

# PENRITH CITY COUNCIL

## MAJOR ASSESSMENT REPORT

<b>Application number:</b>	DA17/1005
<b>Proposed development:</b>	Detached Dual Occupancy & On-Site Sewage Management System
<b>Property address:</b>	48 - 54 Clark Road, LONDONDERRY NSW 2753
<b>Property description:</b>	Lot 6 DP 25020
<b>Date received:</b>	23 October 2017
<b>Assessing officer</b>	James Heathcote
<b>Zoning:</b>	RU4 Primary Production Small Lots - LEP 2010
<b>Class of building:</b>	Class 1a
<b>Recommendations:</b>	Approve

### Executive Summary

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Council is in receipt of a development application for a Detached Dual Occupancy and On-site Sewage Management (OSSM) system at 48-54 Clark Road, Londonderry NSW 2753.

Under Penrith Local Environmental Plan (LEP) 2010 the proposal is defined as a dual occupancy. The subject site is zoned RU4 Primary Production Small Lots and the proposal is a permissible land use in the zoning with consent.

The key issue identified in the assessment of the application is minimum lot size requirements within the LEP for dual occupancy developments in the zone. The site does not meet the minimum lot size for dual occupancy development as outlined within Clause 7.10 being a minimum of 2.0 hectares. The variation to the lot size requirements has however been appropriately justified through a Clause 4.6 variation request from the applicant. The proposal satisfies the objectives of Clause 7.10, by providing an OSSM system that protects the amenity of local waterways and adjoining lots, and reflects the character of the area, with similar development in close proximity to the subject site. As such the proposed development and variation to a development standard is considered to be supportable.

The application was notified to adjoining properties and exhibited between 31 October and 14 November 2017. Council received no submissions in response to the application.

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

### Site & Surrounds

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The subject site is located on the southern side of Clark Road, 490m west of its intersection with Reynolds Road in Londonderry. The site is 1.62ha in area, with an 80m frontage to Clark Road. The site is currently occupied by an existing single storey dwelling with a carport, several sheds and farm buildings located behind the dwelling and toward the rear of the site.

The surrounding area is characterised by low density rural-residential development.

The site is identified as being bushfire prone land.

The site is not affected by any easements nor affected by local overland flow flooding.

## Proposal

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The proposed development involves the construction of a new second dwelling, to create a detached dual occupancy and OSSM system.

The proposed dwelling consists of 3 bedrooms, kitchen, dining and living area, bathroom, laundry, patio, and an attached new driveway. The proposed dwelling has a total floor area of 113m<sup>2</sup>.

The proposed OSSM system includes the following:

- Installation of a NSW Health Accredited Aerated Wastewater Treatment System (AWTS) with the capacity to treat the design flowrate of 750 litres per day.
- Installation of a low-pressure effluent irrigation system, with an area designated for effluent application only.
- Continued use of the existing AWTS on site.

## Plans that apply

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- 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

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- **Section 79BA - Bushfire prone land assessment**

In accordance with Clause 4.14 (1)(a) of the Environmental Planning and Assessment Act 1979, the consent authority must be satisfied that the development conforms to the specifications and requirements of the NSW Rural Fire Service document, *Planning for Bush Fire Protection*.

As part of the application a Bush Fire Assessment Report was submitted, which identified a required Bushfire Attack Level (BAL) of BAL-12.5 in accordance with AS 3959-2009.

Council's own assessment of the site confirmed this BAL level, evaluating the site under AS 3959-2009 - Determination of Bushfire Attack Level - FDI 100. It was found that the proposed development is sited approximately 85m north of remnant forest land and from these findings the classification of the proposal is a BAL of 12.5.

A condition is therefore recommended to ensure the development meets the specifications and requirements of "Planning for Bushfire Protection" December 2006, and to a BAL-12.5 construction in accordance with AS 3959-2009 "Construction of Buildings in Bushfire-prone areas".

