

PENRITH CITY COUNCIL

MAJOR ASSESSMENT REPORT

Application number:	DA17/1331
Proposed development:	Dwelling House, Attached Secondary Dwelling & Swimming Pool
Property address:	110 - 112 Mt Vernon Road, MOUNT VERNON NSW 2178
Property description:	Lot 4 DP 865818
Date received:	19 December 2017
Assessing officer	Jake Bentley
Zoning:	E4 Environmental Living - LEP 2010
Class of building:	Class 1a
Recommendations:	Approve

Executive Summary

Council is in receipt of a development application for a single storey dwelling house with an attached secondary dwelling at 110-112 Mt Vernon Road, Mt Vernon. Under Penrith Local Environmental Plan 2010, the proposal is defined as a dwelling house and secondary dwelling. The subject site is zoned E4 Environmental Living and the proposal is a permissible land use in the E4 zone with Council consent.

In accordance with Clause 4.4 of Appendix F4 in the Penrith Development Control Plan (DCP) 2014 the application was notified to surrounding property owners and exhibited between 5 January and 31 January 2018. One submission was received in response.

During the application process the applicant provided amended plans which altered the siting of the proposal including alterations to the carport, window sizes, swimming pool and effluent disposal system. The application was therefore re-notified to surrounding property owners re-exhibited between 9 July and 23 July 2018. No submissions were received in response.

An assessment under Section 4.15 (previously Section 79C) of the Environmental Planning and Assessment Act 1979 has been undertaken and the application is recommended for approval, subject to recommended conditions.

Site & Surrounds

The subject site is situated on the northern side of Mt Vernon Road and is surrounded by E4 Environmental Living zoned properties occupied by large detached dwellings. The M4 Motorway is 3.32km to the east and Elizabeth Drive and Mamre Road are 1.99km to the south. The site is 1.03ha in area, is orientated in a north/south direction and has a slope to the western boundary. There is an access easement adjoining the western boundary of the site which allows access to the lots behind the site.

The subject site was previously occupied by a dwelling house and associated structures. Council recently approved a development application (DA18/0459) for the demolition of the existing dwelling and associated structures. As such the site is currently only occupied by numerous trees.

Proposal

The proposed development involves:

- Removal of a number of existing trees and vegetation;
- Construction of single storey dwelling house with attached secondary dwelling including associated parking, landscaping and drainage works.

Plans that apply

- Local Environmental Plan 2010 (Amendment 4)
- Development Control Plan 2014
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- State Environmental Planning Policy No 55—Remediation of Land
- Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

Planning Assessment

• Section 79C - Evaluation

The proposal has been assessed in accordance with the matters for consideration under Section 4.15 (previously Section 79C) of the Environmental Planning and Assessment Act 1979, and having regard to those matters, the following have been identified for further consideration.

Section 79C(1)(a)(i) The provisions of any environmental planning instrument

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

This Policy ensures the implementation of the BASIX scheme which encourages sustainable residential development. It requires certain kinds of residential development to be accompanied by a list of commitments to be carried out by applicants.

This application is subject to these requirements as it involves the construction of a dwelling house and secondary dwelling.

BASIX Certificate No. 857844M_02 was submitted with the development application demonstrating compliance with set sustainability targets for water, energy efficiency and thermal comfort.

A standard condition of consent is recommended to ensure the commitments in the Certificate are maintained during the life of the proposed development.

State Environmental Planning Policy No 55—Remediation of Land

An assessment has been undertaken of the proposal against relevant criteria within *State Environmental Planning Policy No 55—Remediation of Land* and the proposal is satisfactory subject to recommended conditions of consent.

Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

An assessment has been undertaken of the proposal against relevant criteria within Sydney Regional Environmental Plan No. 20—Hawkesbury-Nepean River (No. 2—1997) and the proposal is 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
Clause 2.3 Zone objectives	Complies
Clause 4.3 Height of buildings	N/A
Clause 5.4 Controls relating to miscellaneous permissible uses	Complies
Clause 7.7 Servicing	Complies
Clause 7.9 Development of land in the flight paths of the site reserved for the proposed	Complies - See discussion
Clause 7.10 Dual occupancies and secondary dwellings in certain rural and environmental	Complies - See discussion

Clause 7.9 Development of land in the flight paths of the site reserved for the proposed

The proposal meets the requirements under this clause and conditions will be imposed in relation to indoor noise levels meeting the requirements of the Aircraft Noise Intrusion Assessment prepared by Acoustic Logic dated 1 February 2018.

Clause 7.10 Dual occupancies and secondary dwellings in certain rural and environmental

The subject development application has been referred to Council's Environmental Management Team who raised no objections to the proposed method of waste water disposal. The proposal includes the installation of a new on-site effluent disposal system to service the proposal which includes both a new dwelling and attached secondary dwelling. It is noted that the subject site has a total land area of 1.03 hectares which is therefore less than 2 hectares.

Notwithstanding, the proposed effluent disposal system can service the proposed development which includes a secondary dwelling and is therefore considered satisfactory.

Section 79C(1)(a)(ii) The provisions of any draft environmental planning instrument

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

Section 79C(1)(a)(iii) The provisions of any development control plan

Development Control Plan 2014

Provision	Compliance
C1 Site Planning and Design Principles	Complies
C2 Vegetation Management	Complies - see Appendix - Development Control Plan Compliance
C3 Water Management	Complies - see Appendix - Development Control Plan Compliance
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	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
D1.3. Farm buildings	N/A
D1.4 Agricultural Development	N/A
D1.5. Non-Agricultural Development	N/A

Section 79C(1)(a)(iiia) The provisions of any planning agreement

There are no planning agreements applying to the proposal.

Section 79C(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 and fire safety requirements, will be imposed as conditions of consent where applicable. The proposed development will therefore meet the requirements of the Regulations.

Section 79C(1)(b) The likely impacts of the development

Context and Setting

The proposal is consistent with the bulk and scale of development in the surrounding area. The external colours and design of the proposal will not have an impact on the surrounding locality. The development is compatible with the surrounding and adjacent land uses and follows the design of a number of approved dwellings in the surrounding area. It is considered the proposal will have minimal impact on the amenity of the area.

Access and Transport

The development will have minimal impact on the local road system and the proposed access and parking arrangements on the site will be adequate for the development.

Heritage

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

Natural Hazards

The site is not subject to flooding and is not bushfire prone land.

Section 79C(1)(c) The suitability of the site for the development

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

- The site is zoned E4 which permits the proposed dwelling house and secondary dwelling;
- The use is compatible with surrounding and adjoining land uses;
- The slope of the site is suitable for the design proposed; and
- The site is able to drain to Council's satisfaction.

Section 79C(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 nearby and adjoining residents.

Council notified nine (9) residences in the area and the exhibition period was between 5 January and 31 January 2018. The proposed development was amended and therefore Council re-notified the application to surrounding property owners and re-exhibited between 9 July and 23 July 2018. Council received one (1) submission in response to the initial exhibition period.

Submissions

The following issues were raised in the submission received and have formed part of the assessment.

Issue Raised	Comments
Asbestos on the site	A condition of consent will be imposed requiring that any demolition works involving the removal of asbestos be carried out by a licensed asbestos removal contractor with a current WorkCover Asbestos Licence. All asbestos waste must be disposed of at a tipping facility licensed by the EPA to receive asbestos waste. Dust suppression techniques are to be used to limit dust entering surrounding properties.

A letter dated 8 May 2018 was sent to the submitter advising of the above consideration given to their concerns.

