

PENRITH CITY COUNCIL

MAJOR ASSESSMENT REPORT

Application number:	DA17/1191.02
Proposed development:	Single Storey Dwelling, Swimming Pool, Shed and On-Site Sewage Management System (OSSM) - Section 4.55 (1A) Modification
Property address:	71 Allan Road, MULGOA NSW 2745
Property description:	Lot 6 DP 1201432
Date received:	23 August 2019
Assessing officer	Lawrence Ligato
Zoning:	E4 Environmental Living - LEP 2010
Class of building:	Class 1a , Class 10a , Class 10b
Recommendations:	Approve

Executive Summary

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

The property is owned by Stuart Ayres MP, Member for Penrith and The Hon. Marise Payne MP and therefore the application requires consideration by the Penrith Local Planning Panel.

Site & Surrounds

The subject site (the site) is situated on the northern side of Allan Road, Mulgoa. It is 1Ha in area, is orientated in a southern direction and has a gentle slope from the rear to the street boundary. The property is identified as Bushfire Prone Land (Entirely).

The surrounding area is characterised by modest size dwellings on large rural allotments and is within the Mulgoa Valley. Allan Road intersects with Mulgoa Road, which is a major arterial road providing good transport links.

Proposal

The proposed development involves:

- Construction of a single storey dwelling, swimming pool and shed including parking, landscaping and associated drainage works;
- Installation of an on-site sewage management system.

The proposed Section 4.55 (1A) Modification includes the following:

- Increase in shed size.

Plans that apply

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

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

The applicant submitted a self assessment bushfire report which identified a BAL-29 rating. Council has undertaken a review of this report and site conditions and formed a different position being a rating of BAL-12.5. The development has been assessed in accordance with the matters for consideration under Clause 4.14 (Consultation and development consent—certain bush fire prone land) of the Environmental Planning and Assessment Act 1979, and having regard to those matters, the following points are made:

- The lot is identified as bushfire prone land.
- The proposed dwelling is located approximately 93 metres from woodland vegetation to the east of the proposal and approximately 98 metres from woodland vegetation to the north of the proposal.
- The vegetation is classified as woodland.
- The effective slope is considered flat.

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 4.15 - Evaluation**

The development has been assessed in accordance with the matters for consideration under Section 4.55(3) and Section 4.15 of the Environmental Planning and Assessment Act 1979, and having regard to those matters, the following issues have been considered:

In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 4.15(1) as are of relevance to the development the subject of the application.

The likely impacts of the proposed modification application have been considered in accordance with Section 4.15 of the Act. Consideration is also given to relevant provisions of the Penrith LEP and DCP that are of relevance to the development the subject of this application.

• **Section 4.55(1A) - Modifications involving minimal environmental impact**

The development has been assessed in accordance with the matters for consideration Section 4.55(1A) of the Environmental Planning and Assessment Act 1979, and having regard to those matters, the following issues have been considered:

Pursuant to Section 4.55(1A) of the *Environmental Planning and Assessment Act 1979* Council may modify a development consent provided several prerequisites are satisfied. The prerequisites are briefly discussed below.

(a) *The proposed modification is of minimal environmental impact.*

The matter being modified will not create an environmental impact.

(b) *The development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted.*

The development is considered to be "substantially" the same as the original proposal.

(c) *The application has been notified where required.*

The application was not required to be re-notified.

(d) *Any submissions made concerning the proposed modification within the period prescribed by the Regulations or provided by the Development Control Plan, have been considered.*

N/A

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

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

As assessment has been undertaken of the application against relevant criteria with State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004. The application is accompanied by a list of commitments as to the manner in which the development will be carried out, and the carrying out of residential development pursuant to the recommended development consent or construction certificate will be subject to a condition requiring such commitments to be fulfilled.

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 - See discussion
Clause 2.3 Zone objectives	Complies - See discussion
Clause 7.5 Protection of scenic character and landscape values	Complies - See discussion
Clause 7.7 Servicing	Complies - See discussion
Clause 7.18 Mulgoa valley	Complies - See discussion

Clause 2.3 Permissibility

Dwelling houses are a permissible land use within the E4 Environmental Living zone under Penrith LEP 2010 with Council consent.

