

PENRITH CITY COUNCIL

NOTICE OF DETERMINATION

DESCRIPTION OF DEVELOPMENT

Application number:	DA17/1191.02
Description of development:	Single Storey Dwelling, Swimming Pool, Shed and On-Site Sewage Management System (OSSM) - Section 4.55 (1A) Modification
Classification of development:	Class 1a , Class 10a , Class 10b

DETAILS OF THE LAND TO BE DEVELOPED

Legal description:	Lot 6 DP 1201432
Property address:	71 Allan Road, MULGOA NSW 2745

DETAILS OF THE APPLICANT

Name & Address:	M A Payne, S L Ayres 340 Littlefields Road MULGOA NSW 2745
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DECISION OF CONSENT AUTHORITY

In accordance with Sections 4.18(1) (a) and 4.55 of the Environmental Planning and Assessment Act 1979, consent is granted subject to the conditions listed in attachment 1.

Please note that this consent will lapse on the expiry date unless the development has commenced in that time.

Date from which consent operates	14 May 2018
Date the consent expires	14 May 2020
Date of this decision	9 May 2018 as amended on 12 June 2019 and 16 September 2019 under Section 4.55 of the Environmental Planning and Assessment Act.

POINT OF CONTACT

If you have any questions regarding this determination you should contact:

Assessing Officer:	Lawrence Ligato
Contact telephone number:	+612 4732 7427

NOTES

Reasons

The conditions in the attached schedule have been imposed in accordance with Section 4.17 of the Environmental Planning and Assessment Act 1979 as amended.

Conditions

Your attention is drawn to the attached conditions of consent in attachment 1.

Certification and advisory notes

You should also check if this type of development requires a construction certificate in addition to this development consent.

It is recommended that you read any Advisory Note enclosed with this notice of determination.

Review of determination

The applicant may request Council to review its determination pursuant to Division 8.2 of the Environmental Planning and Assessment Act 1979 within six months of receiving this Notice of Determination.

These provisions do not apply to designated development, complying development or crown development pursuant to Section 8.2(2) of the Environmental Planning and Assessment Act 1979.

Appeals in the Land and Environment Court

The applicant can appeal against this decision in the Land and Environment Court within six months of receiving this Notice of Determination.

There is no right of appeal to a decision of the Independent Planning Commission or matters relating to a complying development certificate pursuant to clause 8.6(3) of the Environmental Planning and Assessment Act 1979.

Designated development

If the application was for designated development and a written objection was made in respect to the application, the objector can appeal against this decision to the Land and Environment Court within 28 days after the date of this notice.

If the applicant appeals against this decision, objector(s) will be given a notice of the appeal and the objector(s) can apply to the Land and Environment Court within 28 days after the date of this appeal notice to attend the appeal and make submissions at that appeal.

Sydney Western City Planning Panels

If the application was decided by the Sydney Western City Planning Panel, please refer to Section 2.16 of the Environmental Planning and Assessment Act, 1979 (as amended) for any further regulations.

ATTACHMENT 1: CONDITIONS OF CONSENT

General

- 1 The development must be implemented substantially in accordance with the following plans stamped approved by council, the application form, BASIX Certificate 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 Number	Author	Date
Cover Page	25.17.1	David Walker	15.8.18 (Issue D)
Floor Plan	25.17.2	David Walker	20.4.18 (Issue B)
Elevation Plan	25.17.3	David Walker	15.8.18 (Issue D)
Landscape Plan	Sheet 1 and 2	John Graham	14/05/18 (Issue B)
Shed Plan	OTGS29598 (Sheet 1 to 6)	FDS	29/10/18

As amended on 16 September 2019 under Section 4.55 of the Environmental Planning and Assessment Act 1979.

- 2 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 **The development shall not be used or occupied until an Occupation Certificate has been issued.**
- 4 The dwelling shall be constructed in accordance with the provisions of the "Planning for Bushfire Protection" December 2006 including "Addendum: Appendix 3" and "AS3959 - 2009 'Construction in Bushfire Prone Areas'". In this regard the following applies:
- Gutter and Valley Guard is to be installed in the development in accordance with Clause 4.3.5 of "Planning for Bushfire Protection" 2006; and
 - All development is required to comply with "Addendum: Appendix 3" of "Planning for Bushfire Protection" 2006 particularly Clause A3.7; and
 - The development is to be constructed to a BAL-12.5 construction under "AS3959-2009 'Construction of buildings in bushfire-prone area'"
- 5 At the commencement of building works and in perpetuity **the entire property up to the site boundaries shall be managed as an inner protection area (IPA)** as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'. The Inner Protection Area (IPA) shall be maintained as follows:
- minimise fuel levels at ground level that can be set alight by a bushfire,
 - vegetation does not provide a path for the transfer of fire to the development - that is fuels are discontinuous,
 - no trees are to overhang the building,
 - trees should be well spread out and not form a canopy,

- trees or shrubs that retain dead material or deposit excessive quantities of fuel in a short period of time should not be planted within the IPA,
- trees and shrubs should be located far enough from the building that the radiant heat they produce or direct flame contact will not ignite the house,
- wooden sheds, combustible material, large areas or quantities of garden mulch, stacked flammable building materials etc, shall not be sited in the IPA.