- **Section 79C - Evaluation**

The development has been assessed in accordance with the matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979, and having regard to those matters, the application is satisfactory for the following reasons:

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

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

The aim of this policy is to ensure consistency in the implementation of the BASIX scheme throughout the state, ensuring that certain types of residential development is sustainable through applications providing a list of commitments regarding the manner in which the development will be carried out.

The BASIX Certificate, numbered 861027S, submitted with the application confirms that the proposed development will meet the policy's requirements for sustainability, passing sustainability targets for water, thermal comfort and energy.

## State Environmental Planning Policy No 55—Remediation of Land

SEPP 55 aims to provide a framework for the assessment, management and remediation of contaminated land throughout the state. Clause 7(1) of SEPP 55 requires a consent authority to be satisfied that the site is suitable for the proposed development, or can be made suitable prior to the determination of the application. The application has been assessed by Council's environmental officers who have considered the condition of the site and historic use of the land. The site is currently used for residential purposes which are unchanged as a result of the proposed development. No evidence has been identified to suggest that the site has been subject to contaminating land activities and as a result the site is deemed suitable to accommodate the proposed development. As a result, the proposal satisfies the requirements of SEPP 55.

## Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

Sydney Regional Environmental Plan No. 20 - Hawkesbury-Nepean River (No 2 - 1997) applies to the subject land and stipulates that the consent authority shall not grant consent to the application unless it is of the opinion that the carrying out of the development is consistent with any relevant, general and specific aim of the plan.

The general aims and objectives of the plan are directed towards improving the amenity of the river and protecting the lands within the river valley, including scenic quality.

An assessment has been undertaken of the application against criteria with Sydney Regional Environmental Plan No 20 and the application is satisfactory subject to recommended conditions of consent.

## Local Environmental Plan 2010 (Amendment 4)

Provision	Compliance
Clause 1.2 Aims of the plan	Complies
Clause 2.3 Permissibility	Complies - See discussion
Clause 2.3 Zone objectives	Complies
Clause 4.6 Exceptions to development standards	Complies - See discussion
Clause 7.10 Dual occupancies and secondary dwellings in certain rural and environmental	Complies - See discussion

### Clause 2.3 Permissibility

The subject site is zoned RU4 Primary Production Small Lots and a dual occupancy is a permitted land use in the zone.

### Clause 4.6 Exceptions to development standards

The proposal involves dual occupancy development and OSSM on a lot that is approximately 3,800m<sup>2</sup> (19%) less than the required 2Ha lot size required for this form of development in the RU4 zone.

This application was submitted with a request that a '4.6 Exception to Development Standards' variation be considered due to the subject site not meeting the minimum lot size requirement, for a dual occupancy in a rural setting, of 2 hectares. The key consideration in assessing a Clause 4.6 variation is the

consideration of the five (5) Land and Environmental Court Principles and demonstrated suitability of the proposal on the site and within the broader character of the area. The test for suitability is also dependent on the demonstrated compliance with the controls and objectives of the relevant development standards.

The applicant has outlined the following justification for the proposed variation:

- The capability of the site to have an OSSM system that has the capacity to service both existing and proposed dwellings.
- The proposed OSSM system, and associated irrigation areas, meeting specifications that protect the local waterways and the amenity of adjoining properties.
- The proposal reflects the character of the area, with similar development in close proximity to the subject site.

Consideration of the application, the proposed variation request and the established court principles has been undertaken as follows:

**1. The objectives of the standard are achieved notwithstanding non-compliance with the standard.**

The objective of Clause 7.10 is "to ensure that effluent generated by dual occupancies or secondary dwellings is managed on site to protect waterways and the amenity of adjoining lots".

The assessment of this application has determined that the effluent generated by the proposed dual occupancy and managed through its OSSM system can be managed on site, and therefore would protect local waterways and the amenity of adjoining lots. As a result, the objectives of the development standard has been met.

