

PENRITH CITY COUNCIL

MAJOR ASSESSMENT REPORT

Application number:	DA17/0120
Proposed development:	Alterations & Additions to Existing Dwelling House & Retrospective Approval of Detached Dual Occupancy Dwelling
Property address:	160 - 169 Park River Close, MULGOA NSW 2745
Property description:	Lot 60 DP 241749
Date received:	23 February 2017
Assessing officer	Sufyan Nguyen
Zoning:	E3 Environmental Management - LEP 2010
Class of building:	Class 1a
Recommendations:	Approve

Executive Summary

Council is in receipt of a development application for alterations and additions to an existing dwelling and retrospective approval of a detached dual occupancy dwelling at 160 - 169 Park River Close, Mulgoa. The subject site is zoned E3 Environmental Management under the *Penrith Local Environmental Plan 2010* and the proposed development is permissible with Council consent.

The key issues identified and addressed as part of the assessment of the proposal were in regard to the following aspects:

- The requirement of BCA, details, a structural engineers certificate and a stormwater plan for the detached dual occupancy
- Non-compliance with the maximum ground floor footprint
- Details of the existing commercial OSSM system and concerns regarding the effluent disposal area
- Access driveway access to the proposed dual occupancy dwelling and existing shed
- Previous habitable use of a rural shed and an unauthorised rural shed on the site

In addition, the site is bushfire prone land. The submitted bushfire hazard assessment has rated the detached dual occupancy dwelling as requiring a construction level of BAL-12.5 along the eastern and southern elevation and the entire property site must be managed as an Asset Protection zone in accordance with AS 3959 "Construction of Buildings in Bushfire-Prone Areas".

The application has been notified to nearby and adjoining properties and publicly exhibited for a period of fourteen (14) days. No submissions were received in response

An assessment of the proposal under 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 known as 160 - 169 Park River Close, Mulgoa and is legally described as Lot 60 DP 241749. The site has a land area of 3.366 ha and is irregular in shape. The topography of the site varies significantly where the overall slope is up to approximately 15m which falls towards the south-east of the site. A dam is located approximately midway of the site, nearby the south-eastern boundary.

The prevailing rural-residential area accommodates a range of traditional and modern style dwellings including substantially large-sized dwellings with various additional structures. Local shops, schools and a bus stop are located along Mulgoa Road approximately 4.45km to the north-east of the site. The Nepean River is located approximately 1.29km to the west. The broader area contains vast areas of green open space as the site is in proximity to Mulgoa's western boundary.

Proposal

The applicant seeks approval for alterations and additions to an existing dwelling and retrospective approval of a detached dual occupancy dwelling at 160 - 169 Park River Close, Mulgoa.

The proposal includes the following aspects:

- Alterations to the floor plan layout for the existing dwelling including new walls and windows
- Additional garage, store room and kitchen for ground floor
- Additional family room and windows (lower ground floor)
- New front porch and entrance, internal stair case, rear balconies, roof frame and tile roof
- External wall height extension (3m ceiling height)
- Associated drainage works

Plans that apply

- Local Environmental Plan 2010 (Amendment 4)
- Development Control Plan 2014
- Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

Planning Assessment

• Section 79BA - Bushfire prone land assessment

The submitted Bushfire Hazard Assessment Report, reference No. 17/0680, prepared by Bushfire Consulting Services, dated 26 June 2017 rated the proposed dual occupancy dwelling as requiring a construction level of BAL-12.5 along the eastern and southern elevation. The entire property site must be managed as an Asset Protection zone in accordance with AS 3959 "Construction of Buildings in Bushfire-Prone Areas". In addition, the Bushfire Hazard Assessment Report miscalculated the length of the driveway to the proposed dual occupancy dwelling which was over 200m. An amended site plan provides access via an existing driveway along the western boundary which is approximately 184m in length. Furthermore, conditions are recommended to ensure the driveway is compliant with Section 4.1 and Section 4.2 of the Planning for Bush Fire Protection Measures and does not result in aggregates to the public road.

• Section 79C - Evaluation

The proposed development has been assessed in accordance with the matters for consideration under 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

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 satisfactory subject to recommended conditions of consent.

