

PENRITH CITY COUNCIL

MAJOR ASSESSMENT REPORT

Application number:	DA17/0980
Proposed development:	Detached Dual Occupancy, Shed & Associated Stormwater Drainage & Landscaping Works
Property address:	88 a Nepean Gorge Drive, MULGOA NSW 2745
Property description:	Lot 31 DP 237163
Date received:	17 October 2017
Assessing officer	Paul Anzellotti
Zoning:	E2 Environmental Conservation - LEP 2010 E3 Environmental Management - LEP 2010
Class of building:	Class 1a
Recommendations:	Approve

Executive Summary

Council is in receipt of a Development Application for a detached dual occupancy, construction of a shed and associated works at 88a Nepean Gorge Drive, Mulgoa.

The subject site is zoned part E2 (Environmental Conservation) and part E3 (Environmental Management). The proposal is located within the E3 zoned portion of the site and is a permissible land use as provided by the land use table within the Penrith Local Environmental Plan 2010. Key issues identified for the proposed development include:

- The site is subject to a Biobanking agreement (ID Number 190) under the Threatened Species Conservation Act 1995 with the NSW Office of Environment and Heritage. The proposal is situated in an area outside of the Biobanking agreement,
- The subject site is located in a bush fire prone area and has been accompanied by a Bushfire Hazard Assessment Report,
- The subject site is partially affected by overland flow flooding, in particular the access handle from Nepean Gorge Drive. Accompanying plans have provided for a driveway culvert pipe to mitigate any flooding,
- Provision of a triple garage for the proposed larger dwelling,
- Provision of cut and fill to the proposal, and
- Size of each proposed dwelling overall providing for a DCP non compliant maximum ground floor footprint.

Correspondence was provided to the applicant on the 16 November, 2017 advising of issues with the proposal following the completion of a preliminary assessment and the receipt of referrals from respective Council Sections and Departments. Subsequently, amended plans and documentation were provided to Council on the 20 December, 2017 in response to concerns raised.

The application was notified to adjoining and nearby properties and exhibited from the 30 October to the 13 November, 2017. In addition, the Mulgoa Progress Association was notified of the proposed development. During this period, no submissions were received.

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

Site & Surrounds

The subject site is located at the northern end of Nepean Gorge Drive and is known as No. 88a Nepean Gorge Drive, Mulgoa. The legal description for the site is Lot No. 31, DP 237163. The subject site is provided with a vehicular access handle from Nepean Gorge Drive and is an irregular shaped allotment with a total area of 66.9 hectares. The access from Nepean Gorge Drive is via an unformed driveway.

The subject site provides for a mixture of dense vegetation patches as well as some areas of cleared land and is subject to a Biobanking agreement (ID Number 190) under the Threatened Species Conservation Act 1995. The Biobanking agreement is known as the *Fernhill North West Biobank* and consists of an area of 65.40 hectares. The area within the subject site for redevelopment as part of this application is located outside of the biobanking agreement area and is relatively flat, has a number of trees and shrubs and provides for a gradual fall from the north-west to the south-east portion of the subject site to be redeveloped.

The subject site does not directly adjoin surrounding residential dwellings but while so, dwellings along Nepean Gorge Drive are primarily single level in height and located upon large allotments of land within a rural context. Directly adjoining the subject site to its west is a Heritage Item under Schedule 5 of the LEP (Table Rock Lookout), while directly adjoining the subject site to its east is a State Significant Heritage Item (Fernhill house, outbuildings and landscape) listed under the NSW Heritage Register.

Proposal

The application seeks approval for the construction of a detached dual occupancy development consisting of a primary residence and a secondary dwelling forming a detached dual occupancy development. In addition, a shed (10m x 20m in dimensions) is proposed to the east of the detached dwellings.

The primary residence is to consist of a single storey dwelling containing 4 bedrooms, bathroom, laundry, powder room, theatre room, open family/dining/kitchen area with a butler's pantry, study and an alfresco area to a future pool area which is not subject to this application. A triple garage is provided along the south-western façade of the dwelling.

The secondary dwelling is also a single storey dwelling containing two bedrooms, study, bathroom, laundry, butler's pantry and kitchen/living area. A double garage is provided along the south-western façade of the dwelling.

The proposed shed is provided with 5 garage doors along its southern elevation with no further openings to the remaining facades. A 3m deep awning is also proposed to the southern elevation to the front of the proposed garages. The shed is provided with a 3.6m wall height and an overall height to the roof ridge of 4.9m.

Vehicular access to the development is proposed via the existing access handle at the end of Nepean Gorge Drive with a culvert associated with stormwater also proposed to traverse the handle. The proposal will provide for internal driveways to access each proposed dwelling as well as a proposed square turning circle to the front of the primary dwelling. Proposed boundary and access handle planting (of tree species to a height of 10m) leading from Nepean Gorge Drive are proposed as well as hedge planting and feature trees.

Each dwelling is to be connected to an aerated wastewater treatment system which will treat effluent prior to its disposal in an effluent disposal area.

The proposal was originally provided with a pool house which was to be connected to a 2000 litre septic tank. This part of the proposal has been deleted following the provision of amended plans.

Plans that apply

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

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

Section 4.14 (previously Section 79BA) 'Consultation and development consent - certain bushfire prone land' of the Environmental Planning and Assessment Act, 1979 requires that a Consent Authority;

(a) is satisfied that the development conforms to the specifications and requirements of the version (as prescribed by the regulations) of the document entitled Planning for Bush Fire Protection prepared by the NSW Rural Fire Service in co-operation with the Department (or, if another document is prescribed by the regulations for the purposes of this paragraph, that document) that are relevant to the development (the relevant specifications and requirements), or

(b) has been provided with a certificate by a person who is recognised by the NSW Rural Fire Service as a qualified consultant in bush fire risk assessment stating that the development conforms to the relevant specifications and requirements.