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
Environmental - Environmental management	No objections - subject to conditions
Environmental - Waterways	No objections
Tree Management Officer	No objections

Section 79C(1)(e) The public interest

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

Section 94 - Developer Contributions Plans

The following Section 7.11 plans apply to the site:

- Section 7.11 - District Open Space Facilities
- Section 7.11 - Cultural Facilities
- Section 7.11 - Penrith City Local Open Space

The following Section 7.11 calculations apply to the proposed development.

Calculation for Secondary Dwelling					
<i>Open Space</i>					
No. of units	x	Rate	-	Credit for existing dwelling/s	Contribution rate
1	x	1.5	-	0	1.5
<i>City Wide</i>					
No. of units	x	Rate	-	Credit for existing dwelling/s	Contribution rate
1	x	1.5	-	0	1.5
AMOUNT					
Section 7.11 Contribution Plans		Contribution Rate x Calculation Rates			Total
District Open Space		1.5 x \$1,942.00			\$2,913.00
Local Open Space		1.5 x \$702.00			\$1,053.00
Cultural Facilities		1.5 x \$164.00			\$246.00
		NET TOTAL			\$4,212.00

Conclusion

In assessing this proposal 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 proposed design is site responsive and complies with key development controls as set out under Penrith Development Control Plan 2014. The site is suitable for the proposed development and is in the public interest. It is unlikely to have any negative impacts on the surrounding area.

Therefore, the application is worthy of support, subject to recommended conditions.

Recommendation

That DA17/1331 for a single storey dwelling house with an attached secondary dwelling at 110 - 112 Mt Vernon Road, Mount Vernon, be approved subject to the attached conditions.

CONDITIONS

General

1 A001

The development must be implemented substantially in accordance with the following stamped approved plans, the application form, BASIX Certificate No. 857844M_02 and any supporting information received with the application, except as may be amended in red on the approved plans and by the following conditions.

Drawing Title	Prepared By	Reference No.	Dated	Revision
Concept Landscape Plan, Waste Management Plan and Site Plan	All Image Architects	17-20-Tom	9/8/2018	D
Ground Floor Plan	All Image Architects	17-20-Tom	9/8/2018	D
Elevations and Section	All Image Architects	17-20-Tom	9/8/2018	D
Fence Details	All Image Architects	17-20-Tom	9/8/2018	D
Window Schedule	All Image Architects	17-20-Tom	9/8/2018	D
Schedule of External Finishes	All Image Architects	17-20-Tom	9/8/2018	D
Roof Plan	All Image Architects	17-20-Tom	9/8/2018	D
Waste Management Plan	All Image Architects	-	-	-
Cover Sheet, Notes & Legend	Australian Consulting Engineers	ACE171195.SW.DA	27/2/2018	B
Stormwater Concept Plan	Australian Consulting Engineers	ACE171195.SW.DA	27/2/2018	B
WSUD Tank Details Sheet	Australian Consulting Engineers	ACE171195.SW.DA	27/2/2018	B
Miscellaneous Details Sheet	Australian Consulting Engineers	ACE171195.SW.DA	27/2/2018	B

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.

5 A Special (BLANK)

All land required for vehicular access shall be suitably stabilised.

6 A Special (BLANK)

The front fence shall be to a maximum height of 1.5m.

Demolition

7 B004 - Dust

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

8 B Special (BLANK)

Any demolition works involving the removal of asbestos shall be carried out by a licensed asbestos removal contractor with a current WorkCover Asbestos Licence. All asbestos waste must be disposed of at a tipping facility licensed by the EPA to receive asbestos waste.

Environmental Matters

9 **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.

10 **D005 - Mud/Soil**

Mud and soil from vehicular movements to and from the site must not be deposited on the road during construction 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 2 metres past the defined building footprint.

Before any fill material is imported to site, a validation certificate issued by an appropriately qualified person is to be provided to the Principal Certifying Authority. The validation certificate must demonstrate that the fill material is free from contaminants and weeds, that it is suitable for its intended purpose and land use, and that it will not pose an unacceptable risk to human health or the environment.