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

7 **Prior to the issue of a Construction Certificate**, two (2) additional trees from the species list below are to be incorporated into a revised Landscape Plan. The additional trees are to be planted along the front property boundary at a planting height of a minimum of 2 metres tall.

Species List:-

Eucalyptus molucana

Eucalyptus fibrosa

Eucalyptus teriticornis

Eucalyptus crebra

Eucalyptus amplifolia

Eucalyptus punctata

Eucalyptus longifolia

Angophora subvelutina

Angophora floribunda

Angophora bakeri

Allocasaurina littoralis

Melaleuca styphelioides

Syncarpia glomulifera

Corymbia maculate

Environmental Matters

- 8 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 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.”}

- 9 The wood fire heater is to be installed in accordance with Australian/ New Zealand Standard 2918:2001 'Domestic solid fuel burning appliances - Installation'
- 10 In the event of ongoing complaints being received by Council regarding odour and/or smoke from the wood fire heaters, the owner of the dwelling may be required by Council to increase the flue height of the wood fire heaters so as to ensure that the heaters comply with the NSW Environmental Protection Authority's 'Environmental Guidelines for Selecting, Installing and Operating Domestic Solid Fuel Heaters' (dated August 1999).
- 11 Offensive odours are not to be emitted from the site. Vapours, fumes, gases, or any other substance that are considered to be harmful to human health or the environment or impact unreasonably on a person outside of the premises are not to be emitted from the site.
- 12 Only dry, seasoned wood is to be used in the wood fire heater. No treated or painted wood or rubbish is to be used as a fuel source.
- 13 All wood used as a fuel source for the wood fire heater is to be stored undercover to ensure that it does not get wet.
- 14 A satisfactory final inspection shall be carried out by Council once the installation works are completed and prior to use of the solid fuel heater.

The appropriate fees are to be paid **prior to these inspections being booked with Council.**

BCA Issues

15 All aspects of the building design shall comply with the applicable performance requirements of the Building Code of Australia so as to achieve and maintain acceptable standards of structural sufficiency, safety (including fire safety), health and amenity for the on-going benefit of the community. Compliance with the performance requirements can only be achieved by:

(a) complying with the deemed to satisfy provisions, or

(b) formulating an alternative solution which:

- complies with the performance requirements, or
- is shown to be at least equivalent to the deemed to satisfy provision, or

(c) a combination of (a) and (b).

Construction

16 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.

17 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).

18 The building shall be set out by a registered surveyor. A Survey Certificate shall be undertaken and submitted to the Principal Certifying Authority when the building is constructed.

19 The roof of the structure is to be a dull, non-reflective surface and colour. The external finishes of the dwelling are to be in accordance with the stamped approved colour schedule.

20 The rainwater tank(s) is to be:

- erected on a self-supporting base in the approved location on the property in accordance with the stamped-approved site plans for the development,
- structurally sound and constructed in accordance with AS/NZS 3500 1.2- 1998: National Plumbing and Drainage - Water Supply - Acceptable Solutions,
- fully enclosed and all openings sealed to prevent access by mosquitoes,
- fitted with a first flush device,
- fitted with a trickle system to top up from mains water,
- provided with an air gap, and
- installed by a licensed plumber in accordance with Sydney Water's "Plumbing requirements Information for rainwater tank suppliers and plumbers April 2003" and the NSW Code of Practice: Plumbing and Drainage.

Additionally, the following are to be provided:

- A back flow prevention device shall be provided at the water meter in accordance with Sydney Water requirements.
- In the event of a power failure, a back up supply of mains water shall be provided to at least one toilet in the dwelling.
- The rainwater tank(s) and associated piping is to be labelled 'Rainwater - Not for Drinking' in accordance with Sydney Water requirements.
- The rainwater tank and pipework is to be painted in colours matching the external finishes of the

dwelling and is to be of non-reflective finish.

- The overflow for the rainwater tank is to be connected into the existing stormwater disposal system on the site.

Before a rainwater tank(s) can be used, a certificate or suitable document is to be submitted to the Principal Certifying Authority stating that the rainwater tank has been installed in accordance with:

- the manufacturer's specifications, and
- Sydney Water and NSW Health requirements

This certificate or documentation is to be provided by the licensed plumber who installed the rainwater tank on the property, and is to be submitted prior to the issue of the Occupation Certificate.