An assessment of the provided plans has identified that the proposal is located on land identified by Council's mapping as being bush fire prone and the proposal is therefore required to be assessed accordingly under the 'Planning for Bushfire Protection (PBP) – 2006' document prepared by the Rural Fire Service. While so, it is noted that due to the zoning and size of the subject lot, subdivision is unlikely to occur on this lot noting that 40 hectares is required for the provision of a new lot under Clause 4.1 of the Penrith LEP. Therefore 'the assumption that the proposal will be subdivided' as stipulated under Part 4.3.6 of the Planning for Bushfire Protection 2006 document is not considered applicable to this particular allotment and the proposal may be assessed under Section 4.14 of the EP & A Act in this instance and not Section 100B of the Rural Fires Act in the instance subdivision was likely to occur.

The application was accompanied by a Bushfire Hazard Assessment Report prepared by Control Line Consulting for the subject site which is considered acceptable, and should approval be granted the report recommendations are to be included in the determination.

Noting the above, the proposal is therefore satisfactory in relation to an evaluation under Section 4.14 of the Environmental Planning and Assessment Act, 1979.

- **Section 79C - Evaluation**

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

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

State Environmental Planning Policy No 55—Remediation of Land

Clause 7 of State Environmental Planning Policy No. 55 (SEPP 55) outlines the following requirements that a consent authority consider prior to the issue of a consent for any development:

A consent authority must not consent to the carrying out of any development on land unless:

(a) it has considered whether the land is contaminated, and

(b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and

(c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.

There is no record that the subject site is contaminated. The proponent has outlined that the site has been historically vacant while the surrounding area used for residential purposes. In this regard, given the vacant nature of the subject site and residential use of surrounding properties, it is not considered that there is an issue in regards to land contamination, the site considered suitable for the proposed use.

Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

An assessment has been undertaken of the proposal against relevant criteria within the Sydney Regional Environmental Plan No. 20 - Hawkesbury-Nepean River (No. 2-1997) and the proposal is considered satisfactory subject to recommended conditions of consent.

It is noted that the subject site is located within a 'Riverine Scenic Area' under SREP No. 20, but while so, it is not considered that the proposal will create an impact upon the sensitivity of the area noting the retention of significant vegetation on site which will provide for a proposal consistent with the landscaped character of the area, water quality management features identified and siting of the proposed built forms.

Local Environmental Plan 2010 (Amendment 4)

Provision	Compliance
Clause 1.2 Aims of the plan	Complies
Clause 2.3 Permissibility	Complies
Clause 2.3 Zone objectives	Complies
Clause 5.9 Preservation of trees or vegetation	Complies - See discussion
Clause 5.10 Heritage conservation	Complies
Clause 5.11 Bush fire hazard reduction	Complies
Clause 7.1 Earthworks	Complies
Clause 7.2 Flood planning	Complies - See discussion
Clause 7.3 Development on natural resources sensitive land	N/A
Clause 7.5 Protection of scenic character and landscape values	N/A
Clause 7.6 Salinity	Complies - See discussion
Clause 7.7 Servicing	Complies
Clause 7.10 Dual occupancies and secondary dwellings in certain rural and environmental	Complies - See discussion
Clause 7.18 Mulgoa valley	Complies - See discussion

Clause 5.9 Preservation of trees or vegetation

The majority of the subject site is currently burdened by an existing Biobanking agreement (ID No. 190) maintained with the NSW Office of Environment and Heritage. It is noted that the subject site is provided with two zonings, E3 Environmental Management and E2 Environmental Conservation. The proposed development is situated within the E3 zone while the remainder of the E2 zone is provided within the Biobanking agreement area.

In this regard, as the proposed development is located away from the bio-banked land, no concern is raised in relation to a detrimental impact upon the existing agreement. The proposal will provide for the removal of a number of trees and shrubs, but while so, no objection is raised in regard to their removal.

Clause 7.2 Flood planning

The subject site is partially affected by overland flow flooding, in particular the existing access handle from Nepean Gorge Drive which has been identified as partially flood affected. It is noted that the accompanying plans have provided for a driveway culvert pipe to mitigate any flooding. In this regard, the application was referred to Council's Development Engineering Section who raised no objection to the proposal subject to the provision of appropriate conditions with any determination granted.

Clause 7.6 Salinity

The subject site is affected by moderate salinity. While so, it is not considered necessary in this instance to include any specific condition(s) in relation to construction noting the nature of the proposed works.

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

As the proposal is located within an E3 Environmental Management zone, consideration must be given to ensure that effluent generated is managed on site and that waterways are protected as well as the amenity of adjoining lots. The application has been accompanied by a Wastewater Assessment Report which has identified the provision of an 'aerated wastewater treatment system' (AWTS) for each proposed dwelling. In addition, a 2000 litre septic tank was identified to cater for the pool house which following the provision of amended plans has been deleted from the proposal.

Noting the above, the application was referred to Council's Environmental Management section which has reviewed the accompanying Wastewater Assessment Report prepared by EnviroFit in support of the proposal. The daily wastewater loads for the 2 NSW health accredited AWTS's and the size of the effluent disposal area which will be used for irrigation of the subject site are considered acceptable.

In addition to the above, the subject lot is considered acceptable for the proposed dual occupancy as it maintains an area greater than 2 hectares and is not in the vicinity of a waterway.