Local Environmental Plan 2010 (Amendment 4)

Provision	Compliance
Clause 1.2 Aims of the plan	Complies - See discussion
Clause 2.3 Permissibility	Complies
Clause 2.3 Zone objectives	Complies - See discussion
Clause 2.7 Demolition requires development consent	Complies
Clause 4.3 Height of buildings	Complies - See discussion
Clause 5.9 Preservation of trees or vegetation	Complies
Clause 5.10 Heritage conservation	N/A
Clause 7.1 Earthworks	Complies - See discussion
Clause 7.5 Protection of scenic character and landscape values	Complies - See discussion
Clause 7.7 Servicing	Does not comply - See discussion
Clause 7.10 Dual occupancies and secondary dwellings in certain rural and environmental	Does not comply - See discussion
Clause 7.18 Mulgoa valley	Complies - See discussion

Clause 1.2 Aims of the plan

The proposal aims to enhance the amenity of the existing dwelling and provide an additional housing opportunity via a detached dual occupancy dwelling. Given that the proposal has access to adequate servicing needs and is of a minor scale, is not likely that there will be any adverse impacts on the environmental values of surrounding area. The aims of the plan are therefore satisfied.

Clause 2.3 Zone objectives

The site does not contain any special ecological, scientific, cultural or aesthetic values. Although there is a dam on the site, the detached dual occupancy dwelling satisfies the minimum 40m separation distance required from the dam. As the proposal is of a minor scale, there will be no negative impacts on the surrounding land uses and the adjoining E2 Environmental Conservation zone to the west of the site.

Clause 4.3 Height of buildings

The proposal includes roof restoration but will retain the existing ridgeline which has a building height of approximately 7.7m. Therefore, the maximum 8.5m height of building requirement remains satisfied.

Clause 7.1 Earthworks

The proposal involves cut and fill works. However, the minor earthworks are not considered likely to result in any detrimental impacts on soil quality, drainage patterns or the immediate area.

Clause 7.5 Protection of scenic character and landscape values

The proposed alterations and additions are sympathetic with the context of the rural area. Given that there are dense trees and vegetation which screen the existing dwelling, this will ensure that there will be minimal impacts on the scenic character and landscape values of the locality.

Clause 7.7 Servicing

The proposal has existing stormwater and wastewater management systems which are adequate for the existing dwelling. However, it is recommended via a condition to submit a satisfactory stormwater drainage plan for the detached dual occupancy dwelling to ensure that the stormwater discharge will not impact on the effluent disposal area.

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

The existing dwelling is serviced by an existing commercial grade on-site sewage management (OSSM) system. The *Local Government (General) Regulation 2005* requires that domestic OSSM systems are to be accredited by NSW Health. Given that the proposal requires approval of this system, a condition is recommended to provide the specifications, designs and maintenance of this system to ensure it satisfies the requirements of the *Local Government (General) Regulation 2005*.

Clause 7.18 Mulgoa valley

The proposed alterations and additions are not too dissimilar to the existing architectural features. The site is not in close proximity to any places of significance. Given the minor works and the proposal's compatibility with the locality, the proposal is considered to conserve the landscape values of Mulgoa Valley.

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

Development Control Plan 2014

Provision	Compliance
DCP Principles	Complies - see Appendix - Development Control Plan Compliance
C1 Site Planning and Design Principles	Complies
C2 Vegetation Management	Complies - see Appendix - Development Control Plan Compliance
C3 Water Management	Does not comply - see Appendix - Development Control Plan Compliance
C4 Land Management	Does not comply - see Appendix - Development Control Plan Compliance
C5 Waste Management	Complies
C6 Landscape Design	Complies
C7 Culture and Heritage	N/A
C8 Public Domain	N/A
C9 Advertising and Signage	N/A
C10 Transport, Access and Parking	Complies
C11 Subdivision	N/A
C12 Noise and Vibration	Complies
C13 Infrastructure and Services	Does not comply - see Appendix - Development Control Plan Compliance
D1.1. Rural Character	Complies
D1.2. Rural Dwellings and Outbuildings	Complies - see Appendix - Development Control Plan Compliance
D1.3. Farm buildings	N/A
D1.4 Agricultural Development	N/A
D1.5. Non-Agricultural Development	N/A
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 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 Regulation 2000*.

