to 18 adjoining and nearby residences between 21 June to 5 July 2021. No public submissions were received in response.

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

Section 4.15(1)(e) The public interest

The public interest is best served by the orderly and economic use of land for purposes permissible under the relevant planning regime and in accordance with the prevailing planning controls. In this regard, the proposal is considered to be generally consistent with the relevant planning provisions and subject to compliance with the recommended conditions of consent, the proposal is considered worthy of support and is not considered likely to pose any significant public interest impacts.

Section 94 - Developer Contributions Plans

The following development contribution plans apply to the site:

- Cultural Facilities
- District Open Space Facilities
- Penrith City Local Open Space

The following development contributions apply to the proposed development:

Calculations for Dual Occupancies

Cultural Facilities

No. of dwellings	x	Rate	Credit for existing dwellings	Contribution rate
2	x	3.0	3.0	3.0

District and Local Open Space Facilities

No. of dwellings	x	Rate	Credit for existing dwellings	Contribution rate
2	x	3.1	3.1	3.1

AMOUNTS

Contribution Plan	Contribution Rate x Calculation Rate	Total
Cultural Facilities	3 x \$191.00	\$573.00
District Open Space	3.1 x \$2,028.00	\$6,287.00
Local Open Space	3.1 x \$733.00	\$2,271.00
NET TOTAL		\$9,131.00

Conclusion

In assessing this development proposal against the relevant environmental planning policies, including Penrith Local Environmental Plan 2010, Penrith Development Control Plan 2014, State Environmental Planning Policy (Infrastructure) 2007, State Environmental Planning Policy (Western Sydney Aerotropolis) 2020, State Environmental Planning Policy No. 55 - Remediation of Land and Sydney Regional Environmental Plan No. 20 - - Hawkesbury/Nepean River (No. 2 1997), the proposal generally satisfies the aims, objectives and provisions of these policies. Overall, the development is unlikely to have any unreasonable impacts on the surrounding natural, social or economic environments. The site is suitable for the development and the proposal is in the public interest. Therefore, the application is worthy of support and is recommended for approval, subject to conditions.

Recommendation

That DA21/0370 for the construction of a detached dual occupancy dwelling and swimming pool at 1226-1232 Mamre Road, Mount Vernon be approved, subject to the following conditions.

General

1 A001 - Approved plans table

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

Drawing Title	Prepared By	Sheet No.	Issue	Dated
Site Plan	J Mammone Architecture	01	D	09.07.21
Detailed Site Plan	J Mammone Architecture	02	D	09.07.21
Site Management Plan	J Mammone Architecture	04	D	09.07.21
Stormwater Plan	J Mammone Architecture	05	D	09.07.21
Ground Floor	J Mammone Architecture	06	D	09.07.21
Elevations	J Mammone Architecture	07	D	09.07.21
Elevation Finishes	J Mammone Architecture	08	D	09.07.21
Sections	J Mammone Architecture	09	D	09.07.21
Roof Plan	J Mammone Architecture	10	D	09.07.21
Landscape Plan	J Mammone Architecture	11	D	09.07.21
Pool Plan & Section	J Mammone Architecture	12	D	09.07.21
External Finishes	J Mammone Architecture	14	D	09.07.21

Documents

- BASIX Certificate No. 1178236S_04, dated 25 May 2021;
- Bushfire Hazard Assessment Report prepared by Harris Environmental Consulting, Ref: 4257BF, Version No. [1.0], dated 28 April 2021;
- Letter Regarding Aircraft Noise Intrusion prepared by Koikas Acoustics Pty Ltd, Reference: 4573L20210210jt1226MamreRdMountVernon.docx, Project No. 4573, dated 10 February 2021;
- Soil and Site Assessment for On-Site Wastewater Management Report prepared by Harris Environmental Consulting, Ref. 4257WW, Version No. [1.0], dated 10 April 2021; and
- Waste Management Plan prepared by J Mammone Architecture Pty Ltd, dated 4 March 2021.