Clause 7.18 Mulgoa valley

The proposed development is not considered to adversely affect any existing vistas within the Mulgoa Valley or affect the historical significance of any heritage item. The siting of the proposal is also considered acceptable as it is not located on a ridgetop nor will it intrude into the skyline when viewed from a road or other public place. In this regard, the proposal is not considered contrary to the objectives of the Mulgoa Valley as provided by the LEP.

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

There are no draft environmental planning instruments applicable to the subject proposal.

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

Development Control Plan 2014

Provision	Compliance
C1 Site Planning and Design Principles	Complies
C2 Vegetation Management	Complies - see Appendix - Development Control Plan Compliance
C3 Water Management	Complies
C4 Land Management	Complies
C5 Waste Management	Complies
C6 Landscape Design	Complies
C7 Culture and Heritage	Complies
C8 Public Domain	N/A
C9 Advertising and Signage	N/A
C10 Transport, Access and Parking	Complies
C11 Subdivision	N/A
C12 Noise and Vibration	Complies
C13 Infrastructure and Services	Complies
D1.1. Rural Character	Complies
D1.2. Rural Dwellings and Outbuildings	Does not comply - see Appendix - Development Control Plan Compliance
D1.3. Farm buildings	N/A
D1.4 Agricultural Development	N/A
D1.5. Non-Agricultural Development	N/A
E9 Mulgoa Valley controls	Complies

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

There are no planning agreements applying to the proposal.

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

The relevant prescribed conditions of the regulations, such as the requirement for compliance with the Building Code of Australia and fire safety requirements, will be imposed as conditions of consent where applicable. Subject to the recommended conditions of consent, the proposed development complies with the requirements of the *Environmental Planning and Assessment Regulations 2000*.

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

Context and setting

The proposed dual occupancy development is located within a vacant area of land which in part provides for dense bushland as well as portions of cleared areas. The majority of the subject lot is burdened by an executed Biobanking agreement but while so, the proposed development is located outside of this Biobanking agreement area. The location of the proposed dwellings is in the vicinity of 30m of the subject site's south-western boundary and 70m of the existing access handle leading from Nepean Gorge Drive. In relation to surrounding dwellings, the proposal is provided with a distance of 350m to the nearest residence at No. 87 Nepean Gorge Drive.

Noting the above, it is considered that the proposed dual occupancy and associated structures are located in an isolated position in part due to the nature of the subject site and surrounding neighbours. The proposal will not be visible from either Nepean Gorge Drive or any adjoining residential properties. The single storey nature of the dwellings and height of the proposed shed is also not considered to create a visual impact to the surrounds with the setbacks provided to the site's boundaries considered an appropriate separation should for instance the adjoining property to the south-west be developed also for residential purposes in the future.

Flora and fauna

As identified within this report, the subject site is privy to the provision of a Biobanking agreement (ID Number 190) under the Threatened Species Conservation Act 1995 for a total of 65.40 hectares of the overall site area of 66.9 hectares. The provided plans have identified that all works proposed will occur outside of the Biobanking area. The application was referred to Council's Senior Biodiversity Officer who has raised no objection subject to the provision of conditions with any determination granted.

Traffic generation

The application has been provided with adequate car parking facilities for each proposed dwelling in the form of a triple and double garage. The subject site currently provides for direct access from Nepean Gorge Drive along a lengthy unsealed handle which is to be treated in an aggregate road base to allow for the continuation of this handle as the main access point for the proposal. In this regard, it is considered that appropriate parking facilities are provided as well as access to Nepean Gorge Drive. The movement of vehicles to and from the subject site will also be of a nature to not create an immediate impact upon existing traffic circumstances in the vicinity.

Built form presentation

The application has identified that each dwelling is to be provided with a *dulux namadji grey* external wall finish and metal deck roof sheeting *colorbond basalt* in colour. While the proposed dwellings will not be visible from any public domain, it is considered that the external walls and roof form are provided with a similar colour finish which is too dark in tone creating a dull presentation. While a dark roof form may be appropriate, it is considered appropriate that the external walls be more sympathetic with the natural surrounds by utilising a more earthy tone. In this regard, should the application be approved, it is considered appropriate that a condition be included requesting a lighter finish for external walls to allow for an improved presentation.

The proposed shed has been identified as being treated with metal wall cladding and metal deck roof sheeting which is considered an appropriate finish for this ancillary structure.

Stormwater and flooding

The proposal will provide for the redirection of all stormwater to a 100,000 litre storage tank with overflow to be directed to absorption rubble pits. In addition, the access handle is identified as being impacted by an overland flow path. The proposal has identified a culvert crossing to be provided to mitigate overland flow. The proposal was referred to Council's Development Engineer who has raised no objection to the proposal subject to conditions with any determination granted.

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

The site is located within an existing rural context and provides for a mixture of varied forms of vegetation and cleared land. The site currently does not maintain any structures and while subject to a Biobanking agreement, the proposal is located outside of the agreement area. The building design is considered to be of an appropriate size in relation to its location on the site and the site's overall land area, while also identifying appropriate stormwater treatment to be provided. Given the scale of the proposal and separation to surrounding residential properties, it is considered that no amenity impact to surrounding lots including items of heritage significance is created.

The site is affected by partial overland flow flooding to the access handle from Nepean Gorge Drive as well as being located within a bushfire prone area, but while so, this is considered to have been addressed during the assessment process. The site is therefore considered suitable for the proposed development.