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

Context and Settings

The proposed additional floor space is of a reasonable proportion relative to the existing building footprint. Although the total ground floor footprint for the site is non-compliant, this is only minor and given that the surrounding area contains numerous properties with large-sized dwellings and additional structures, there will be no adverse impacts on the surrounding area. Furthermore, the external materials and finishes are compatible with the context of the rural area.

Site Design and Internal Design

The siting of the proposed dual occupancy dwelling is distant (155m) from the street and has compliant side setbacks. This will ensure that there will be no significant impacts on the visual and acoustic privacy of adjoining properties. In addition, the alterations to the floor plan layout and additional floor space permit solar access, cross-ventilation and mobility for residents of all ages.

Access and Parking

The proposed dual occupancy dwelling has an attached carport and an existing driveway along the western side boundary. The driveway length is approximately 184m and is within the 200m maximum length for a site which is affected by bushfire. Moreover, the additional residents will have minimal impacts on traffic flows given that the local road network has the capacity to support the additional traffic generated by the proposal.

Utility Services

The site has connections to existing utility services and infrastructure and the proposal provides a new OSSM system. A stormwater plan for the detached dual occupancy dwelling is recommended via a condition to ensure that stormwater discharge does not adversely impact on the OSSM system.

Noise and Vibration

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

Environmental Impacts

The site is not in proximity to any significant land resources. The detached dual occupancy dwelling has a 43m separation distance from the dam on the site. The BASIX Certificate and compliance with BCA requirements will ensure the proposal satisfies minimum energy and water efficiency requirements. The minor earthworks are unlikely to result in adverse impacts on soil quality or the dam on site and does not involve the removal of any significant biodiversity or threatened species. The amounts of waste to be generated by the proposal are considered to be manageable.

Socio-Economic Impacts

Due to the nature and scale of the proposal, there will be no adverse social impacts on the community. The broader area accommodates facilities and services which will benefit from the additional resident's socio-economic activity and will in turn support local employment. Given the minor scale of the proposal, it is not considered likely to negatively impact on neighbouring and surrounding property values.

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

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

- The proposal is of a minor scale
- There are no hazardous land uses in close proximity to the site
- The proposal does not include the removal of any significant vegetation or habitats
- The proposal will not impact on the dam on the site
- The site's soil profile is suitable for the proposal and is not known to contain any valuable land resource
- The broader area of Mulgoa Valley provides sufficient facilities and services including recreational facilities

Section 79C(1)(d) Any Submissions

Community Consultation

In accordance with Appendix F4 of *Penrith Development Control Plan 2014*, the proposed development was notified to nearby and adjoining properties. Council notified six (6) properties in the immediate and surrounding area. The proposal was exhibited between 14 May and 29 May 2017. No submissions were received in response.

Referrals

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

Referral Body	Comments Received
Development Engineer	
Building Surveyor	No objections - subject to conditions
Environmental - Environmental management	No objections - subject to conditions
Environmental - Biodiversity	No objections

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

Due to the nature and scale of the proposal, in addition to the proposal being compliant with the applicable development controls, the proposed development will not generate any significant issues of public interest.

Section 94 - Developer Contributions Plans

The following Section 94 plans apply to the site:

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

The following Section 94 calculations apply to the proposed development.

Calculations for Dual Occupancy				
<i>Cultural Facilities</i>				
No. of additional units	x	Rate	Credit for existing dwelling/s	Contribution rate
2	x	3	3	3
<i>District and Local Open Space</i>				
No. of additional units	x	Rate	Credit for existing dwelling/s	Contribution rate
2	x	3.1	3.1	3.1
AMOUNT				
S.94 Contribution Plan	Contribution Rate x Calculation Rate		Total	
Cultural Facilities	3.0 x \$156.00		\$468.00	
District Open Space	3.1 x \$1,892.00		\$5,866.00	
Local Open Space	3.1 x \$684.00		\$2,120.00	
NET TOTAL			\$8,454.00	

Conclusion

In assessing this application against the relevant environmental planning policies, being *Penrith Local Environmental Plan 2010*, *Penrith Development Control Plan 2014* and *Sydney Regional Environmental Plan No. 20—Hawkesbury-Nepean River (No. 2—1997)*, the proposal satisfies the aims, objectives and provisions of these policies. The proposal does not contravene any development standards and is unlikely to have any significant impacts on the natural, social or economic environments. The site is suitable for the development and the proposal is in the public interest. Therefore, the application is worthy of support and is recommended for approval subject to conditions.