Clause 2.3 Zone objectives

Objectives of the E4 Environmental Living zone:

- To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.
- To ensure that residential development does not have an adverse effect on those values.
- To minimise conflict between land uses within the zone and land uses within adjoining zones.
- To ensure land uses are compatible with the available infrastructure, services and facilities and with the environmental capabilities of the land
- To preserve and improve natural resources through appropriate land management practices.

The proposed development meets these objectives as the proposed development provides a suitably designed dwelling which is compatible with the attributes of the land, with proposed planting to embellish the site and positively contribute to the landscape character of the surrounding area.

Clause 7.5 Protection of scenic character and landscape values

The objectives of this clause are as follows:

- (a) to identify and protect areas that have particular scenic value either from major roads, identified heritage items or other public places,
- (b) to ensure development in these areas is located and designed to minimise its visual impact.

The proposed development meets the objectives of this clause in relation to location and design as there is minimal visual impact from the development and the property is not in the vicinity of major roads or identified heritage items.

Clause 7.7 Servicing

The development will have adequate facilities for the removal and disposal of sewage. An on-site sewage management (OSSM) system is proposed as part of the development and complies with Penrith City Council's On-Site Sewage Management and Greywater Reuse Policy.

Clause 7.18 Mulgoa valley

The objectives of this clause are as follows:

- (a) to establish specific planning controls for land in the Mulgoa Valley (the valley),
- (b) to protect and enhance the rural landscape of the valley, including its agricultural qualities, cultural heritage values and the setting of the villages of Mulgoa and Wallacia,
- (c) to ensure development in the valley (including rural living opportunities) protects and utilises its tourism and recreational potential and is consistent with conserving its rural and natural landscape, heritage and agricultural qualities,
- (d) to ensure traffic generating development is suitably located so as not to adversely affect the safety, efficiency and rural character of roads, particularly Mulgoa Road

Clause 7.18 requires that the before granting development consent for any purpose on land to which this clause applies, the consent authority must be satisfied that certain key considerations are met and the above objectives are satisfied. As such the following is noted:

- The proposed development will not intrude into the skyline when viewed from any other roads.
- The site is not within a vista and does not affect any neighbouring heritage items.
- The intended siting, colours, landscaping and materials are suitable for the area.
- Extensive areas of vegetation are not proposed to be cleared.
- The intended landscaping around the site is suitable for the proposed development.
- The development will not impact upon Mulgoa Road.

The proposed amended colour schedule for the shed is suitable for the area. Therefore, the proposal as amended is suitable having regard to Clause 7.18 (Mulgoa Valley) of Penrith Local Environmental Plan 2010.

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
DCP Principles	Complies
C1 Site Planning and Design Principles	Complies
C2 Vegetation Management	Complies
C3 Water Management	Complies
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	N/A
C13 Infrastructure and Services	Complies
D1.1. Rural Character	Complies
D1.2. Rural Dwellings and Outbuildings	Complies
D1.3. Farm buildings	Does not comply - see Appendix - Development Control Plan Compliance
D1.4 Agricultural Development	N/A
D1.5. Non-Agricultural Development	N/A
E9 Mulgoa Valley controls	Complies - see Appendix - Development Control Plan Compliance

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

There are no planning agreements applying to this proposal.

Section 79C(1)(a)(iv) The provisions of the regulations

In accordance with Section 143 of the Environmental Planning and Assessment Regulation 2000, an assessment of the fire protection and structural capacity of the proposed dwelling is necessary and this has been conditioned for assessment and certification at Construction Certificate and Occupation Certificate stage.

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

Likely impacts of the proposed development as identified throughout the assessment process include:

(i) Context and Setting (environmental impacts and impacts on built environment)

The proposal is consistent with the bulk, scale, colour and design of other development in the locality.

The development will have only minor impact on the amenity of the area and the streetscape.

The development is compatible with the surrounding and adjacent land uses.

(ii) Access and transport

The development will have no adverse impact on the local road system.

The proposed access arrangements and car parking on site will be adequate for the development.

(iii) Heritage

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

(iv) Soil

The proposed development will have no impact on soil erosion and sedimentation.

Adequate sedimentation and erosion controls are proposed and is conditions as part of the development.

(v) Natural and Technological Hazards

The development is not subject to flooding, subsidence or slip.

(vi) Site Design

The proposed development is sensitive to environmental conditions and site attributes.