Section 79C(1)(d) Any Submissions

Community Consultation

The application was notified to adjoining and nearby properties and exhibited from the 30 October 2017 to the 13 November 2017. In addition, the Mulgoa Progress Association was notified of the proposed development. During this period, 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
Building Surveyor	No objections - subject to conditions
Development Engineer	No objections - subject to conditions
Heritage	No objections
Environmental - Environmental management	No objections - subject to conditions
Environmental - Biodiversity	No objections - subject to conditions

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

Given the nature and scale of the proposal and its general compliance with the applicable development controls, the development is not considered to generate any significant issues of public interest.

Section 94 - Developer Contributions Plans

The following development contributions apply to the site:

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

The following development contribution plans apply to the proposed development. As the subject site is vacant and has not previously maintained any residential dwellings, no credit is provided for.

Calculations for Dual Occupancy

Cultural Facilities

No. of additional units	x	Rate	Credit for existing dwelling/s	Contribution rate
2	x	3	0	6

District and Local Open Space

No. of additional units	x	Rate	Credit for existing dwelling/s	Contribution rate
2	x	3.1	0	6.2

AMOUNT

S.94 Contribution Plan	Contribution Rate x Calculation Rate	Total
Cultural Facilities	6.0 x \$162.00	\$972.00
District Open Space	6.2 x \$1,913.00	\$11,861.00
Local Open Space	6.2 x \$692.00	\$4,290.00
NET TOTAL		\$17,123.00

Conclusion

The proposal has been assessed against the relevant environmental planning policies including the *Penrith Local Environmental Plan 2010* and *Penrith Development Control Plan 2014* and in this regard the proposal is considered to satisfy the aims, objectives and provisions of these policies. The proposal as amended is considered to provide for appropriately sized dwellings within the context of the subject site. The proposal is considered to have adequately demonstrated that there is no impact upon the existing Biobanking agreement on the subject site while allowing for appropriate dispersion of stormwater, provision of an acceptable level of cut and fill and no visual impact to its surrounds.

The proposal is not considered likely to create any significant impacts on the natural, social or economic environments and in this regard, the application is considered worthy of support and is recommended for approval subject to appropriate conditions.

Recommendation

That DA17/0980 for the construction of a detached dual occupancy and construction of a shed and associated landscape works at 88a Nepean Gorge Drive, Mulgoa be approved subject to the attached conditions.

General

1 A001

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

Doc No.	Revision	Title	Prepared by	Dated
Architectural Plans all Project No. KC - 1739				
A01	A	Part Site Plan	Kleyn Creations	30.08.2017
A02	A	Shed Site Plan	Kleyn Creations	30.08.2017
A04	A	Ground Floor Plan	Kleyn Creations	30.08.2017
A05	A	Roof Plan	Kleyn Creations	30.08.2017
A06	A	Primary Residence & Dual Occupancy House Elevations	Kleyn Creations	30.08.2017
A08	A	Sections	Kleyn Creations	30.08.2017
A09	A	Window Schedule	Kleyn Creations	30.08. 2017
A10	A	Overall Site Plan	Kleyn Creations	30.08.2017
A11	A	Colour Schedule	Kleyn Creations	August, 2017
A12	A	Shed Plans Elevations & Sections	Kleyn Creations	30.08.2017
Culvert Crossing Plan Job No. 17-5218				
1 of 1	A	Culvert Crossing Concept Plan	Envirotech	17.08.2017
Survey Plan all Job Reference 17414				
Sheet 1 of 3 (Culvert Location)	A	Plan of detail and levels & biobank marked as indicated, over part Lot 31 in DP 237163 at 88-89 Nepean Gorge Drive, Mulgoa	Richard Hogan & CO	08.06.2017
Sheet 2 of 3 (Culvert Location)	A	Plan of detail and levels & biobank marked as indicated, over part Lot 31 in DP 237163 at 88-89 Nepean Gorge Drive, Mulgoa	Richard Hogan & CO	08.06.2017
Landscape Concept Plan Job No. 4860				
Sheet 1 of 1	-	DA Landscape Concept	Monaco Designs PL	16.01.2018

- Wastewater Assessment Report prepared by EnviroFit, Report No. ENVF17-1090, Version A, dated 23 September, 2017;
- Basix Certificate No. 866157M_02, dated 6 February, 2018;
- Bushfire Hazard Assessment Report prepared by Control Line Consulting, Report Reference No. 16.09.222, dated 6 February, 2018; and
- Waste Management Plan dated 12 October, 2017.

2 A008 - Works to BCA requirements (Always apply to building works)

The work must be carried out in accordance with the requirements of the Building Code of Australia. If the work relates to a residential building and is valued in excess of \$20,000, then a contract of insurance for the residential development shall be in force in accordance with Part 6 of the *Home Building Act 1989*.

{Note: Residential building includes alterations and additions to a dwelling, and structures associated with a dwelling house/dwelling such as a carport, garage, shed, rural shed, swimming pool and the like}.

3 A019 - OCCUPATION CERTIFICATE (ALWAYS APPLY)

The development shall not be used or occupied until an Occupation Certificate has been issued.

4 A046 - Obtain Construction Certificate before commencement of works

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

5 [A Special \(BLANK\)](#)

The proposed schedule of external colours and finishes prepared by Kleyn Creations, Project No. KC1739, Drawing No. A12, Revision A dated August, 2017 is to be amended so as to provide for a lighter earth tone colour for the external walls of each dwelling. Details are to be provided to the Certifying Authority prior to the issue of any Construction Certificate.

6 [A Special \(BLANK\)](#)

Lot 31, DP 237163 is to be maintained in accordance with BioBanking Agreement ID Number 190 under the Threatened Species Conservation Act 1995.