2 A019 - OCCUPATION CERTIFICATE (ALWAYS APPLY)

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

3 A042 - ASSET PROTECTION ZONES IN BUSHFIRE AREAS

An Asset Protection Zone for protection from bushfire shall be provided and maintained in perpetuity in accordance with the recommendations outlined in the Bushfire Hazard Assessment prepared by Harris Environmental Consulting, reference no. 4257BF, version no. [1.0], dated 28 April 2021 and Planning for Bush Fire Protection 2019. **Prior to the issue of an Occupation Certificate**, bushfire protection measures shall be in place and compliant with Table 7.4a in the Bushfire Hazard Assessment, particularly in relation to an upgrade to the internal access arrangements for the property.

4 A046 - Obtain Construction Certificate before commencement of works

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

5 A Special (BLANK)

All driveway areas shown on the approved site plan shall be suitably stabilised.

Environmental Matters

6 **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 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.

Certification that the erosion and sediment control measures have been installed in accordance with the approved erosion and sediment control plan (s) for the development and "Managing Urban Stormwater: Soils and Construction 2004" shall be obtained and issued a minimum 2 days before any other site works are to commence, including earthworks and clearing of the site.

The approved sediment and erosion control measures are to be installed **prior to and maintained throughout the construction phase of the development until the landscaping, driveway and on-site parking areas have been completed for the development**. 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.

7 **D002 Spraygrass**

All land that has been disturbed by earthworks is to be spray grassed or similarly treated to establish a grass cover.

8 **D004 - Dust**

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

9 **D005 - Mud/Soil**

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

10 **D006 - No filling without prior approval (Use always, except for bulk earthworks/ major fill 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, considered and approved by the Principal Certifying Authority or 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 2014) 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.

{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."}.

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.

11 **D007 - Cut and fill of land requiring Validation Certificate –limited to footprint**

Cut and fill operations on the property are only permitted in conjunction with the building works as detailed on the approved plans and specifications, and shall not extend more than 2m past the defined building footprint.

12 **D009 - Covering of waste storage area**

All waste materials stored on-site during construction works 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.

13 **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.

14 **D014 - Plant and equipment noise**

The operating noise level of plant and equipment shall not exceed 5dB(A) above the background noise level when measured at the boundaries of the premises. The provisions of the Protection of the Environment Operations Act 1997 apply to the development, in terms of regulating offensive noise.

BCA Issues

15 **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).

Health Matters and OSSM installations

16 **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.

Utility Services

17 **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.

18 **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.

Construction

19 **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 on site, 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.

20 **H002 - All forms of construction**

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.

21 **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.

22 **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.

23 **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.

24 **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.

25 [H041 - Hours of work \(other devt\)](#)

Construction 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 that 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.

Swimming Pools

26 [J001 - Excavated material removal](#)

All excavated material associated with the construction of the swimming pool shall be disposed of at a site which lawfully accepts the material. Details of the disposal location are to be provided to the Certifying Authority prior to the issue of the Construction Certificate. Evidence of lawful disposal (i.e. tip receipts) is to be provided to the Principal Certifying Authority prior to the issue of the Occupation Certificate.

27 [J002 - Fencing when water in pool](#)

When the swimming pool construction has reached a stage where the pool is capable of holding water, the pool area shall be restricted from access in accordance with AS 1926 "Swimming Pool Safety". Restriction of access to the pool area shall also comply with the Swimming Pools Act 1992.

28 [J004 - Pool fence \(residential\)](#)

At all times, the swimming pool is to be surrounded by a child-resistant barrier that:

- separates the swimming pool from any residential building situated on the premises and from any place (whether public or private) adjoining the premises, and
- is designed, constructed, installed and maintained in accordance with the standards prescribed by AS 1926 "Swimming Pool Safety".

29 [J009 - Backyard pool safety package \(add J010\)](#)

To promote pool safety awareness in the City and ensure that pool owners are actively ensuring the safety of all users of their pool, the "Backyard Pool Safety" package was developed in conjunction with Penrith City Council and State government agencies.

It is the pool owners' responsibility to purchase and read the information package prior to using the swimming pool (the package is available for purchase from Council's Civic Centre, 601 High Street, Penrith).

