

# PENRITH CITY COUNCIL

## FAST LIGHT ASSESSMENT REPORT

<b>Application number:</b>	DA21/0940
<b>Proposed development:</b>	In-ground swimming pool
<b>Property address:</b>	836 - 842 Richmond Road, BERKSHIRE PARK NSW 2765
<b>Property description:</b>	Lot 2 DP 1097876
<b>Date received:</b>	11 December 2021
<b>Assessing officer</b>	Adem Sertlioglu
<b>Zoning:</b>	RU4 Primary Production Small Lots - LEP 2010
<b>Class of building:</b>	Class 10b
<b>Recommendation:</b>	Approve

### Executive Summary

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Council is in receipt of a development application for the subject development on the subject site and the proposal is a permissible land use with Council consent.

### Site & Surrounds

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The subject site is situated on the Eastern side of Richmond Road, Berkshire Park. It is 2Ha in area, is orientated in a east west direction and is a relatively level parcel of land with a gentle slope to the rear of the allotment.

An inspection of the site was undertaken on 11-01-2022 and the site is currently occupied by a residential development with an access handle located south of the property to facilitate access to an additional dwelling located approximately 77m from the primary dwelling.

The surrounding area is characterised by rural/residential development

### Proposal

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The proposed development involves:

- Construction of an in-ground fibreglass swimming pool including landscaping and associated drainage works

## Plans that apply

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BUSHFIRE PRONE LAND (ENTIRELY)  
1996 CENSUS COLLECTORS DISTRICT  
CLM ACT 1997 - SITE AUDIT STATEMENT  
PENRITH DCP 2014  
GENERAL LIST  
EASEMENT DRAINAGE VARIABLE WIDTH  
EASEMENT DRAINAGE 2.5 METRES  
EASEMENT FOR SERVICES VARIABLE WIDTH  
MISC - AGRICULTURAL ACTIVITIES WITHIN RURAL AREAS  
DEV/BLD - RATU - SEE 88B  
DEV/BLD - COVENANT(S)  
LEP 2010/ DCP 2014 - Scenic and Landscape Values  
DCP 2014 - Tree Preservation Controls  
LEP 2010 - Dual Occupancy and Secondary Dwellings  
DCP 2014 - General Information  
LEP 2010 - SERVICED APARTMENTS  
PLAN INST - SREP NO 9 EXT IND (NO 2-1995) AA  
PLAN INST - SREP NO 20 HAW NEP RIV (NO2-1997) AA  
MISC - REP 20 RIVERINE SCENIC AREA  
FLOOD RELATED DEVELOPMENT CONTROLS  
Local Environmental Plan 2010  
No Comp Devel under GHC – Env Sens Land  
No Comp Devel under RH Code - Env Sens Land  
No Comp Devel under C & I (NBA) Code - Env Sen Lan  
No Comp Devel under LRHDC – Env Sens Land  
No Comp Devel under H Code - Env Sens Land  
Asbestos & Contam Land Policies  
PRECINCT 2010  
SEC 94 CONTRIB PLAN - CULTURAL FACILITIES  
SEC 94 CONTRIB PLAN - LOCAL OPEN SPACE 2007  
SEC 94 CONTRIB PLAN - DISTRICT OPEN SPACE FACILS  
SEC 7.12 CONTRIB PLAN - PENRITH CITYWIDE  
STATE ENV PLANNING POLICIES - GENERAL LIST  
NORTH WARD  
RU4 Primary Production Small Lots - LEP 2010  
LEP 2010 - Clause 4.2 Rural Subdivision  
LEP 2010 - Clause 4.2A Res Devel and Subdn Prohib  
LEP 2010 - Additional Land Use Notes

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

The development has been assessed in accordance with the matters for consideration under Section 4.14 (Consultation and development consent—certain bush fire prone land) of the Environmental Planning and Assessment Act 1979, and having regard to those matters, the following points are made:

1. The proposal is located on land identified as being Bushfire Prone Land
2. The proposal consists of an in-ground Fibreglass Swimming Pool
3. The proposal attracts a building classification being 10b
4. In accordance with PFBFP 2019 and AS3959, there are no prescribed requirements for this development with regards to bushfire affectation
5. The proposal is suitable to proceed in its current proposed form.

- **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.