7 [A Special \(BLANK\)](#)

All required vehicular access areas within the site shall be suitably stabilised.

8 [A Special \(BLANK\)](#)

Prior to the issue of a Construction Certificate, all recommendations of the Bushfire Hazard Assessment Report prepared by Control Line Consulting, Report Reference No. 16.09.222, dated 6 February, 2018 must be detailed in the Construction Certificate drawings and plans.

9 [A Special \(BLANK\)](#)

Prior to the issue of an Occupation Certificate, certification/documentation is to be provided to the Certifying Authority indicating that the development has been constructed to meet the recommendations of the Bushfire Hazard Assessment Report prepared by Control Line Consulting, Report Reference No. 16.09.222, dated 6 February, 2018.

Heritage/Archaeological relics

10 [C003 - Uncovering relics](#)

If any archaeological relics are uncovered during the course of the work no further work shall be undertaken until further directed by Penrith City Council or the NSW Heritage Office.

The applicant is advised that depending on the possible significance of the relics, an archaeological assessment and an excavation permit under the Heritage Act, 1977 may be required before any further work can be recommenced in that area of the site.

Environmental Matters

11 [D001 - Implement approved sediment& erosion control measures](#)

Erosion and sediment control measures shall be installed **prior to the commencement of works on site** including approved clearing of site vegetation. The erosion and sediment control measures are to be maintained in accordance with the approved erosion and sediment control plan(s) for the development and the Department of Housing's "Managing Urban Stormwater: Soils and Construction" 2004.

12 [D002 - Spraygrass](#)

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

13 [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.

14 [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 two (2) metres past the defined building footprint.

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

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

{Note: Penrith Development Control Plan 2014 defines an appropriately qualified person as "a person who, in the opinion of Council, has a demonstrated experience, or access to experience in hydrology, environmental chemistry, soil science, eco-toxicology, sampling and analytical procedures, risk evaluation and remediation technologies. In addition, the person will be required to have appropriate professional indemnity and public risk insurance."}

15 **D008 - Filling compaction**

Where a building is to take place on any land that is to be filled, such filling is to be compacted in accordance with Australian Standard 3798-1996. Certification is to be submitted to the Principal Certifying Authority by a Geotechnical Engineer verifying that the work has been undertaken prior to the commencement of the construction of any building.

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

16 **D009 - Covering of waste storage area**

All waste materials stored on-site during construction 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 (2) waste bays / bins so as to allow for the separation of wastes, and are to be fully enclosed when the site is unattended.

17 **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.

18 **DB002 - AS FOR DEMOLITION AND DISPOSAL TO APPROVED LANDFILL SITE**

All excavated material shall be disposed of at a Council approved site or waste facility. Details of the proposed disposal location(s) of all excavated material from the development site shall be provided to the Principal Certifying Authority **prior to commencement of excavation**.

19 **DB004 - Dust**

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

20 **DB005 - Mud/Soil**

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

21 **DB006 - Hours of work**

Construction works 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 Construction work is permitted on Sundays and Public Holidays.

In the event that the Construction relates to works inside the building and does not involve external walls or the roof, and does not involve the use of equipment that emits noise, then the Construction works are not restricted to the hours stated above. The provisions of the *Protection of the Environment Operations Act*, 1997 in regulating offensive noise also apply to all construction works.

22 D Special - Exotic grasses

No exotic perennial grasses listed on the Final Determination of the NSW Scientific Committee for the key threatening process 'Invasion of native plant communities by exotic perennial grasses', shall be introduced, planted, sown or laid for landscaping or other purposes. These species include:

- *Cenchrus ciliaris* (Buffel Grass),
- *Hyparrhenia hirta* (Coolatai Grass),
- *Eragrostis curvula* (African Lovegrass),
- *Nassella neesiana* (Chilean Needlegrass)
- *Nassella trichotoma* (Serrated Tussock)
- *Agrostis capillaris* (Browntop Bent),
- *Andropogon virginicus* (Whisky Grass),
- *Chloris gayana* (Rhodes Grass),
- *Cortaderia spp.* (Pampas Grasses),
- *Ehrharta erecta* (Panic Veldgrass),
- *Melinis minutiflora* (Molasses Grass),
- *Panicum repens* (Torpedo Grass),
- *Paspalum urvillei* (Vasey Grass),
- *Pennisetum clandestinum* (Kikuyu),
- *Phalaris aquatica* (Phalaris),
- *Setaria sphacelata* (South African Pigeon Grass),
- *Sporobolus fertilis* (Giant Parramatta Grass),
- *Sporobolus natalensis* (Giant Rats Tail Grass), and
- *Urochloa mutica* (Para Grass).

23 D Special - site survey and pegging

Prior to commencement of any works, the location of all proposed structures including dwellings, sheds and driveways are to be surveyed by a qualified land surveyor and their locations pegged out to ensure that there is no inadvertent encroachment into the BioBank site.

BCA Issues

24 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

25 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

26 G002 - Section 73 (not for

A Section 73 Compliance Certificate under the Sydney Water Act 1994 shall be obtained from Sydney Water. The application must be made through an authorised Water Servicing Coordinator. Please refer to "Your Business" section of Sydney Water's website at www.sydneywater.com.au then the "e-developer" icon, or telephone 13 20 92.

The Section 73 Compliance Certificate must be submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

27 G004 - Integral Energy

Prior to the issue of a Construction Certificate, a written clearance is to be obtained from Endeavour Energy stating that electrical services have been made available to the development or that arrangements have been entered into for the provision of services to the development.