The proposed development safeguards the health and safety of the occupants.

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

The site is suitable for the following reasons:

- The site is not encumbered by significant or endangered vegetation.
- The grade of the site is suitable for the design proposed.

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 did not have to be notified to nearby and adjoining residents and as such no submissions were received.

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

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

Conclusion

The proposed development as modified is considered to be substantially the same development as that originally approved. The application has been considered with regard to the matters raised in Section 4.15 and Section 4.55 of the Act. On balance, it is considered that the proposed development as modified is acceptable.

Recommendation

That DA17/1191.02 for a Section 4.55 (1A) Modification at 71 Allan Road MULGOA NSW 2745 be approved subject to the following:

Modify following condition:

A001 - Approved plans that are architecturally drawn

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.

All other conditions remain the same.

CONDITIONS

General

1 [A001 - Approved plans that are architecturally drawn](#)

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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 [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](#)

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 [A042 - ASSET PROTECTION ZONES IN BUSHFIRE AREAS](#)

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 [A046 - Obtain Construction Certificate before commencement of works](#)

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

7 **A Special (BLANK)**

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 molucanna

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 **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 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 **D Special (BLANK)**

The wood fire heater is to be installed in accordance with Australian/ New Zealand Standard 2918:2001 'Domestic solid fuel burning appliances - Installation'

10 **D Special (BLANK)**

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 **D Special (BLANK)**

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 **D Special (BLANK)**

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 **D Special (BLANK)**

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 **D Special (BLANK)**

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 **E001 - BCA compliance**

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

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

(b) formulating an alternative solution which:

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

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

Construction

16 **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.

17 [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).

18 [H022 - Survey \(as amended\)](#)

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 [H030 – Roof finishes \(rural property\)](#)

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 [H036 - Rainwater Tank \(Also impose H037, H038, H039, G005 & Q010\)](#)

The rainwater tank(s) is to be:

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

Additionally, the following are to be provided:

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

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

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

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

21 [H037 - Safe supply of water from catchment areas \(Also impose H036, H038 & H039\)](#)

The catchment area (for the rainwater tank) includes the parts of the roof of the dwelling(s) from which water is collected and includes gutters. To ensure a safe supply of water:

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

22 [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.

23 [H039 - Rainwater tank pumps \(Also impose H036, H037 & H038\)](#)

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

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

25 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".

26 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).

27 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 (\$10 fee applies when registering at Council).

28 J012 - Backwash and Overflow

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 K016 - Stormwater

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 K026 - Stabilised access

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

31 K041

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 **K202 - Roads Act (Minor Roadworks)**

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 **K501 Roads Authority clearance**

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 **L001 - General landscaping (applies to most building works)**

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 **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.

Certification

36 **Q01F - Notice of Commencement & Appointment of PCA2 (use for Fast Light only)**

Prior to the commencement of any earthworks or construction works on site, the proponent is to:

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

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

Information to accompany the Notice of Commencement

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

37 [Q05F - Occupation Certificate for Class10](#)

An Occupation Certificate is to be obtained from the Principal Certifying Authority on completion of all works and prior to the occupation/use of the 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.