If Penrith City Council is not the Principal Certifying Authority, a copy of the validation certificate is to be submitted to Council for their reference.

{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."}

12 **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.

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 during construction works 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 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.

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 H007 - Aircraft or traffic noise (if the report is submitted with DA)

The recommended construction details to reduce aircraft noise intrusion, as detailed in the report prepared by Acoustic Logic and dated 1/02/2018 are to be undertaken during construction. As the recommended construction details are carried out and on completion of the development, a qualified acoustic consultant shall certify that the development has been constructed to meet the required indoor design sound levels in accordance with the approved acoustic report. A copy of this certification shall be submitted to the Principal Certifying Authority **prior to the issue of an Occupation Certificate.**

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

The rainwater tank 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 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.

Before a rainwater tank 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**.

23 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 dwellings 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.

24 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.

25 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.

26 [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 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

27 [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 a Construction Certificate**. Evidence of lawful disposal (i.e. tip receipts) is to be provided to the Principal Certifying Authority **prior to the issue of an Occupation Certificate**.

28 [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.

29 [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".

30 [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.)

31 [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.)

32 [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).

33 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).
- 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.

Engineering

34 K201 - Infrastructure Bond

An Infrastructure Restoration Bond is to be lodged with Penrith City Council for development involving works around Penrith City Council's Public Infrastructure Assets. The bond is to be lodged with Penrith City Council prior to commencement of any works on site or prior to the issue of any Construction Certificate, 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.

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

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

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

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

Contact Penrith City Council's City Works Department on (02) 4732 7777 or visit Penrith City Council's website for more information.

Note:

- a) Where Penrith City Council is the Certifying Authority for the development, the Roads Act approval for the above works may be issued concurrently with the Construction Certificate.
- b) Separate approvals may also be required from the Roads and Maritime Services for classified roads.
- c) All works associated with the Roads Act approval must be completed **prior to the issue of an Occupation Certificate**.

36 [K209 - Stormwater Discharge – Minor Development](#)

Stormwater drainage from the site shall be discharged to a level spreader system. The level spreader system shall be relocated 10m from any property boundary and shall not be located within the on-site sewage management system and effluent disposal areas.

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

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

37 [K210 - Stormwater Management](#)

The stormwater management system shall be provided generally in accordance with the concept plans lodged for development approval, prepared by Australian Consulting Engineers, reference number ACE171195.SW.DA000-103, revision B, dated 27 February 2018.

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

Prior to the issue of any Construction Certificate, the Certifying Authority shall ensure that the stormwater management system has been designed in accordance with Penrith City Council's Stormwater Drainage for Building Developments Policy.

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

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

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

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

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

40 [K504 - Stormwater Compliance](#)

Prior to the issue of any Occupation Certificate, the Principal Certifying Authority shall ensure that the stormwater management systems (including on-site detention and water sensitive urban design):

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

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

41 [K505 - Restriction as to User and Positive Covenant](#)

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

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

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

42 [K - Waterways - Stormwater Management system operation and maintenance](#)

The stormwater management systems shall continue to be operated and maintained in perpetuity to the satisfaction of Council. All necessary improvements are required to be made immediately upon awareness of any deficiencies in the treatment measures.

Landscaping

43 L001 - General

All landscape works are to be constructed in accordance with the stamped approved plans, the recommendations of the Addendum to Tree Inspection Report prepared by Treehaven Environscapes and Section C6 Landscape Design 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.

44 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.

45 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.

46 L007 - Tree protection measures—no TMP with DA

All trees that are required to be retained as part of the development are to be protected in accordance with the arborist's report and the minimum tree protection standards prescribed in Penrith Development Control Plan 2014 and AS 4970-2009.

47 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.