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

Is the development permissible in the zone?	<b>Complies</b>
Is the development consistent with any requirements of environmental planning instruments relevant to this proposal (including any applicable SEPP's, SREP's and LEP's)?	<b>Complies</b>

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

Is the development consistent with any draft planning instruments relevant to this proposal	<b>Complies</b>
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### **Section 4.15(1)(a)(iii) Any development control plan**

Is the development consistent with the provisions of any development control plan relevant to this proposal?	<b>Complies</b>
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### **Section 4.15(1)(a)(iv) Any applicable regulations**

Is the development consistent the provisions of any regulations relevant to this proposal?	<b>Complies</b>
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## Section 4.15(1)(b) The likely impacts of the development

### Context and setting

Is the development consistent with the bulk, scale colour and design of other development in the locality? **Complies**

Will the development have only a minor impact of the amenity of the area and the streetscape? **Complies**

Is the development compatible with surrounding and adjacent land uses **Complies**

Will the development have no or minimal impact on the amenity of the area in terms of:

    Sunlight (overshadowing): **N/A**

    Visual and acoustic privacy: **Complies**

    Views or vista: **Complies**

### Access and Transport

Will the development have no or minimal impact on the local road system **Complies**

Is the existing and any proposed access arrangements and car parking on site adequate for the development? **Complies**

### Heritage

The property is not subject to any heritage order or is identified as heritage under a planning instrument. **Complies**

### Soil

The development will have minimal impact on soil erosion and sedimentation **Complies**

### Natural and Technological Hazards

The development is not subject to flooding, subsidence or slip **Complies**

Land is not considered to be contaminated: **Complies**

Bushfire requirements provided for the development **N/A**

Acoustic requirements provided for the development **N/A**

### Site design

The development is sensitive to environmental conditions and site attributes. **Complies**

Does the development safe guard the health and safety of the occupants **Complies**

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

Was the site inspected?	<b>Yes</b>
Does the proposal fit locality?	<b>Yes</b>
Are the site attributes conducive to development?	<b>Yes</b>
Will the proposal have minimal social and economic impacts on the locality?	<b>Yes</b>
Has any applicable 88b instrument been considered?	<b>Yes</b>
Does the development propose the removal of trees?	<b>No</b>
Have the plans been checked by any relevant developer groups?	<b>N/A</b>
Has a BASIX certificate been provided?	<b>N/A</b>

## **Section 4.15(1)(d) Any submissions made in accordance with the EPA Act and Regulations?**

Was the application required to be publicly notified?	<b>No</b>
Were any submissions received during the public notification period?	<b>N/A</b>

## **Section 4.15(1)(e)Public Interest**

The application will have minimal impacts on public interest	<b>Complies</b>
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## **Conclusion/Summary**

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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**

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1. That DA21/0940 for In-Ground Fibreglass Swimming Pool at 836 - 842 Richmond Road BERKSHIRE PARK NSW, be approved subject to the attached conditions (Development Assessment Report Part B)

## General

### 1 A001 - Approved plans that are architecturally drawn

The development must be implemented substantially in accordance with the plans numbered 1-2, drawn by Coral Reef Pool Sydney, and dated 28/09/2021 (Issue A), and 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.

## Environmental Matters

### 5 D009 - Covering of waste storage area

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.

### 6 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.

### 7 D014 - Plant and equipment noise

The operating noise level of the swimming pool filter 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 Operation Act 1997 apply to the development, in the terms of regulating offensive noise.

## BCA Issues

## 8 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).

## Construction

### 9 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 is 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.

### 10 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.

## Swimming Pools

### 11 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 AS1926 "Swimming Pool Safety". Restriction of access to the pool area shall also comply with the Swimming Pools Act, 1992.

## 12 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".

## 13 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 "CardioPulmonary Resuscitation" published by the Australian Resuscitation Council. (A copy may be purchased from Penrith City Council's Civic Centre, 601 High Street, Penrith).

## 14 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](http://www.swimmingpoolregister.nsw.gov.au) or in person at Penrith City Council (\$10 fee applies when registering at Council).

## 15 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 (eg. a cartridge filtration system).
- Overspill 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.

## Landscaping

## 16 L008 - Tree Preservation Order

No trees are to be removed, ringbarked, cut, topped or lopped or wilfully 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.

## Certification

## 17 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.

#### 18 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

Swimming pool Type: · In ground fibreglass · In ground concrete · Above ground	In ground fibreglass
Pool barrier Boundary	Condition to apply
Setbacks / Distances: Rear: Side: Dwelling:	Complies
CPR Area	Complies
Volume of water:	39,850L
BASIX required:	N/A
Filter system	Condition to apply
Windows and Doors into pool area	Condition to apply
Pool Fencing requirements AS 1926	Condition to apply
Sediment and Erosion	Condition to apply
Cost	\$59,800
Developer Approval	N/A
Rural or Residential Area	RU4
Landscaped Area Discussion: -	Landscaped area complies - refer to site plan for detailed calculations