**2. The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary.**

Clause 7.10, subclause (3) states that "Development consent must not be granted for a dual occupancy on a lot to which this clause applies unless the lot has an area of at least 2 hectares". Subclause (2) of this clause states that this clause "applies to land in the following zones that is not connected to a sewage reticulation system", including the zone RU4 Primary Production Small Lots.

The above affirms that both the objective and purpose of Clause 7.10(3) is relevant to the proposed development but its intent has been met as outlined above.

**3. The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable.**

As the objective states, effluent generated by dual occupancies is to be managed on site to protect waterways and the amenity of adjoining lots. The Wastewater report demonstrates that the OSSM system has the required capacity for both dwellings and the disposal areas satisfy Council's greywater reuse policy.

As such, compliance with Clause 7.10(3) is not required to ensure the protection of local waterways and the amenity of adjoining lots.

**4. The development standard has been virtually abandoned or destroyed by Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable.**

Several development applications have been approved by Council for dual occupancy development that included a 4.6 variation request to the requirements of Clause 7.10(3). The justification of both variations included the capacity of OSSM systems to service both dwellings, similar to this application.

Investigation into the history of neighbouring sites found there were three other approved dual occupancies on Clark Road. These are as follows:

- 55-61 Clark Road. A dual occupancy proposal was approved on this property under consent DA01/3105. However, this was approved prior to the current planning instrument Penrith LEP 2010.
- 56-62 Clark Road. A dual occupancy proposal was approved on this property under consent DA11/0679. The reason given for the Clause 4.6 variation was linked with the capacity of the OSSM system to service both dwellings.
- 32-38 Clark Road. A dual occupancy proposal was approved on this property under consent

DA11/0252. The reason given for the Clause 4.6 variation was linked with the capacity of the OSSM system to service both dwellings.

The two relevant dual occupancy consents were approved in 2011 and the current planning instrument, Penrith Local Environmental Plan 2010, and Clause 7.10 were in place at that time.

The current proposal and justification to vary the minimum lot size requirement is consistent with the merits of the previous applications.

**5. The compliance with the development standard is unreasonable or inappropriate due to the existing use of land and current environmental character of the particular parcel of land. That is, the particular parcel of land should not have been included in the zone.**

The subject site is located within a well established rural-residential area in Londonderry with an existing dwelling on the site. The character of the area is predominantly subdivided parcels of land of 1.62Ha lots, zoned RU4 Primary Production Small Lots, with development including single dwellings with the addition of a secondary dwelling (granny flat), shed or farm building.

There are two dual occupancy developments on Clark Road approved under the Penrith LEP 2010. It is noted that the surrounding subdivision patterns provides similar 1.62Ha lots which would provide a similar development opportunity where the objectives of the lot size requirement are also met. While this cumulative development capability has the potential to alter the current character of the area, it is still considered that the rural-residential nature of the area will be maintained with limitations on dwelling size and floor area still applicable under the provisions of Penrith DCP 2014. It is also noted that Council is currently investigating increased residential development opportunities in its rural lands to address increasing housing and affordability needs of the growing population. As such it is considered that the existing character will further change as a consequence of these investigations and the housing needs of the local population.

As a result the 4.6 variation request made for this application is sufficient as it satisfies the objective of Clause 7.10.

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

Clause 7.10, subclause (3) states that development consent must not be granted for a dual occupancy on a lot to which this clause applies unless the lot has an area of at least 2 hectares.

The subject site is 1.62Ha in size, approximately 3,800m<sup>2</sup> (19%) short, and the proposal does not comply with this requirement.

However, the objective of Clause 7.10 is to "ensure that effluent generated by dual occupancies or secondary dwellings is managed on site to protect waterways and the amenity of adjoining lots".

The capacity and disposal area calculations of the existing OSSM system comply with the requirements of Council's On-site Sewage Management and Greywater Reuse Policy. The proposal has demonstrated that the proposed effluent generated on site will protect waterways and the amenity of adjoining lots, achieving the objective of the Clause.