- 21 The catchment area (for the rainwater tank) includes the parts of the roof of the dwelling(s) from which water is collected and includes gutters. To ensure a safe supply of water:
- roof catchment areas must be kept clear of overhanging vegetation,
 - gutters must have sufficient fall to downpipes to prevent pooling of water,
 - overflow, discharge from bleed off pipes from roof mounted appliances such as airconditioners, hot water services and solar heaters must not discharge into the rainwater catchment area,
 - for roofs containing lead based, tar based or asbestos material the tank supply must not be connected to drinking, bathing and gardening tap water outlets,
 - appropriate measures must be installed to prevent foreign materials from contaminating the water which enters the rainwater tank.
- 22 The rainwater tank supply must not be connected to drinking and bathing water tap outlets.
- 23 The 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.

Swimming Pools

- 24 When the swimming pool construction has reached a stage where the pool is capable of holding water, the pool area shall be restricted from access in accordance with AS1926 "Swimming Pool Safety". Restriction of access to the pool area shall also comply with the Swimming Pools Act, 1992.
- 25 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".
- 26 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 HighStreet, Penrith).

- 27 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 (\$10 fee applies when registering at Council).
- 28 In areas where sewer is not available, the following requirements apply -
- The swimming pool shall be provided with filtration equipment that does not require a backwash facility (eg. a cartridge filtration system).
 - Overspill water shall be diverted away from the swimming pool and not directed onto adjoining properties.
 - The frequency of emptying of the swimming pool water shall be minimised. Water resulting from the emptying of the pool shall be collected and disposed of by a private wastewater disposal contractor. Disposal by other means is not permitted.

Engineering

- 29 Stormwater drainage from the site shall be discharged to the:

- a) Street drainage system or
- b) Level spreader system or
- c) Absorption trench

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.

- 30 All land required for vehicular access to the garage/shed is to be concreted or sealed with bituminous pavement.

- 31 An Infrastructure Restoration Bond is to be lodged with Penrith City Council for development involving works around Council's Public Infrastructure Assets. The bond is to be lodged with Council prior to the issue of a Construction Certificate. The bond is based upon the estimated value of the works with a bond of \$3500 payable for the subject development.

The bond is refundable once a final inspection has been carried out by Council's Works Department and the works have been completed to Council's satisfaction. The bond may be used to repair or reinstate any damage that occurs to Council's Public Infrastructure Assets as a result of the development works. Contact Council's City Works Department on 4732 7777 or visit website to obtain the form and request for final inspection.

- 32 Prior to the issue of a Construction Certificate a Roads Act application, including payment of application and inspection fees shall be lodged with Penrith City Council, as the Roads Authority, for the following works:
- a) Provision of a vehicular crossing/s.
 - b) Opening the road reserve for the provision of services including stormwater.

- c) Placing of hoardings, containers, waste skips, etc. in the road reserve.

All works within the road reserve shall be carried out in accordance with Penrith City Council's Design Guidelines and Construction Specification for Civil Works.

Penrith City Council (being the Roads Authority under the Roads Act) shall approve the works completed on or over the road reserve. Contact Council's **City Works Department** on (02) 4732 7777 to arrange an inspection of the works (and payment of inspection fees, if required).

- 33 Prior to the issue of an Occupation Certificate, the Principal Certifying Authority shall ensure that all works within the road reserve have been inspected and approved by Penrith City Council.

Landscaping

- 34 All landscape works are to be constructed in accordance with the stamped approved plan and Sections F5 "Planting Techniques", F8 "Quality Assurance Standards", F9 "Site Management Plan" of Penrith Council's Landscape Development Control Plan.

Landscaping shall be maintained:

- in accordance with the approved plan, 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.

Payment of Fees

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

Certification

- 36 Prior to the commencement of any earthworks or construction works on site, the proponent is to:
- (a) employ a Principal Certifying Authority to oversee that the said works carried out on the site are in accordance with the development consent and related Construction Certificate issued for the approved development, and with the relevant provisions of the Environmental Planning and Assessment Act and accompanying Regulation, and
 - (b) submit a Notice of Commencement to Penrith City Council.

The Principal Certifying Authority shall submit to Council an "Appointment of Principal Certifying Authority" in accordance with Section 81A of the Environmental Planning and Assessment Act 1979.

Information to accompany the Notice of Commencement

Two (2) days before any earthworks or construction/demolition works are to commence on site (including the clearing site vegetation), the proponent shall submit a "Notice of Commencement" to Council in accordance with Section 81A of the Environmental Planning and Assessment Act 1979.

- 37 An Occupation Certificate is to be obtained from the Principal Certifying Authority on completion of all works and prior to the occupation/use of the single storey dwelling, swimming pool and shed.

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.

SIGNATURE

Name:	Lawrence Ligato
Signature:	

For the Development Services Manager