Construction

28 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 two (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 two (2) signs stating the above details are to be erected:

- at the commencement of, and for the full length of the, construction works onsite, and
- in a prominent position on the work site and in a manner that can be easily read by pedestrian traffic.

All construction signage is to be removed when the Occupation Certificate has been issued for the development.

29 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 twenty (20) persons or part of twenty (20) persons employed at the site. Each toilet provided must be:

- a standard flushing toilet connected to a public sewer, or
- if that is not practicable, an accredited sewage management facility approved by Council, or
- alternatively, any other sewage management facility approved by Council.

(b) All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with the appropriate professional standards. All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.

(c) If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made:

- must preserve and protect the building from damage, and
- if necessary, must underpin and support the building in an approved manner, and
- must, at least seven (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.

30 **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 pipe work 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.

31 **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,
- gutter guard must be installed in roof gutters to prevent foreign materials from contaminating the water which enters the rainwater tank.

32 **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.

33 **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.

Engineering

34 **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.

35 **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 the issue of any Construction Certificate. 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.

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

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

- a) Vehicular crossings (including kerb reinstatement of redundant vehicular crossings)
- c) Road opening for utilities and stormwater (including stormwater connection to Penrith City Council roads and other Penrith City Council owned drainage)

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

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

Note:

- a) Where Penrith City Council is the Certifying Authority for the development, the Roads Act approval for the above works may be issued concurrently with the Construction Certificate.
- b) All works associated with the Roads Act approval must be completed prior to the issue of any Occupation Certificate.

37 **K209 - Stormwater Discharge – Minor Development**

Stormwater drainage from the site shall be discharged to:

- a) A level spreader 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.

38 **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.

39 **K501 - Penrith City Council clearance – Roads Act/ Local Government Act**

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

40 [K504 - Stormwater Compliance](#)

Prior to the issue of any Occupation Certificate, the Principal Certifying Authority shall ensure that the:

a) Driveway culvert pipe crossing construction

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

Details of the approved and constructed crossing shall be provided as part of the Works-As-Executed drawings.

Landscaping

41 [L001 - General](#)

All landscape works are to be constructed in accordance with the stamped approved plans and Section C6 Landscape Design of the *Penrith Development Control Plan 2014*.

Landscaping shall be maintained:

- in accordance with the approved plans, and
- in a healthy state, and in perpetuity by the existing or future owners and occupiers of the property.

If any of the vegetation comprising that landscaping dies or is removed, it is to be replaced with vegetation of the same species and, to the greatest extent practicable, the same maturity as the vegetation which died or was removed.

42 [L002 - Landscape construction](#)

The approved landscaping for the site must be constructed by a suitably qualified and experienced landscape professional.

43 [L003 - Report requirement](#)

Upon completion of the landscape works associated with the development and prior to the issue of an Occupation Certificate for the development, an Implementation Report must be submitted to the Principal Certifying Authority attesting to the satisfactory completion of the landscaping works for the development. The report is to be prepared by a suitably qualified and experienced landscape professional.

An Occupation Certificate should not be issued until such time as a satisfactory Implementation Report has been received. If Penrith City Council is not the Principal Certifying Authority, a copy of the satisfactory Implementation Report is to be submitted to Council together with the Occupation Certificate for the development.

44 [L005 - Planting of plant](#)

All plant material associated with the construction of approved landscaping is to be planted in accordance with the Tree Planting Specification prescribed in *Penrith Development Control Plan 2014*.

45 [L006 - Aust Standard](#)

All landscape works are to meet industry best practice and the following relevant Australian Standards:

- AS 4419 Soils for Landscaping and Garden Use,
- AS 4454 Composts, Soil Conditioners and Mulches, and
- AS 4373 Pruning of Amenity Trees.

46 [L007 - Tree protection measures—no TMP with DA](#)

No fill, machinery, or materials are to be placed or stored within the drip line of any tree that is to be retained. All trees that are required to be retained as part of the development are to be protected in accordance with the minimum tree protection standards as outlined in Australian Standard 4970-2009 '*Protection of trees on development sites*'.

47 [L008 - Tree Preservation Order](#)

No trees are to be removed, ringbarked, cut, topped or lopped or wilfully destroyed (other than those within the proposed building footprint or as shown on the approved plans) without the prior consent of Penrith City Council and in accordance with Council's Tree Preservation Order and Policy.

Development Contributions

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

This condition is imposed in accordance with Penrith City Council's Section 94 Contributions Plan for Cultural Facilities. Based on the current rates detailed in the accompanying schedule attached to this Notice, \$972.00 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.

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

This condition is imposed in accordance with Penrith City Council's Section 94 Contributions Plan for District Open Space. Based on the current rates detailed in the accompanying schedule attached to this Notice, \$11,861.00 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.

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

This condition is imposed in accordance with Penrith City Council's Section 94 Contributions Plan for Local Open Space. Based on the current rates detailed in the accompanying schedule attached to this Notice, \$4,290.00 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.

Certification

51 **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 4.19 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 4.19 of the Environmental Planning and Assessment Act 1979.

52 **Q05F - Occupation Certificate for Class10**

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

The Certificate shall not be issued if any conditions of this consent, but not the conditions relating to the operation of the development, are outstanding.

A copy of the Occupation Certificate and all necessary documentation supporting the issue of the Certificate is to be submitted to Penrith City Council, if Council is not the Principal Certifying Authority.