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

**Development Control Plan 2014**

<b>Provision</b>	<b>Compliance</b>
C1 Site Planning and Design Principles	Complies - see Appendix - Development Control Plan Compliance
C2 Vegetation Management	N/A
C3 Water Management	Complies - see Appendix - Development Control Plan Compliance
C4 Land Management	N/A
C5 Waste Management	N/A
C6 Landscape Design	N/A
C7 Culture and Heritage	N/A
C8 Public Domain	N/A
C9 Advertising and Signage	N/A
C10 Transport, Access and Parking	N/A
C11 Subdivision	N/A
C12 Noise and Vibration	N/A
C13 Infrastructure and Services	Complies - see Appendix - Development Control Plan Compliance
D1.1. Rural Character	Complies - see Appendix - Development Control Plan Compliance
D1.2. Rural Dwellings and Outbuildings	Complies - 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)(b)The likely impacts of the development**

### **Context and Setting**

The proposed development will be located within an established rural area. The development will not significantly impact upon the established rural area, with similar dual occupancy development already existing along Clark Road. The proposal has also been designed to complement some of the existing features of the street and area, maintaining the minimum building separation, having similar scale development and consistent setbacks to each dwelling in relation to the street.

### **Access, Traffic and Transportation impacts**

The proposed dwelling is to have an attached carport and separate driveway to the existing driveway. This is a variation to the DCP but is consistent with other dual occupancy development along Clark Road. Sufficient space has been provided for stacked parking space under the carports and driveways. Any traffic generated from development will not impact adversely on the local road network.

### **Utilities / Water and Energy**

The site can be suitably serviced. Conditions to obtain a Section 73 Certificate from Sydney Water and written clearance from Endeavour Energy are recommended to be imposed. The site is already serviced by water, electricity and telecommunications which can be utilised by the proposed development.

### **Stormwater Drainage**

All stormwater drainage is directed into above ground water tanks respectively for both existing and proposed dwellings with overflow by way of level spreader.

### **Waste Management**

Appropriate arrangements are proposed for construction waste to be disposed of at authorised waste management facilities. This application is conditioned to ensure this is completed.

### **Erosion and Sedimentation**

This application proposes to implement sediment and erosion control measures prior to the commencement of works on site and maintained throughout the construction phase. This application has been conditioned to ensure these measures are installed and maintained until the land, that was subject to the works, has been stabilised and grass cover re-established. These measures shall also ensure that mud and soil from vehicular movements to and from the site does not occur during the construction of the development.

### **Construction Management**

To maintain the acoustic privacy and amenity of the surrounding developments, the standard condition restricting work hours is recommended.

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

The proposed development is considered to be suitable based on the following :

- The subject site is suitably zoned for dual occupancy rural-residential development.
- The design and siting of the building is considered responsive to the site attributes.
- The use is compatible with surrounding/adjoining land uses.
- The grade of the site is suitable for the design proposed.

The site is suitable to accommodate the proposed development despite the variation to the minimum lot size requirements pursuant to Penrith LEP 2010.

## **Section 79C(1)(d) Any Submissions**

### **Community Consultation**

In accordance with Penrith Development Control Plan 2014 - Appendix F4 Notification and Advertising, the proposed development was notified to eight (8) nearby and adjoining residents. It was also on public exhibition between the 31 October and the 14 November 2017. No submissions were received.

## Referrals

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

Referral Body	Comments Received
Environmental - Environmental management	No objections - subject to conditions

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

The proposed development will not generate any adverse impacts to the public interest.

## Section 94 - Developer Contributions Plans

The following Section 94 plans apply to the site:

- Section 94 - District Open Space Facilities
- Section 94 - Cultural Facilities
- Section 94 - Penrith City Local Open Space

The following Section 94 calculations apply to the proposed development.