Recommendation

That DA17/0120 for alterations and additions to the existing dwelling and retrospective approval of a detached dual occupancy dwelling at 160 - 169 Park River Close, Mulgoa be approved subject to the attached conditions.

CONDITIONS

General

1 [A001](#)

The development must be implemented substantially in accordance with the following plans stamped approved by Council, the application form, the BASIX Certificate No. A273540_02 and any supporting information received with the application, except as may be amended in red on the approved plans and by the following conditions.

Drawing Title	Prepared By	Reference No.	Dated	Revision
Site Plan	Fuvis Building Design	309-02	22/02/2017	A
Site Plan (showing existing driveway)	-	-	-	-
Upper Ground Floor Plan	Fuvis Building Design	309-05	22/02/2017	A
Lower Ground Floor Plan	Fuvis Building Design	309-06	22/02/2017	A
North Elevation	Fuvis Building Design	309-07	22/02/2017	A
East & West Elevations	Fuvis Building Design	309-08	22/02/2017	A
South Elevation	Fuvis Building Design	309-09	22/02/2017	A
Section A-A	Fuvis Building Design	309-10	22/02/2017	A
Erosion & Sediment Control Plan	Fuvis Building Design	309-11	22/02/2017	A
External Material Finish	-	-	22/02/2017	-
Floor Plan (Dual Occupancy)	Balmoral Homes	-	August 2016	A
Elevations & Section a-a (Dual Occupancy)	Balmoral Homes	-	August 2016	A
Stormwater Drainage Plan	Fuvis Building Design	SW01	15/02/2017	A
Stormwater Drainage Plan	Fuvis Building Design	SW02-SW03	22/03/2017	B
Waste Management Plan	Jake Kim	-	22/02/2017	-

2 [A004 - Dust](#)

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

3 [A005 - Mud/Soil](#)

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

4 [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}.

5 [A019 - OCCUPATION CERTIFICATE \(ALWAYS APPLY\)](#)

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

6 [A041 - CONSTRUCTION IN BUSHFIRE AREAS](#)

The detached dual occupancy dwelling shall be in accordance with the provisions of the "Planning for Bushfire Protection Guidelines" (December 2006) including "Addendum: Appendix 3" and AS 3959 - 2009 'Construction of Buildings in Bushfire - Prone Areas'. In this regard, the following requirements apply:

- The detached dual occupancy dwelling is to comply with the submitted Bushfire Hazard Assessment Report, reference No. 17/0680, prepared by Bushfire Consulting Services, dated 26 June 2017;
- The detached dual occupancy dwelling is required to comply with "Addendum: Appendix 3" of "Planning for Bushfire Protection" 2006 particularly Clause A3.7;
- The detached dual occupancy dwelling is to comply with a BAL-12.5 along the eastern and southern elevation under AS 3959-2009 'Construction of Buildings in Bushfire-Prone Areas'; and
- The entire property shall continue to be managed as an Asset Protection zone.

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

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

8 [A19f - Compliance Certificate \(use instead of A019 for other devt earthworks subdivision\)](#)

The development shall not be used or occupied until the Principal Certifying Authority has issued a Compliance Certificate certifying that the development has complied fully with the development consent.

9 **A Special (BLANK)**

This consent does not include approval for the unauthorised shed on the site (located at the south-western corner of the site).

10 **A Special (BLANK)**

Prior to the issue of a Construction Certificate, a revised Site Plan showing all details of the On-Site Sewage Management System is to be prepared and submitted to Council for approval. The Site Plan is to clearly demonstrate all system components will be located to ensure no further vegetation removal is necessary. The Site Plan is to clearly and accurately identify the location of all system components including all treatment tanks, effluent disposal areas, pipelines and distribution lines and whether these lines are fixed, buried or movable. All buffer distance requirements as detailed in Penrith City Council's On-Site Sewage Management & Greywater Reuse Policy are to be clearly and accurately shown on the Site Plan.