Operation of OSSM

53 R101 - Operational Approval prior to use

The on-site sewage management (OSSM) systems and effluent management areas shall be installed and operated in accordance with:

- The “Environmental and Health Protection Guidelines - On Site Sewage Management for Single Households”,
- Australian Standards 1547:2012,
- Council’s On-Site Sewage Management and Greywater Reuse Policy,
- current (at the time of installation) NSW Health Accreditation documentation,
- the Wastewater Assessment Report prepared by EnviroFit, Report No. ENVF17-1090, Version A, dated 23 September 2017,
- the Effluent Management Area Plan within the Wastewater Assessment Report prepared by EnviroFit, Report No. ENVF17-1090, Version A, dated 23 September 2017, and
- the conditions of this consent.

Prior to the issue of the ‘Approval to Operate’, a Commissioning Certificate for the OSSM systems shall be provided to Penrith City Council for approval. This Certificate shall certify that the aerated wastewater treatment systems (AWTS) have 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 systems can be used, an ‘Approval to Operate’ for the OSSM systems is to be sought from and issued by Penrith City Council.

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

All wastewater generated on the site is to be diverted to the Aerated Wastewater Treatment Systems and be disposed of by way of surface irrigation in the approved effluent management areas. The effluent management areas are to be located in accordance with the stamped approved Effluent Management Area Plan outlined in the Wastewater Assessment Report prepared by EnviroFit, Report No. ENVF17-1090, Version A, dated 23 September 2017. The primary dwelling is to have a minimum effluent disposal area of 584m², the second dwelling is to have a minimum effluent disposal area of 401m².

The OSSM system servicing the primary dwelling is to be utilised for a 5 bedroom dwelling in accordance with the Wastewater Assessment Report prepared by EnviroFit, Report No. ENVF17-1090, Version A, dated 23 September 2017. Any dwelling approval on the site greater than this may require a new wastewater report for Council’s consideration.

The OSSM system servicing the second dwelling is to be utilised for a 3 bedroom dwelling with a daily wastewater load of 480L/day in accordance with the Wastewater Assessment Report prepared by EnviroFit, Report No. ENVF17-1090, Version A, dated 23 September 2017. Any dwelling approval on the site greater than this may require a new wastewater report for Council’s consideration.

55 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.

56 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.

57 **R106 - AWTS - Design of Irrigation System**

The design of the irrigation system for the effluent management areas is 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.**

58 **R107 - AWTS - Irrigation pipework (surface or sub-surface)**

All irrigation pipework and fittings shall comply with AS 2698 "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,
- 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.

59 **R109 - No effluent runoff**

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

60 **R110 - EMA Signage**

A minimum of two signs shall be erected within the effluent management area. These signs are to state "RECLAIMED EFFLUENT - NOT FOR DRINKING - AVOID CONTACT". The signage shall be maintained for the term of the development.

61 **R111 - AWTS Servicing**

The owner/occupier shall enter into an annual service contract with the manufacturer, distributor or other person authorised (in writing) by Penrith City Council to service the aerated septic tank(s) every three (3) months from the date of commissioning in the following manner:

i. A three monthly service shall include a check on all mechanical, electrical and functioning parts of the aerated system including:

- the chlorinator,
- replenishment of the disinfectant,
- the UV disinfection unit,
- all pumps and switches,
- the air blower, fan or air venturi,
- the alarm system,
- the effluent disposal area and irrigation spray outlets / sub-surface irrigation lines and filters,
- the slime growth on the filter media, and
- the operation of the sludge returns system.

ii. The following field tests are to be carried out at every service:

- free residual chlorine using DPD colorimetric or photometric method,
- pH from a sample taken from the irrigation chamber,
- dissolved oxygen from a sample taken from the final aeration or stilling chamber (although recommended) is optional.

iii. On the yearly anniversary date of the commissioning of the system, an annual service of the system shall also be carried out which includes a check on the sludge accumulation in the septic tank (primary treatment tank) and the clarifier, where appropriate.

iv. For systems which utilise the sewage treatment principle of activated sludge or contact aeration, a sludge bulking test, known as a SV30 Test, shall also be conducted on an annual basis. This test is to determine whether the accumulated sludge is bulking, indicating that the aeration compartment(s) will require desludging.

v. On completion of each service, a service report sheet is to specify all service items and test results, the amount of chlorine compound provided, parts replaced (if applicable), the date the service was conducted and the technician's name. A copy of the service report is to be:

- given to the property owner and another to the applicant (if not the same), and
- forwarded to Penrith City Council.

Each service agent shall provide a registered business office which, if unattended during business hours, is provided with a telephone answering device or service. A means of reporting a malfunction or breakdown outside normal business hours shall be available. In the event of a breakdown or malfunction, the service agent shall, within 24 hours of the breakdown or malfunction, ensure that temporary repairs are carried out to the aerated system to ensure continued operation of the system. This may necessitate provision of adequate spare parts and temporary replacement blowers and irrigation pumps where repairs cannot be completed on site.

62 **R114 - EMA Turfed**

The effluent management area is to be turfed to the satisfaction of Council. Where a specific variety of turf is identified in the approved Wastewater Report that variety is to be installed and maintained.

63 **R115 - No structures on EMA**

No concreting, driveways, vehicles or any other structure or access way is to be located over any portion of the effluent management area.

64 **R116 - Diversion of stormwater**

All stormwater and seepage shall be diverted away from the septic tank and the disposal area.

65 **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.

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

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

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

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

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

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

Prior to the issue of a 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 Principal Certifying Authority.