<b>Calculation for Dual Occupancy</b>					
<i>Open Space</i>					
No. of units	x	Rate	-	Credit for existing dwelling/s	Contribution rate
<b>2</b>	x	6.2	-	3.1	3.1
<i>City wide</i>					
No. of units	x	Rate	-	Credit for existing dwelling/s	Contribution rate
<b>2</b>	x	6.0		3.0	3.0
<b>AMOUNT</b>					
S.94 Contribution Plan	Contribution Rate x Calculation rate				Total
District Open Space	3.1 x \$1,906.00				\$5,908.00
Local Open Space	3.1 x \$689.00				\$2,136.00
Cultural facilities	3 x \$160.00				\$480.00
	<b>NET TOTAL</b>				<b>\$8,524.00</b>



## **Conclusion**

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In assessing this application against the relevant environmental planning policies, being Penrith Local Environmental Plan 2010 and Penrith Development Control Plan 2014, the proposal satisfies the aims, objectives and provisions of these policies.

The application has suitably addressed the proposed variation to lot size requirements for a dual occupancy development. This has been demonstrated through provision of an OSSM system that has the capacity for dual occupancy development, with specifications that maintain local waterways in the area and the amenity of adjoining properties.

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

## **Recommendation**

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That DA17/1005 for the construction of a new second occupancy to create a detached dual occupancy and OSSM system at 48-54 Clark Road, Londonderry NSW 2753, be approved subject to the attached conditions.

# CONDITIONS

## General

### 1 A001

The development must be implemented substantially in accordance with the following plans stamped approved by Council, the application form BASIX Certificate 861027S and any supporting information received with the application, except as may be amended in red on the approved plans and by the following conditions.

Description	Reference	Prepared By	Date
Site Plan	Sheet 1 of 6	A Bonnici	06.09.17
Section and Floor Plan	Sheet 2 of 6	A Bonnici	06.09.17
Elevations	Sheet 3 of 6	A Bonnici	06.09.17
Elevations, Floor Plan and Section	Sheet 4 of 6	A Bonnici	06.09.17
Landscape Plan	LSP01	A Bonnici	06.09.17

### 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 A041 - CONSTRUCTION IN BUSHFIRE AREAS (AMENDED)

The dwelling shall be constructed in accordance with the provisions of the "Planning for Bushfire Protection" December 2006, and to a BAL 12.5 applicable construction under AS3959-2009 "Construction of buildings in bushfire-prone area".

### 5 A046 - Obtain Construction Certificate before commencement of works

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

## Demolition

### 6 B004 - Dust

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

### 7 B005 - Mud/Soil

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

## Environmental Matters

### 8 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 approved sediment and erosion control measures are to be installed **prior to and maintained throughout the construction phase of the development until the land, that was subject to the works, have been stabilised and grass cover established.** 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.

### 9 D002 Spraygrass

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

10 **D005 – No filling without prior approval (may need to add D006)**

No fill material is to be imported to the site without the prior approval of Penrith City Council in accordance with Sydney Regional Environmental Plan No.20 (Hawkesbury- Nepean River) (No.2-1997). No recycling of material for use as fill material shall be carried out on the site without the prior approval of Council.

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

{Note: Penrith Contaminated Land Development Control Plan 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.

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 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](http://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.

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

### 19 G006 -

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

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

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

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

### 20 G Special (BLANK)

New water, electricity and gas shall comply with Section 4.1.3 of 'Planning for Bush Fire Protection 2006'.

## Construction

## 21 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.

## 22 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 the 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.

### 23 [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 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.

## Engineering

### 24 [K101 - Works at no cost to Council](#)

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

### 25 [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.

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

Stormwater drainage from the site shall be discharged to the:

- d) Existing site drainage system

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

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

### 27 [K301 - Sediment & Erosion Control](#)

Prior to commencement of any works associated with the development, sediment and erosion control measures shall be installed in accordance with the approved Construction Certificate and to ensure compliance with the Protection of the Environment Operations Act 1997 and Managing Urban Stormwater series from the Office of Environment and Heritage.

The erosion and sediment control measures shall remain in place and be maintained until all disturbed areas have been rehabilitated and stabilised.