11 **A Special (BLANK)**

Prior to the issue of an Occupation Certificate, the eastern driveway shall be decommissioned and reinstated to its natural form such as grass, re-vegetated etc.

12 **A Special (BLANK)**

Prior to the issue of an Occupation Certificate, a revised Site Plan illustrating the western driveway shall be submitted. The access driveway shall provide access to the approved dual occupancy dwelling and be less than 200m in length and connect to the existing shed. The access driveway is to comply with the relevant Australian Standard requirements and Section 4.1 and Section 4.2 of "Planning for Bushfire Protection" 2006 measures respectively.

Environmental Matters

13 **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 Landcom's publication "Managing Urban Stormwater: Soils and Construction" 2004.

14 **D002 - Spraygrass**

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

15 **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.

16 **D006 - No filling without prior approval (Use always, except for bulk earthworks/ major fill operations)**

No fill material shall be imported to the site until such time as a Validation Certificate (with a copy of any report forming the basis for the validation) for the fill material has been submitted to, considered and approved by Council. The Validation Certificate shall:

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

{Note: *Penrith 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."}

If the Principal Certifying Authority or Penrith City Council is not satisfied that suitable fill materials have been used on the site, further site investigations or remediation works may be requested. In these circumstances the works shall be carried out prior to any further approved works.

17 **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.

18 **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.

19 **D014 - Plant and equipment noise**

The operating noise level of plant and equipment shall not exceed 5dB(A) above the background noise level when measured at the boundaries of the premises. The provisions of the *Protection of the Environment Operations Act 1997* apply to the development, in terms of regulating offensive noise.

BCA Issues

20 **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).

21 **E004 - Floor wastes**

A structural engineers certificate for the previously unauthorised dwelling, for which retrospective approval has been granted under this consent, shall be submitted to Council prior to the issue of a Construction Certificate. The structural engineers certificate shall certify the structural adequacy of the footings and framework for their intended use.

22 **E005 - Smoke detectors-interconnect**

The smoke alarms shall be interconnected so that the sounding of the alarm in one detector activates the alarm in all detectors. This also relates to the existing, previously unauthorised, dwelling for which retrospective approval has been granted.

Utility Services

23 **G003 - Section 73 Certificate for single rural dwellings & dual occs only**

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 before an Occupation Certificate is issued for the development.

Construction

24 H001 - Stamped plans and erection of site notice

Stamped plans, specifications, a copy of the development consent, the Construction Certificate and any other Certificates to be relied upon shall be available on site at all times during construction.

The following details are to be displayed in a maximum of 2 signs to be erected on the site:

- the name of the Principal Certifying Authority, their address and telephone number,
- the name of the person in charge of the work site and telephone number at which that person may be contacted during work hours,
- that unauthorised entry to the work site is prohibited,
- the designated waste storage area must be covered when the site is unattended, and
- all sediment and erosion control measures shall be fully maintained until completion of the construction phase.

Signage but no more than 2 signs stating the above details are to be erected:

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

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

25 H002 - All forms of construction

Prior to the commencement of construction works:

(a) Toilet facilities at or in the vicinity of the work site shall be provided at the rate of one toilet for every 20 persons or part of 20 persons employed at the site. Each toilet provided must be:

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

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

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

- must preserve and protect the building from damage, and
- if necessary, must underpin and support the building in an approved manner, and
- must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished. The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this condition, whether carried out on the allotment of land being excavated or on the adjoining allotment of land (includes a public road and any other public place).

(d) If the work involved in the erection or demolition of a building is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or involves the enclosure of a public place, a hoarding or fence must be erected between the work site and the public place:

- if necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place,
- the work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place, and
- any such hoarding, fence or awning is to be removed when the work has been completed.