30 [J010 - Pool board/ sign \(add J009\)](#)

A sign must be erected in a prominent position in the immediate vicinity of the swimming pool and must:

- be erected in accordance with the provisions relating to instructional posters of the document entitled "Policy Statement No. 9.4.1: Guidelines for the Preparation of Posters on Resuscitation" published by the Resuscitation Council (a copy may be purchased from Penrith City Council's Civic Centre, 601 High Street, Penrith), and
- bear a notice that contains the words "YOUNG CHILDREN SHOULD BE SUPERVISED WHEN USING THIS SWIMMING POOL", together with details of resuscitation techniques (for adults, children and infants) set out in the relevant provisions of the document entitled "Cardio Pulmonary Resuscitation" published by the Australian Resuscitation Council (a copy may be purchased from Penrith City Council's Civic Centre, 601 High Street, Penrith).

31 [J011 - NSW Swimming Pool Register](#)

The swimming pool must be registered on the NSW Swimming Pool Register when it is capable of holding water and before the issue of an Occupation Certificate. The swimming pool is to be registered at www.swimmingpoolregister.nsw.gov.au or in person at Penrith City Council (a \$10 fee applies when registering at Council).

32 J012 - Backwash and Overflow

All backwash from the swimming pool shall be directed into the mains sewer.

In areas where sewer is not available, the following requirements apply:

- The swimming pool shall be provided with filtration equipment that does not require a backwash facility (e.g. a cartridge filtration system).
- Over spill water shall be diverted away from the swimming pool and not directed onto adjoining properties.
- The frequency of emptying of the swimming pool water shall be minimised. Water resulting from the emptying of the pool shall be collected and disposed of by a private wastewater disposal contractor. Disposal by other means is not permitted.

Engineering

33 K209 - Stormwater Discharge - Minor Development

Stormwater drainage from the site shall be discharged to a level spreader system, which discharges a minimum 10m from any septic disposal area, lot boundary or building on-site.

The stormwater drainage system shall be designed in accordance with Penrith City Council's Stormwater Drainage Specification for Building Developments Policy. The design shall ensure that the development has 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 Principal Certifying Authority.

34 K223 - Access, Car Parking and Manoeuvring - Minor Development

Prior to the issue of any Construction Certificate, the Certifier shall ensure that:

- (a) Off street access and parking complies with Penrith Development Control Plan 2014 and AS 2890.1.
- (b) The minimum clear internal width is 3.1m for single garages and 5.6m for double garages.

Landscaping

35 L001 - General

All landscape works are to be constructed in accordance with the stamped approved plans and relevant provisions of Penrith Development Control Plan 2014.

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.

36 L002 - Landscape construction

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

37 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. The report is to be prepared by 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.

38 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.

39 **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.

40 **L012 - Existing landscaping (for existing development)**

Unless otherwise approved by this consent, existing landscaping and vegetation is to be retained and maintained at all times.

Development Contributions

41 **N001a - Section 7.11 contribution (apply separate condition for each Contribution Plan)**

This condition is imposed in accordance with Penrith City Council's Development Contributions Plan for Cultural Facilities. Based on the current rates detailed in the accompanying schedule attached to this Notice, **\$573.00 is to be paid to 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 contributions 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 invoice accompanying this consent should accompany the contribution payment. The Development Contributions Plan for Cultural Facilities may be inspected at Council's Civic Centre, 601 High Street, Penrith.

42 **N001b - Section 7.11 contribution (apply separate condition for each Contribution Plan)**

This condition is imposed in accordance with Penrith City Council's Development Contributions Plan for District Open Space. Based on the current rates detailed in the accompanying schedule attached to this Notice, **\$6,287.00 is to be paid to 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 contributions 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 invoice accompanying this consent should accompany the contribution payment. The Development Contributions Plan for District Open Space may be inspected at Council's Civic Centre, 601 High Street, Penrith.

43 **N001c - Section 7.11 contribution (apply separate condition for each Contribution Plan)**

This condition is imposed in accordance with Penrith City Council's Development Contributions Plan for Local Open Space. Based on the current rates detailed in the accompanying schedule attached to this Notice, **\$2,271.00 is to be paid to 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 contributions 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 invoice accompanying this consent should accompany the contribution payment. The Development Contributions Plan for Local Open Space may be inspected at Council's Civic Centre, 601 High Street, Penrith.