## Landscaping

### 28 [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.

### 29 [L012 - Existing landscaping \(for existing development\)](#)

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

## Development Contributions

30 **N001 - Section 94 contribution (Cultural Facilities)**

This condition is imposed in accordance with Penrith City Council's Section 94 Contributions Plan(s) for Cultural Facilities. Based on the current rates detailed in the accompanying schedule attached to this Notice, \$480.00 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 94 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 S94 invoice accompanying this consent should accompany the contribution payment. The Section 94 Contributions Plan for Cultural Facilities may be inspected at Council's Civic Centre, 601 High Street, Penrith.

31 **N001 - Section 94 contribution (District Open Space)**

This condition is imposed in accordance with Penrith City Council's Section 94 Contributions Plan(s) for District Open Space. Based on the current rates detailed in the accompanying schedule attached to this Notice, \$5,908.00 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 94 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 S94 invoice accompanying this consent should accompany the contribution payment. The Section 94 Contributions Plan for District Open Space may be inspected at Council's Civic Centre, 601 High Street, Penrith.

32 **N001 - Section 94 contribution (Local Open Space)**

This condition is imposed in accordance with Penrith City Council's Section 94 Contributions Plan(s) for Local Open Space. Based on the current rates detailed in the accompanying schedule attached to this Notice, \$2,136.00 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 94 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 S94 invoice accompanying this consent should accompany the contribution payment. The Section 94 Contributions Plan for Local Open Space may be inspected at Council's Civic Centre, 601 High Street, Penrith.

## Payment of Fees

33 **P001 - Costs**

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

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

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

## Operation of OSSM

35 **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 Standards AS1547:2012,
- 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 16 May 2017, REF-17-4423), and
- the Effluent Management Area Plan (prepared by Envirotech, dated 5 May 2017, ref DWG-16-4423-B),
- 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.**

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

All wastewater generated from the eastern dwelling is to be diverted to an Aerated Wastewater Treatment System (AWTS) and be disposed of by way of surface semi-fixed irrigation in the approved effluent management area. The effluent management area is to be located in accordance with the stamped approved Effluent Management Area Plan (prepared by Envirotech, dated 5 May 2017, ref DWG-16-4423-B) and have a minimum area of 556m<sup>2</sup>.

All wastewater generated from the western dwelling is to be diverted to an Aerated Wastewater Treatment System (AWTS) and be disposed of by way of surface semi-fixed irrigation in the approved effluent management area. The effluent management area is to be located in accordance with the stamped approved Effluent Management Area Plan (prepared by Envirotech, dated 5 May 2017, ref DWG-16-4423-B) and have a minimum area of 694m<sup>2</sup>.

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”
- Australian Standards AS 1547:2012,
- Council’s On-Site Sewage Management and Greywater Reuse Policy,
- the Wastewater Report (prepared by Envirotech, dated 16 May 2017, REF-17-4423), and
- the Effluent Management Area Plan (prepared by Envirotech, dated 5 May 2017, ref DWG-16-4423-B).

The system servicing the eastern dwelling is to be utilised for a 3 bedroom dwelling or daily wastewater load of 600 litres in accordance with the Wastewater Report (prepared by Envirotech, dated 16 May 2017, REF-17-4423). Any dwelling approval on the site greater than this may require a new wastewater report for Council’s consideration.

The system servicing the western dwelling is to be utilised for a 4 bedroom dwelling or daily wastewater load of 750 litres in accordance with the Wastewater Report (prepared by Envirotech, dated 16 May 2017, REF-17-4423). Any dwelling approval on the site greater than this may require a new wastewater report for Council’s consideration.