26 H041 - Hours of work (other devt)

Construction works that are carried out in accordance with an approved consent that involve the use of heavy vehicles, heavy machinery and other equipment likely to cause offence to adjoining properties shall be restricted to the following hours in accordance with the NSW Environment Protection Authority Noise Control Guidelines:

- Mondays to Fridays, 7am to 6pm
- Saturdays, 7am to 1pm if inaudible on neighbouring residential premises, otherwise 8am to 1pm
- No work is permitted on Sundays and Public Holidays.

Other construction works carried out inside a building/tenancy that do not involve the use of equipment that emits noise are not restricted to the construction hours stated above.

The provisions of the *Protection of the Environment Operations Act 1997* in regulating offensive noise also apply to all construction works.

Engineering

27 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.

28 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 a 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.

29 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 and approved by Penrith City Council (being the Roads Authority for any works required in a public road). These works may include but are not limited to the following:

- a) Vehicular crossings (including kerb reinstatement of redundant vehicular crossings)
- b) Road opening for utilities and stormwater (including stormwater connection to Penrith City Council roads and other Penrith City Council owned drainage)
- c) The western access driveway shall be upgraded to comply with Section C10 Transport, Access and Parking of *Penrith Development Control Plan 2014* and Section 4.1 and Section 4.2 of the NSW RFS's Planning for Bush Fire Protection Measures
- d) The eastern driveway shall be decommissioned and reinstated to its natural form

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 or Subdivision Certificate as applicable.

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

Stormwater drainage from the site shall be discharged to:

- a) Existing site drainage system

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

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

31 **K Special Condition BLANK**

Prior to the issue of an Occupation Certificate, a two (2) coat seal driveway shall be constructed which extends from the existing driveway to the proposed dual occupancy dwelling.

32 **K Special Condition BLANK**

Prior to the issue of an Occupation Certificate, the existing western most driveway shall have its shoulders sealed.

Landscaping

33 **L008 - Tree Preservation Order**

No trees are to be removed, ringbarked, cut, topped or lopped or wilfully destroyed without the prior consent of Penrith City Council and in accordance with Council's Tree Preservation Order and Policy.

34 **L012 - Existing landscaping (for existing development)**

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

Development Contributions

35 **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, \$468.00 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.

36 **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, \$5,866.00 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.

37 **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, \$2,120.00 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

38 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*.

39 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

40 R101 - Operational Approval prior to use

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

- "Environmental and Health Protection Guidelines On-Site Sewage Management for Single Households"
- Australian Standards AS 1547:2012,
- Council's On-Site Sewage Management and Greywater Reuse Policy,
- The amended effluent management area plan prepared by Five Star Services dated 29/06/2017.
- The On-Site Wastewater Report (prepared by Harris Environmental Consulting, dated 1 Nov 2016, ref-2078ww), and
- The conditions of this consent.

Prior to the issue of the 'Approval to Operate', a Commissioning Certificate for the OSSM system shall be provided to Penrith City Council for approval. This Certificate shall certify that the aerated wastewater treatment system (AWTS) has been installed and is operating in accordance with the conditions of its NSW Health accreditation documentation.

Prior to the issue of an Occupation Certificate and before the OSSM system can be used, an 'Approval to Operate' for the OSSM system is to be sought from and issued by Penrith City Council.

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

All wastewater generated on the site is to be diverted to the existing aerated wastewater treatment systems for each dwelling and be disposed of by way of fixed surface irrigation in the approved effluent management areas. The effluent management areas are to be located in accordance with the amended Effluent Management Area Plan prepared by Five Star Services (dated 29/06/2017) and have a minimum area of 833m² for the primary dwelling and an area of 334m² for the detached dual occupancy dwelling.

The system is to be utilised for a five (5) bedroom dwelling and one (1) bedroom dual occupancy dwelling or a total daily wastewater load of 840 litres in accordance with the floor plans (prepared by Fuvis Building Design, 22 February 2017 & Balmoral Homes, August 2016). Any dwelling approval on the site greater than this may require a new wastewater report for Council's consideration.

42 [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 (OSSM) System. **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.

43 [R104 - No alterations without approval](#)

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

44 [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.

45 [R106 - AWTS - Design of Irrigation System](#)

The design of the irrigation system for the effluent management area 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 cannot 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.**

46 [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.

47 [R109 - No effluent runoff](#)

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

48 [R110 - EMA Signage](#)

A minimum of two (2) 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.