Appendix - Development Control Plan Compliance

Development Control Plan 2014

D1 Rural Land Uses

D1.2	Rural Dwellings and Outbuildings	Complies Y/N	Comments
1.2.1	<p>Siting and Orientation of Dwellings and Outbuildings</p> <p>Dwellings and associated buildings should be sited to maximise the natural advantages of the land in terms of:</p> <ul style="list-style-type: none"> i) Protecting the privacy of proposed and existing buildings; ii) Providing flood-free access to the dwelling and a flood-free location for the dwelling itself; iii) Minimising risk from bush fire by considering slope, orientation and location of likely fire sources; iv) Maximising solar access; v) Retaining as much of the existing vegetation as possible; and vi) Minimising excavation, filling and high foundations by avoiding steep slopes (greater than 1 in 6). 	Yes	The dwelling will result in an acceptable outcome as the dwelling has been designed with respect to site topography by minimising excavation and filling for the dwelling footprint.
	b) The design of the development must consider all components including fencing, outbuildings, and driveways and landscaping.	Yes	A landscape plan was submitted and suitably responds to the site attributes and scale of the development proposed.
	c) Where practical, all buildings on a site, including dwellings and outbuildings, should be clustered to improve the visual appearance of the development in its landscape setting and reduce the need for additional access roads and services.	Yes	
1.2.1	<p>Landscape / Scenic Character</p> <p>a) Buildings on sloping land should be sited (where natural features permit) so they do not intrude into the skyline.</p>	N/A	
	b) Buildings should not be placed on the ridgeline or peak of any hill unless there are no alternative locations possible.	Yes	
	c) Where practical, buildings should be sited to take advantage of existing vegetation to provide privacy from passing traffic and public places, screening from winds and a pleasant living environment	N/A	
	d) Roads should be designed and located to run with the contours of the land.	N/A	
	e) Rooflines and ridgelines should reflect the setting of the dwelling, incorporating simple shapes to step a building down with a sloping site or level change.	N/A	
	f) Simple rooflines should be used to minimise the likelihood of twigs and leaves building up in valleys and presenting a bushfire hazard.	Yes	
1.2.2	<p>Setbacks and Building Separations</p>		
	<p>1) Setbacks from Roads</p>		
	a) A minimum setback of 15m from public roads is required for all dwellings and outbuildings. Formal parking areas are not permitted within the setback.	Yes	65m
	b) A variety of setbacks will be encouraged to prevent rigidity in the streetscape.	Yes	

	c) A minimum setback of 30m is required to all classified roads (except Mulgoa Road), Luddenham Road, Greendale Road and Park Road (except in the villages of Londonderry, Wallacia and Luddenham). Please contact Council to discuss.	N/A	
	d) A minimum setback of 100m is required to Mulgoa Road for all dwellings and outbuildings (except in the Mulgoa Village).	N/A	
	2) Setbacks from Watercourses a) A minimum setback of 100m is required from the Nepean River. This is measured from the top of the bank. The river includes all elements, such as lagoons and backwaters. Council will determine the minimum setback required if the "bank" is difficult to define. a) A minimum setback of 100m is required from the Nepean River. This is measured from the top of the bank. The river includes all elements, such as lagoons and backwaters. Council will determine the minimum setback required if the "bank" is difficult to define.	N/A	
	b) A variety of setbacks will be encouraged to prevent rigidity in the streetscape.	Yes	
	c) A minimum setback of 40m is required from any other natural watercourses for all dwellings and outbuildings to minimise impacts on the watercourse.	N/A	
	3) Building Separations and Side Boundary Setbacks		
	a) Dwellings on adjacent properties should be considered when determining the location of a proposed dwelling to ensure that separation distances are maximised as far as is reasonably possible to maintain amenity for each dwelling and minimise noise and privacy intrusions.	Yes	
	b) The minimum side setback for dwellings is 10m where the allotment is 2 hectares or larger.	N/A	
	c) The minimum side setback for dwellings is 5m where the allotment is less than 2 hectares.	Yes	11.56m
	d) Dwellings on one allotment should be separated as much as reasonably possible from any farm buildings or other buildings on adjacent allotments where there is potential for noise generation from those farm buildings/other buildings.	Yes	
	1.2.3 Site Coverage, Bulk and Massing		
	1) Dwellings shall have a maximum ground floor footprint of 500m ² (including any undercover car parking areas). Note: 'Ground floor footprint' is the area measured from the external face of any wall of any dwelling, outbuilding (other than a farm building), dual occupancy dwelling, garage or undercover car parking area, animal house or garden shed. 'Ground floor footprint' is the area measured from the external face of any wall of any dwelling, outbuilding (other than a farm building), dual occupancy dwelling, garage or undercover car parking area, animal house or garden shed.	Yes	446.54m ²
	2) Dwellings shall have a maximum overall ground floor dimension of 45m, with a maximum of 18m at any one point.	Yes	29.420m
	3) The maximum floor space of any second storey is to be 70% of the floor space of the lower storey of the dwelling.	N/A	
	4) No more than three (3) undercover car parking spaces shall face towards a public road or place. Any additional garages shall be setback behind the building line and screened.	Yes	Garages not facing the street.