### 37 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.

### 38 R104 - No alterations without approval

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

### 39 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.

### 40 R106 - AWTS - Design of Irrigation System

The design of the irrigation systems for the effluent management areas are 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, **avoiding the drip line of native trees.**



41 [R107 - AWTS - Irrigation pipework \(surface or sub-surface\)](#)

All irrigation pipework and fittings shall comply with AS2698 "Plastic Pipes and Fittings for Irrigation and Rural Applications". In this regard:

- the irrigation system is not to be connected to/not capable of connection to the mains water supply,
- standard household fittings, soaker hoses, garden sprinklers and standard water hose fittings are not to be used,

Surface -

- all distribution lines of the irrigation system to any standpipe shall be buried to a minimum 100mm below finished surface level,
- spray irrigation equipment connected to distribution lines shall be fixed, and
- spray irrigation shall only use low pressure, low volume spray heads which are not capable of producing aerosols. The spray shall have a maximum plume height 400mm and a plume radius of not more than 2 metres.

42 [R109 - No effluent runoff](#)

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

43 [R110 - EMA Signage](#)

A minimum of two signs shall be erected within each 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.

#### 44 [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 (if required),
- 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,
- 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.

#### 45 [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.

#### 46 [R114 - EMA Turfed](#)

The effluent management areas are 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.

#### 47 [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 areas.

#### 48 [R116 - Diversion of stormwater](#)

All stormwater and seepage shall be diverted away from the septic tanks and the disposal areas. No stormwater is to be directed into the Aerated Wastewater Treatment Systems, or onto the effluent management areas.

49 **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.

50 **R118 - EMA protected from stock damage**

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

51 **R119 - Wastewater and Native Trees**

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

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

52 **R127 - NSW Health Accreditation documentation required**

**Prior to the issue of the 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 Private Certifying Authority.

53 **R Special BLANK**

The contingency irrigation area for the western dwelling is to become the irrigation area for the western dwelling. The existing approximate effluent disposal area to the north of the western dwelling is not to be used for effluent irrigation. The Effluent Management Plan (prepared by Envirotech, dated 5 May 2017, ref DWG-16-4423-B) is to be amended to reflect this change. The amended Effluent Management Plan is to be provided to Council for review **prior to works commencing on site**.

54 **R Special BLANK**

The existing septic system and associated trench are to be labelled on the effluent management plan. The Effluent Management Plan (prepared by Envirotech, dated 5 May 2017, ref DWG-16-4423-B) is to be amended to reflect this change. The amended Effluent Management Plan is to be provided to Council for review **prior to works commencing on site**.

# Appendix - Development Control Plan Compliance

## Development Control Plan 2014

### Part C - City-wide Controls

#### C1 Site Planning and Design Principles

The proposed dual occupancy development and OSSM is required to take into consideration an analysis of the site and address the features and elements of the site and its immediate surrounding area. This includes achieving development that is environmentally sustainable, ensuring the proposal minimises impact or enhances environmental impacts.

The proposal involves dual occupancy development and OSSM on a lot that is approximately 3,800m<sup>2</sup> (19%) less than the required 2Ha lot size required for this form of development in the RU4 zone.

Clause 7.10(3) of Penrith LEP states that "development consent must not be granted for a dual occupancy on a lot to which this clause applies unless the lot has an area of at least 2 hectares". However, the objective of Clause 7.10 is to ensure that effluent generated by dual occupancies is managed on site to protect waterways and the amenity of adjoining lots. Council is generally satisfied with the capacity of the existing OSSM system to service both dwellings and maintain amenity to adjoining lots.

As such, despite the 19% variation to the lot size, the proposed dual occupancy with OSSM achieves all relevant development standards set under Penrith's DCP 2014 and also satisfies the objective of Clause 7.10 as outlined within the body of this report.

#### C3 Water Management

The application is supported by an 'On-Site Wastewater Management Report', dated 16 May 2017 and prepared by Envirotech. This report included details on the existing OSSM system in place, and the disposal areas for both dwellings

Council is generally satisfied with the proposed sizing and calculations for the proposed effluent disposal areas for both the existing and proposed dwellings. Council is also satisfied with the associated Aerated Wastewater Treatment Systems (AWTS) and that all buffer distances shown on plans comply with Council's On-site Sewage Management and Greywater Reuse Policy (2014).