Appendix - Development Control Plan Compliance

Development Control Plan 2014

Part C - City-wide Controls

The proposal has been assessed against the applicable provisions of the Penrith Development Control Plan 2014, in particular those under Part C, City Wide Controls and is found to be compliant. Compliance with particular Sections is discussed below.

C2 Vegetation Management

The proposed development is located within an area of vacant land with scattered plants and vegetation that has previously been mapped as Shale Sandstone Transition Forest. In this regard, no trees of any significance will require removal to facilitate the provision of the proposed detached dual occupancy. It is noted that the majority of the subject site is currently burdened by an existing Biobanking agreement (ID No. 190) with the NSW Office of Environment and Heritage. An assessment of the provided plans and accompanying survey has identified that the position of the proposed development is not located in the vicinity of the Biobanked area and in this regard, any approval granted will include a condition indicating that no works are to occur within the Biobanked area.

A review of Council records has identified that works have commenced on the subject site as of September, 2017 including the clearing of vegetation and the provision of a pad base which may be for the proposed shed. Concern is raised that this clearing may have been provided in an incorrect location and in this regard, correspondence has been forwarded to Council's Environmental Health and Compliance Team requesting that this work be investigated.

D1 Rural Land Uses

The proposal has been assessed against the other applicable provisions of the Penrith Development Control Plan 2014, in particular those under Part D1, Rural Land Uses. In this regard, a number of numerical non compliances are provided for but while so, it is considered that these non compliances have been appropriately justified. Discussion in relation to the areas of non compliance is provided below:

Ground Floor Footprint

Part D1 of the Penrith Development Control Plan provides for the following development control;

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 in other parts of this chapter

Noting the above control, this footprint area is applicable to not only dwellings but also associated structures which in this instance would include the proposed shed. In this regard, it is noted that the original design provided for a ground floor footprint of 812.2m². The provision of amended plans has provided for the removal of the previously proposed pool house but while so, with the inclusion of the proposed shed, the proposal will still maintain a combined overall footprint total of 808m².

While the provided building footprint area is non compliant, consideration has been given to the nature of the subject site. In this regard, it is noted that the proposed structures will not be visible from the public domain taking into consideration their position away from Nepean Gorge Drive. In addition, consideration has been given to the built form's siting on the subject site which will allow for significant separation between the structures while the provision of a single level presentation is considered to assist in mitigating any visual impact created. In addition, the proposal will be provided on a substantially large parcel of land which is also considered to diminish the scale of the non compliance. It is noted that the non compliance with footprint controls is also a consequence of the proposal's provision of only a ground floor layout and no associated additional upper levels which as a consequence creates an increase in building footprint.

Taking the above factors into consideration, it is therefore considered that the size and scale of the proposed overall building footprint is appropriate for the subject site in this instance and will not create and adverse environmental or visual impacts.

Garage Frontage

A maximum frontage of 7m is required for a car storage facility (garage) as identified by Figure D1.5, 'Rural Land Uses' of the Penrith DCP. The proposal has identified the provision of a double garage to the secondary dwelling (with a width of 6.8m) and a triple garage to the primary residence (with an overall width of 10.7m). The primary residence garage has been provided with an indented wall of 0.8m so as to provide for a 4.1m width for one garage and 6.6m width for the remaining two proposed garages.

While it is acknowledged that the garage width for the primary residence is non compliant, it is considered that the indented presentation will assist in diminishing the visual impact of the garage location. In addition, it is noted that the garage will not front onto a street therefore creating no public domain impact. In addition, the garage is located to the side of the dwelling so as to not be visually prominent in relation to the dwelling's approach along the provided driveway. Taking into consideration the context and size of the subject site, the proposed triple garage is considered to provide for an appropriate proportional size relative to the dwelling and is acceptable in this instance.

Cut and Fill

Cut and fill for proposed developments should generally be limited to 1m of cut and 1m of fill. An assessment of the original plans provided indicated that fill up to 1.4m was proposed and the amount of cut exceeded 1m being up to 1.78m. It is noted that the provision of amended plans has provided for a reduction in the overall cut and fill proposed so as to now provide compliance with the DCP control, i.e. up to either a maximum 1m cut or 1m fill. Amended plans have also identified the provision of a 750mm high non structural retaining wall to the perimeter of dwelling 2.

Cut and fill is also proposed for the shed, but while so, an assessment of the provided plans has identified cut up to 0.41m in depth and fill to between 0.30m and 0.43m which is in line with DCP requirements.

Noting the above, the extent of works proposed is considered acceptable and is an improved response to the existing contours of the subject site.

Size of Second Dwelling

For a dual occupancy development within a rural context, the second dwelling must be significantly smaller than the existing dwelling house (approximately 50% in floor space). An assessment of the provided plans has identified that the proposed primary dwelling is provided with a floor area of 309m² while the second dwelling proposed is provided with a floor area of 185m², which is 60% of the primary dwelling size and therefore over the identified floor area requirement by 30.5m².

While the proposed development is non compliant, it is noted that this control is relevant for a proposed new dwelling in relation to an existing dwelling when the provision of a new dwelling will create a dual occupancy development. In this instance, two new dwellings are proposed which is considered to allow for appropriate separation and setting within the context of the subject site. It is also noted that amended plans received have reduced the size of each dwelling proposed with a 86.5m² reduction in floor area (from 395.5m² to 309m²) for the primary dwelling and a 20.7m² reduction in floor area (from 205.7m² to 185m²) for the second dwelling as compared to the original application received. This reduction in floor area overall by 100m² is considered an appropriate response to the nature of the subject site, also noting that the proposal will not create any unacceptable visual impact upon the public domain, (i.e. it wont be visible from Nepean Gorge Drive).