	5) A maximum ground floor footprint of 600m2 will be permitted on any one allotment, including the dwelling and all associated structures, but excluding 'farm buildings' and any 'agricultural or non-agricultural development' referred to other parts of this chapter.	Yes	The proposed ground floor footprint has increased from 511m2 to 535m2 and still complies with this control.
1.2.4	Height, Scale and Design		
	a) Dwellings shall be no more than two storeys in height, including garage and storage areas.	Yes	Single storey dwelling.
	b) If liveable rooms are located in the area immediately below the roof then this level will be counted as a storey.	N/A	
	c) The maximum height of the ceiling of the top floor of all buildings should not exceed 8m above natural ground level.	Yes	
	d) On sloping sites, split level development is preferred. The floor level of the dwelling at any point should not be greater than 1m above or below the natural ground level immediately below the floor level of that point. Cut and fill should be limited to 1m of cut and 1m of fill as shown in Figure D1.7.	N/A	
	Design and Quality		
	a) The design of dwellings and associated structures should be sympathetic to the rural character of the area.	Yes	
	b) Fencing is to be of an open rural nature consistent in style with that normally found in rural areas. Internal courtyard fencing or entry fencing should be sensitive to the rural environment.	Yes	
1.2.7	Materials and Colours		
	1) Colours of external finishes should be in keeping with the natural surroundings, be non-reflective and utilise earthy tones, unless it can be demonstrated that the proposed colours and finishes will have no visual impact or will complement the rural character.	Yes	All colours as proposed are considered to be satisfactory and in keeping with the surrounding area and neighbouring development. The colour schedule of the shed as proposed is considered to be satisfactory and in keeping with the surrounding area and neighbouring development.
	2) Building materials with reflective surfaces such as large expanses of glass, unpainted corrugated iron, concrete blocks, sheet cladding or similar finishes should be avoided. Where these materials are unavoidable, they should be screened with landscaping to minimise visual impact.	N/A	

	3) Re-sited dwellings may be considered in rural areas, however, the external finishes may be required to be upgraded to Council's satisfaction.	N/A	
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Unless specifically stated, the controls for farm buildings also apply to all sheds and outbuilding ancillary to any permissible use of rural land (specific to the relevant zone), whether or not that is considered an agricultural use.

	Standards	Proposal	Compliance
Front setback	15m	100m+	Yes
Side setback	5m	5m	Yes - The proposed side setback has not changed and still complies with this control.
Maximum accumulative building footprint of all farm buildings	200m²	96 m²	Yes - The proposed accumulative building footprint of farm buildings has increased from 72m² to 96m² and still complies with this control.
Minimum building separation	1 0 m to a dwelling located on the same allotment 2 0 m to a dwelling located on an adjacent allotment	Greater than 10m Greater than 20m	Yes Yes
Height	8m	4.272m	Yes - The proposed building height has increased from 3.48m to 4.272m still complies with this control.
Maximum external wall height	5m	2.9m	Yes - The proposed external wall height has increased from 2.9m to 3.2m and complies with this control.
Maximum external wall length	15m	12m	Yes
Roof pitch	minimum - 15° maximum - 25°	10 degrees	No*
Total cumulative ground floor footprint	600m ²	Total: 535m ²	Yes

- Roof pitch: The shed is sited behind the dwelling and is unlikely to result in any negative impacts on adjacent or surrounding properties. The lesser roof pitch does not undermine any established character traits of the built form and ensures that suitable roof drainage is still provided for. Therefore, the variation is considered acceptable in this instance.

E9 Mulgoa Valley

Clause	Not Applicable	Complies	Does Not Comply	Comments
9.1. Siting and Built Form controls	<input checked="" type="checkbox"/>			
9.1.1. Heritage Items and Vistas	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	The development will have no effect on any heritage item and no heritage items are found near the development site.
9.1.2. Siting	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	
9.1.3. Building Form, Materials and Colours	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	The dwelling incorporates verandahs which are typical of traditional rural housing design. All colours as proposed are considered to be satisfactory and in keeping with the surrounding area and neighbouring development.
9.1.4. Planting	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	
9.1.5. Access, Parking and Services	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Driveway, access and parking is proposed as part of the development.
9.1.6. Fences and Entrances	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	The landscape plan states to retain and protect existing timber post and rail front boundary fencing.
9.1.7. Signage	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	
9.2. Other Controls	<input checked="" type="checkbox"/>			
9.2.1. Mulgoa Road	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	