It was noted by Council that the existing AWTS servicing the existing dwelling was installed without Council approval, as there is no record in Council's record management system. As such, the "Contingency disposal area" for the existing dwelling is to become the proposed effluent disposal area for the existing dwelling and the current disposal area located to the north of the existing dwelling is to be decommissioned. Furthermore, the existing septic tank and associated trench previously servicing the existing dwelling is to be decommissioned. This application will be conditioned to ensure these items are addressed in an amended effluent management plan.

#### C13 Infrastructure and Services

The objectives of this Chapter of the DCP include:

- To protect and enhance the quality of public health and the environment within the Penrith Local Government Area.
- To protect land and vegetation - OSSM systems should not cause the deterioration of land and vegetation quality through soil structure degradation, salinization, water logging, chemical contamination or soil erosion.

The Wastewater Report, prepared by Envirotech, submitted with the application is generally satisfactory in terms of the OSSM system and its capacity to service the proposed and existing dwellings.

The application is conditioned to ensure that the effluent treatment areas of the site meet the specifications and other requirements of Council's OSSM and greywater reuse policy.

# D1 Rural Land Uses

## Rural Dwellings and Outbuildings

The objective of this Chapter is to ensure that development does not detract from the rural landscape, scenic quality, nature conservation significance or agricultural productivity of rural areas. The proposed development includes the following compliances with the following controls listed within this Chapter:

### **Siting and Orientation of Dwellings and Outbuildings / Setbacks and building separations**

The proposed dwelling is setback approximately 30m to the existing dwelling, which is sufficient in maintaining privacy between these two buildings.

The proposed dwelling has also achieved the 5m minimum side setback to the boundary line, meeting the minimum side setback on allotments that are less than 2 hectares in area.

### **Site Coverage, Bulk and Massing**

The controls for coverage allow for a maximum ground floor print of 600m<sup>2</sup> permitted on any one allotment, including all dwellings and associated structures, but excluding 'farm buildings'. The current site coverage without the proposal is 315m<sup>2</sup>, including the existing dwelling and garage but not including the stables on site.

The site coverage with the proposed dwelling will lead to a total coverage of 428m<sup>2</sup> (472m<sup>2</sup> with the inclusion of the stables floor area).

The proposed development is under the maximum floor area requirement of this chapter.

As a result the proposed development will maintain the character of both Clark Road and Londonderry; that being a rural setting with a mix of both residential and rural use.

### **Dual Occupancy Dwelling**

The objective of this section is to permit dual occupancy development in close proximity to the existing dwelling whilst adopting a sympathetic design.

#### Design:

The following design requirements are considered below:

- The second dwelling is to be located within close proximity of the existing dwelling house on the same lot.
- The second dwelling must be located behind the building line of the existing dwelling house.
- Minimum separation preference of 10m between first and second dwellings.
- The second dwelling must be significantly smaller than the existing dwelling house (approximately 50% in floor area).

The proposal is sited in close proximity to the existing dwelling, with an approximate 32m separation between the existing and proposed dwellings. The proposed dwelling is generally in line with the existing dwelling, with a front building line setback approximately 2m to the front building line of the existing dwelling. In terms of area, the existing dwelling is 244m<sup>2</sup> in area and the new dwelling will be 113m<sup>2</sup>. The second dwelling is more than 50% smaller in floor area than the existing dwelling.

As such, the proposal addresses the design requirements of this chapter.

#### Access, Parking and Services:

Access to dual occupancies is to be via a common driveway to both dwellings. This application does not comply by proposing a separate driveway for the proposed dwelling. However, there are several examples of dual occupancy and single residential development along Clark Road adopting a dual driveway arrangement for the site. In this instance, it is considered that the proposal is satisfactory due to its reflection of the character of Clark Road.

There is at least one accessible and covered off-street parking space provided on site behind the building line for each dwelling, with the addition of car port attached to the proposed dwelling, and the existing dwelling with carport.

As such, the proposal addresses the requirements of this Chapter.