49 [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,
- all pumps and switches,
- the air blower, fan or air venturi,
- the alarm system,
- the effluent disposal area and irrigation spray outlets 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.

50 [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.

51 [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.

52 [R116 - Diversion of stormwater](#)

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

53 [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.

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

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

55 [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.

56 [R126 - Testing of effluent output](#)

Annual testing of effluent output is to occur for the following parameters:

- Total Nitrogen
- Total Phosphorus
- Faecal Coliforms
- Biochemical Oxygen Demand
- Total Suspended Solids

Effluent is to be sampled by a suitably qualified person and tested at a NATA accredited laboratory. The test results are to be provided to Council within 21 days of their receipt by the owner/operator. Testing is to occur at the stage of commissioning the system and every 12 months thereafter from the date of commissioning.

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

Prior to the issue of a Construction Certificate, the system specifications for the aerated wastewater treatment system servicing the primary dwelling are to be submitted to Council for approval. If Council is not the certifying authority, a copy of Council's written approval is to be provided to the Private Certifying Authority.

58 [R Special Disconnection of shed from OSSM system](#)

Prior to the issue of an Occupation Certificate, the approved shed approved (DA09/0859) is to be disconnected from the on-site sewage management system which services the detached dual occupancy dwelling. Documentation is to be provided to Penrith City Council from a licensed plumber who carried out the works, which certifies that the shed has been disconnected from the on-site sewage management system and all associated infrastructure have been removed.

59 [R Special Stormwater Management Plan for Dual Occupancy Dwelling](#)

Prior to the issue of a Construction Certificate, a stormwater management plan for the detached dual occupancy dwelling is to be provided to Penrith Council for approval. The stormwater management plan is to satisfactorily demonstrate the disposal of stormwater overflows created from the detached dual occupancy dwelling. At no time is stormwater to be diverted towards the on-site sewage management systems.

Appendix - Development Control Plan Compliance

Development Control Plan 2014

Part B - DCP Principles

The proposal reflects traditional housing in the locality and the floor plan layout permits mobility for residents of all ages. The minor works do not raise any concerns regarding any adverse impacts on biodiversity or ecosystems or cultural values or heritage items. The issues in relation to the stormwater and wastewater systems are addressed by suitable conditions. The proposal is considered a sustainable land use and therefore satisfies the DCP principles.

Part C - City-wide Controls

C2 Vegetation Management

C2.1. Preservation of Trees and Vegetation

The proposal includes an on-site sewage management (OSSM) system. This raised concerns regarding potential impacts on flora and fauna given that the effluent disposal area (EDA) is overlaid upon trees and vegetation. However, Council's Biodiversity Officer's site inspection on 13 June 2017 noted that no native vegetation is to be removed as part of the proposal and although the EDA will encroach into the drip line of two (2) mature eucalyptus trees, this can be managed appropriately and is acceptable in this case.

C2.3. Bushfire Management

The site is identified as being bushfire prone land. The submitted bushfire hazard assessment rates the existing dwelling as BAL-LOW as there is no classified vegetation within a 100m radius. The detached dual occupancy dwelling contains managed land >100m to the north and west, and managed land for 84m then forest to the east (5° - 10° slope) and managed land for 65m then forest to the south (0° slope), and therefore requires a construction level of BAL-12.5 along the eastern and southern elevation. Additionally, the entire property is to be managed as an Asset Protection zone and the existing driveway along the western side boundary shall be extended to connect to the proposed dual occupancy dwelling and existing shed. Conditions are recommended to ensure that the access driveway is compliant with "Planning for Bushfire Protection" 2006. Furthermore, the submitted Bushfire Hazard Assessment Report, reference No. 17/0680, prepared by Bushfire Consulting Services, dated 26 June 2017 noted that it is unlikely that the site contains any significant environmental features or threatened species or Aboriginal places or items.

C3 Water Management

C3.6. Stormwater Management and Drainage

The proposal has an existing stormwater drainage system. Connections to the existing stormwater pipe will provide adequate drainage. However, it is recommended via a condition to provide a stormwater plan for the detached dual occupancy dwelling to ensure that stormwater discharge will not adversely impact on the OSSM system. In addition, the existing rural shed is to be disconnected from the OSSM system.