48 L Special (Protection of trees to remain on site)

All trees approved by Council for removal shall be removed in a manner so as to prevent damage to those trees that are to be retained

49 L Special (Replacement of trees)

At least 15 suitable replacement trees (preferably native trees) capable of and nurtured to grow to 12m in height at maturity, shall be planted in a suitable location within the property. The replacement trees shall be planted **prior to the issue of an Occupation Certificate**.

The replacement tree planting shall be in accordance with the Addendum to Tree Inspection Report prepared by Treehaven Environscapes.

Development Contributions

50 N001 - Section 94 contribution (apply separate condition for each Contribution Plan)

This condition is imposed in accordance with Penrith City Council's Section 7.11 Contributions Plan for **Cultural Facilities**. Based on the current rates detailed in the accompanying schedule attached to this Notice, **\$246.00** 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 Section 7.11 plan. The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule.

Council should be contacted prior to payment to ascertain the rate for the current quarterly period. The Section 7.11 invoice accompanying this consent should accompany the contribution payment. The Section 7.11 Contributions Plan for **Cultural Facilities** may be inspected at Council's Civic Centre, 601 High Street, Penrith.

51 **N001 - Section 94 contribution (apply separate condition for each Contribution Plan)**

This condition is imposed in accordance with Penrith City Council's Section 7.11 Contributions Plan for **District Open Space**. Based on the current rates detailed in the accompanying schedule attached to this Notice, **\$2,913.00** 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 Section 7.11 plan. The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule.

Council should be contacted prior to payment to ascertain the rate for the current quarterly period. The Section 7.11 invoice accompanying this consent should accompany the contribution payment. The Section 7.11 Contributions Plan for **District Open Space** may be inspected at Council's Civic Centre, 601 High Street, Penrith.

52 **N001 - Section 94 contribution (apply separate condition for each Contribution Plan)**

This condition is imposed in accordance with Penrith City Council's Section 7.11 Contributions Plan for **Local Open Space**. Based on the current rates detailed in the accompanying schedule attached to this Notice, **\$1,053.00** 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 Section 7.11 plan. The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule.

Council should be contacted prior to payment to ascertain the rate for the current quarterly period. The Section 7.11 invoice accompanying this consent should accompany the contribution payment. The Section 7.11 Contributions Plan for **Local Open Space** may be inspected at Council's Civic Centre, 601 High Street, Penrith.

Certification

53 **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.

54 **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 of the dwellings.

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

55 **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”,
- Australian Standard 1547:2012,
- Council’s On-Site Sewage Management and Greywater Reuse Policy,
- Current (at the time of installation) NSW Health Accreditation documentation,
- The Wastewater Report prepared by Envirotech, dated 31 July 2018, Ref: 18-6311-A2, 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.

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

All wastewater generated on the site is to be diverted to two (2) AWTS and be disposed of by way of trenches in the approved effluent management area. The effluent management area is to be located in accordance with the stamped approved waste water report (dated 31 July 2018, Ref: 18-6311-A2) and have a minimum area of 75m².

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

- The “Environmental and Health Protection Guidelines-On Site Sewage Management for Single Households”,
- Australian Standard 1547:2012,
- Council’s On-Site Sewage Management and Greywater Reuse Policy, and
- The Wastewater Report prepared by Envirotech, dated 31 July 2018, Ref: 18-6311-A2.

The system is to be utilised for a 10 bedroom dwelling or daily wastewater load of 1800 litres in accordance with Wastewater Report dated 31 July 2018, Ref: 18-6311-A2. Any dwelling approval on the site greater than this may require a new wastewater report for Council’s consideration.

57 **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.

58 **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.

59 **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.

60 **R108 - Trench - Disposal Area**

The effluent disposal area shall satisfy the following requirements:

- the distribution line is to be buried from the tank to the designated disposal area;
- the treated wastewater is to be evenly irrigated across the entire designated disposal area;
- be prepared with a minimum 100mm cover of absorbent soil that has been ripped into the existing top soil. The area to be prepared should include up to 2.5m either side of the trench;
- have an even grade/be graded to a minimum 1% crossfall and turfed in accordance with the stamped approved plans; and
- sited so as not to contaminate the natural watercourse that traverses the subject property.