Certification

44 **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 6.6 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 6.6 of the Environmental Planning and Assessment Act 1979.

45 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.

Operation of OSSM

46 R101 - Operational Approval prior to use

The on-site sewage management (OSSM) system and effluent management area shall be installed and operated in accordance with:

- The "Environmental and Health Protection Guidelines - On Site Sewage Management for Single Households",
- AS 1547:2012,
- Council's On-Site Sewage Management and Greywater Reuse Policy,
- The current (at the time of installation) NSW Health Accreditation documentation,
- The Soil and Site Assessment for On-Site Wastewater Management Report prepared by Harris Environmental Consulting, Ref. 4257WW, Version No. [1.0], dated 10 April 2021, 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 aerated wastewater treatment system (AWTS) has been installed and is operating in accordance with the conditions of its NSW Health accreditation documentation.

Prior to the issue of the 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.

47 R102 - OSSM System Type and Disposal Area (all systems)

All wastewater generated on the site is to be diverted to an Aerated Wastewater System (AWS) and be disposed of by way of surface irrigation in the approved effluent management area. The effluent management area is to be located in accordance with the stamped approved plans contained in the wastewater report prepared by Harris Environmental Consulting and have a minimum area of 695m².

The system and effluent management area are to be installed and managed in accordance with:

- The "Environmental and Health Protection Guidelines On Site Sewage Management for Single Households",
- AS 1547:2012,
- Council's On-Site Sewage Management and Greywater Reuse Policy, and
- The Soil and Site Assessment for On-Site Wastewater Management Report prepared by Harris Environmental Consulting, Ref. 4257WW, Version No. [1.0], dated 10 April 2021.

The system is to be utilised for a 4 bedroom dwelling in accordance with the Soil and Site Assessment for On-Site Wastewater Management Report prepared by Harris Environmental Consulting, Ref. 4257WW, Version No. [1.0], dated 10 April 2021. Any dwelling approval on the site greater than this may require a new wastewater report for Council's consideration.

48 R103 - Council inspections for Installation

Penrith City Council is both the consent authority and certifying authority for the installation of the On-Site Sewage Management System (OSSM). **It is your responsibility to contact Council's Development Services Department to organise all inspections required for the installation of the system.**

In this regard, the septic tank(s) and disposal area(s) will need to be inspected on completion of the system's installation (before backfilling occurs) and prior to its commissioning, to ensure compliance with those conditions specific to the installation of the system.

A copy of the satisfactory inspection reports carried out by Council shall be submitted to the Principal Certifying Authority if Council is not the Principal Certifying Authority.

49 [R104 - No alterations without approval](#)

The septic tank, drainage and irrigation lines and effluent management area shall not be altered without the prior approval of Council. In addition, the septic tank shall not be buried or covered.

50 [R105 - Plumbing Code of Australia](#)

All house 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.

51 [R106 - AWTs - Design of Irrigation System](#)

The design of the irrigation system for the effluent management area is to be such that:

- The distribution line is to be buried from the tank to the designated disposal area.
- The moveable irrigation line and sprinklers (including the plume from the sprinklers) situated within the disposal area can not exceed the designated boundaries of the disposal area.
- The treated wastewater can be evenly irrigated across the entire designated disposal area.

52 [R109 - No effluent runoff](#)

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

53 [R110 - EMA Signage](#)

A minimum of two signs shall be erected within the effluent management area. These signs are to state "RECLAIMED EFFLUENT - NOT FOR DRINKING - AVOID CONTACT". The signage shall be maintained for the term of the development.

54 [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 the following manner:

i. A 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,
- all pumps and switches,
- the air blower, fan or air venturi,
- the alarm system,
- the effluent disposal area and irrigation spray outlets,
- the slime growth on the filter media, and
- the operation of the sludge returns system.

ii. 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, and
- 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.