C4 Land Management

Council noted that there has recently been unauthorised filling of the dam on the site. Although the fill is only partial, this resulted in non-compliance with the 40m minimum buffer distance from the EDA for the proposed dual occupancy dwelling. The proposed EDA has been relocated to the north-western boundary and the unauthorised fill is to be investigated by Council's Compliance Department via DC16/0933.

C10 Transport, Access and Parking

C10.5.2. Access and Driveways

Initially, it was recommended to decommission the existing driveway along the western side boundary as it traversed the proposed EDA for the existing dwelling. However, this driveway will be connected to the proposed dual occupancy dwelling and existing shed without affecting the EDA. Conditions are recommended to seal the extension of the existing driveway and ensure that "Planning for Bushfire Protection" 2006 requirements are satisfied.

C13 Infrastructure and Services

C13.3. On-Site Sewage Management

Due to the authorised filling of the dam on the site, the EDA for the proposed dual occupancy dwelling has been amended to a sub-surface irrigation system and relocated to the north-western boundary to ensure minimum buffer distances are satisfied. The EDA is located adjacent to the existing dwelling and is distant from the proposed dual occupancy dwelling. However, in consideration of the constraints of the site due to existing structures, vegetation and the dam on-site, this is the most appropriate siting. In addition, conditions are recommended to ensure that the existing commercial OSSM system is compliant with Council's On-Site Sewage Management and Greywater Reuse Policy and the requirements of NSW Health.

D1 Rural Land Uses

D1 Rural Land Uses

D1.2. Rural Dwellings and Outbuildings

D1.2.3 Site Coverage, Bulk and Massing

The proposal will result in a total ground footprint of approximately 516.41m² (existing dwelling 325.61m²; additional 76.51m²; detached dual occupancy 64.29m²; and detached dual occupancy and rural shed's covered parking spaces 50m²). Although this exceeds the maximum ground floor footprint of 500m² permissible on the site, the additional floor space and dual occupancy are distant from the streetscape and is of a minor scale.

The total ground floor print including the rural shed (107.88m²) is 624.29m² for the site. Although this is non-compliant with the maximum ground floor footprint of 600m² permitted on any one allotment, the proposal is considered to be compatible with the surrounding landscape and character of the locality and is acceptable in this case.

In addition, the withdrawn development application DA16/0958 revealed that the approved rural shed (DA09/0859) was being used as a habitable room. However, a site inspection on 21 June 2017 noted that this rural shed is no longer being used as a habitable room and the kitchen sink has been decommissioned. Furthermore, the unauthorised rural shed on the site is under investigation via DC16/0933.

D1.2.4 Height, Scale and Design

The proposal requires considerable cut works (approximately 1m) for the additional family room on the lower ground floor. However, the finished floor level (FFL) will be level with the adjoining rumpus room which will ensure that design and scale of the proposal is appropriate.

D1.2.5. Dual Occupancy Dwellings

The retrospective approval for the detached dual occupancy dwelling is of a minor scale given that it contains one (1) bedroom only and has a ground floor area of 64.29m². The siting of the detached dual occupancy dwelling is distant (155m) from the street. In addition, the adjacent rural shed contains one (1) carport to satisfy the requirement of a covered on-site car parking space.

E9 Mulgoa Valley

E9.1.2 Siting

The proposed alterations and additions to the existing dwelling will be of low visibility from the streetscape and the existing dual occupancy has a 155m front setback. This will ensure that the proposal will have minimal impacts on the landscape in the locality.

E9.1.3 Building Form, Materials and Colours

The proposal incorporates matching materials and shades of grey with a manor red gutter and a deep ocean roof. Given the neutral colours and compatibility with the housing stock within the Mulgoa Valley, the proposal conserves the character of the locality.

E9.1.5 Access, Parking and Services

The existing access driveway along the western side boundary shall be extended to the proposed dual occupancy dwelling and existing shed. Conditions are recommended to construct a two (2) coat seal driveway and seal the shoulders of the driveway entrance. This will ensure the driveway is suitable for use and does not result in aggregates onto the public road.