61 **R109 - No effluent runoff**

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

62 **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.

63 **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/sub-surface irrigation lines and filters,
- 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,
- 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.

64 **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.

65 **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.

66 [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.

67 [R116 - Diversion of stormwater](#)

All stormwater and seepage shall be diverted away from the septic tank and the disposal area by using an agricultural drain or earthen bund and dish drain.

68 [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.

69 [R118 - EMA protected from stock damage](#)

The effluent management area shall be protected from possible stock damage.

70 [R119 - Wastewater and Native Trees](#)

No wastewater associated with the on-site sewage management system is to be applied or irrigated within the drip line of any native trees within the effluent management area.

It is the responsibility of the applicant to ensure the ongoing health of the trees in relation to the effluent management area.

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

Prior to the issue of a Construction Certificate, the NSW Health Accreditation documentation for the two (2) aerated wastewater treatment systems and the collection well 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 Principal Certifying Authority.

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

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

73 [R129 - Reserve area with plan](#)

The reserve area, as marked on the Effluent Management Area Plan (prepared by Envirotech, dated 31 July 2018, Ref: 18-6311-A2), 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 fails, 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

C2 Vegetation Management

The subject development application was accompanied by a preliminary tree inspection report and addendum prepared by Treehaven Environscapes. This report suggests that numerous trees will need to be removed in order to facilitate the proposed development and has recommended that 15 replacement trees be planted to compensate the proposed tree removal.

The arborist's report mentions that trees numbered T1 - T15 are endemic specimens and form part of an endangered ecological community. The proposal involves the removal of 9 endemic trees and the report recommends that the trees to be removed should be replaced with suitable endemic species elsewhere on-site. Council's Tree Management Officer advised that a Tree Protection Plan and Landscaping Plan showing at least 15 replacement trees capable of growing to height of 12m was required.

An addendum to the arborist's report was submitted indicating proposed tree protection techniques for trees to be retained and the planting of 15 native tree species behind the proposal.

A condition of consent will be recommended ensuring the proposed development is in accordance with the recommendations of the addendum to the Tree Inspection Report prepared by Treehaven Environscapes.

C3 Water Management

The proposed stormwater drainage method for the site has been discussed with Council's Engineering Department who have confirmed that the proposed drainage arrangements are satisfactory considering the stormwater captured by the proposal will be discharged via a level spreader system.

D1 Rural Land Uses

1.2 Rural Dwellings and Outbuildings

1.2.3 Setbacks and Building Separation

The proposed garage is located in front of the proposal's building line. This arrangement is satisfactory considering the garage elevation addressing Mount Vernon Road provides numerous articulation measures and adopts design features consistent with the proposed dwelling's street front elevation.

1.2.3 Site Coverage

The proposal occupies approximately 891.6m² of the subject site. This is above the maximum ground floor control under this section of Penrith Development Control Plan (DCP) 2014 which is 500m². However, the surrounding area has dwellings that well exceed this requirement. The land area of the site is 1.033ha and the proposal will not result in the site being overdeveloped. Therefore, the non-compliance with this development control is acceptable.

1.2.4 Height, Scale and Design

The proposed development provides for a small cut along the proposal's eastern side and fill of approximately 1.2m along the proposal's western side. The proposed development will result in floor levels roughly 1.6m above natural ground level along the proposal's western side in the location of the proposed secondary dwelling.

Notwithstanding, the proposed development meets the height requirements of this section of Penrith DCP 2014 considering the proposed ceiling level does not exceed 8m above natural ground level and the proposal is substantially setback from the neighbouring property to the west. The proposed fill is to be located within the north-western corner of the proposal and therefore will be screened from the street by the proposed building.

In this regard the proposed cut and fill works are considered satisfactory.