55 [R113 - Decommission old system](#)

The contents of the existing septic tank are to be removed by a licensed waste contractor and deposited to an approved waste facility. The disconnected tank shall be removed, demolished or filled with clean soil and garden lime. Documentation of the collection and disposal of waste are to be retained and provided to Council on request.

56 [R114 - EMA Turfed](#)

The effluent management area is to be turfed to the satisfaction of Council. Where a specific variety of turf is identified in the approved Wastewater Report that variety is to be installed and maintained.

57 [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.

58 [R116 - Diversion of stormwater](#)

All stormwater and seepage shall be diverted away from the septic tank and the disposal area.

59 [R117 - No plants for human consumption within EMA](#)

Orchards, vegetable gardens or any other plant species that can be used for the purposes of human consumption are not to be planted within the effluent management area. Effluent from the on-site sewage management system is not to be used on fruit or vegetables grown for human consumption.

60 [R125 - Annual Environmental Performance Report](#)

Council is to be provided with an Annual Environmental Performance Report detailing the performance of the system including but not limited to the following information:

- Details and records of maintenance checks of disposal areas.
- Copies of maintenance report sheets.
- Results of effluent output testing.

The first Annual Environmental Performance Report is to be provided to Council 12 months after the system is commissioned.

61 [R126 - Testing of effluent output](#)

Annual testing of effluent output is to occur for the following parameters:

- Total Nitrogen
- Total Phosphorus
- Faecal Coliforms
- Biochemical Oxygen Demand
- Total Suspended Solids

Effluent is to be sampled by a suitably qualified person and tested at a NATA accredited laboratory. The test results are to be provided to Council within 21 days of their receipt by the owner/operator. Testing is to occur at the stage of commissioning the system and every 12 months thereafter from the date of commissioning.

62 [R127 - NSW Health Accreditation documentation required](#)

Prior to the issue of a Construction Certificate, the NSW Health Accreditation documentation is to be submitted to Council for approval. If Council is not the certifying authority, a copy of Council's written approval is to be provided to the certifying authority.

63 [R128 - Swimming pool back wash](#)

At no time is the swimming pool back wash to be directed to the on-site sewage management system.

64 [R130 - Reserve area without plan](#)

A 100% reserve area is to be set aside for the on-site sewage management system. This area is to be established with turf and is not to be used for any ancillary purpose. No materials are to be stored in the reserve area, and the reserve area is not to be developed. In the event that the primary effluent disposal area is to fail the reserve area is to be used. Written approval is to be obtained from Penrith City Council prior to any works being undertaken.

Appendix - Development Control Plan Compliance

Development Control Plan 2014

Part C - City-wide Controls

C3 Water Management

C3.6 Stormwater Management and Drainage

The proposed stormwater system connects to a 10,000L below-ground rainwater tank, with overflow to be directed towards a level spreader system. It is noted that the original location of the rainwater tank was in close proximity to the AWTS in front of the dual occupancy dwelling and therefore was relocated behind it to ensure that the minimum buffer distances from the OSSM system are compliant.

D1 Rural Land Uses

D1.2 Rural Dwellings and Outbuildings

D1.2.3 Site Coverage, Bulk and Massing

The proposal results in a total building footprint of 885.6m² (335m² for the existing dwelling and 550.6m² for the proposed dual occupancy dwelling) for the site. Although this exceeds the maximum 600m² control, the site's large land area has the capacity to accommodate the proposed building footprint, noting that the proposal covers 4.38% of the site and retains significant trees and landscaped areas across the site.

D1.2.5 Dual Occupancy Dwellings

It should be noted that the proposed dual occupancy dwelling is situated in front of the existing dwelling, however, the proposal provides a 21.60m separation distance between the existing dwelling and an appropriate 87.547m front setback, which is consistent with the front building line of the neighbouring buildings and thus, perseveres local character. In addition, the proposed dual occupancy dwelling is serviced by an existing separate informal driveway situated along the south-eastern side boundary, which is considered to be acceptable, noting that the construction of a new driveway to connect to the existing driveway, which services the existing dwelling, will result in excess hardstand area and the removal of trees situated adjacent to this driveway and landscaped areas across the site.