

PENRITH CITY COUNCIL

MAJOR ASSESSMENT REPORT

Application number:	DA16/0738
Proposed development:	Dwelling House & On-Site Sewage Management System
Property address:	106 - 118 Mayfair Road, MULGOA NSW 2745
Property description:	Lot 1 DP 260373
Date received:	19 July 2016
Assessing officer	Wendy Connell
Zoning:	E2 Environmental Conservation - LEP 2010 E3 Environmental Management - LEP 2010
Class of building:	Class 1a , Class 10a
Recommendations:	Approve

Executive Summary

Council is in receipt of a development application for a single storey dwelling with attached garage and an on-site sewage management system at 106-118 Mayfair Road, Mulgoa. Under Penrith Local Environmental Plan (LEP), the proposal is defined as a dwelling house. The subject site is zoned part E2 Environmental Conservation and part E3 Environmental Management and the proposal is a permissible land use in the E3 zone with Council consent.

The key issues identified for the proposed development include its relationship to Biobanking Agreement No.112, impacts on vegetation outside of the Biobanking area, bushfire assessment and ensuring a site responsive design.

The application has been notified to nearby and adjoining properties and exhibited between 8 August and 22 August 2016. One submission was received in response.

The application was referred to the Rural Fire Service (RFS) in accordance with Section 79BA of the Environmental Planning and Assessment Act 1979. The RFS provided recommended conditions of consent which will be applied to the proposal.

An assessment 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 (the site) is within the Fernhill Estate (the Estate) which comprises of a State significant heritage item and is characterised predominantly as having a rural landscape with creek flats, gentle sloping agricultural land, wooded hills and escarpment areas.

The site is situated in the northern precinct of the Estate and has frontage to Mayfair Road. It is approximately 10.11ha in size and the majority of the site is covered by a Biobanking Agreement with the State Government (Biobanking Agreement ID Number 112). The site is heavily vegetated and identified as Bushfire Prone land as per the NSW Rural Fire Service's mapping. It is constrained by a 30.48m easement for transmission.

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

Proposal

The proposed development comprises of a single storey dwelling with attached garage and an on-site sewage management system.

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

Planning Assessment

- **Section 5A - Threatened Species assessment**

The proposed development warrants assessment under Section 5A of the EP&A Act 1979 as:

- The site contains vegetation;
- The site is subject to Biobanking Agreement 112 and contains threatened species, populations or ecological communities, or their habitats.

An Ecological Assessment prepared by GHD dated July 2015 provides the following assessment:

- Figure 2 of the GHD report shows the development footprint. This forms the area assessed as being directly impacted by the proposal and comprises the indicative dwelling footprint, required APZ, conserved area and any other vegetation removal.
- The GHD report identifies Moist Shale Woodland EEC listed under the NSW Threatened Species Conservation Act and Critically Endangered under the Commonwealth EPBC Act and Shale/Sandstone Transitional Forest EEC within the lot and building envelope. These vegetation communities are continuous with the Fernhill East Biobanking site.
- Figure 2 of the GHD report identifies a vegetation conservation zone outside of the Biobanking area.
- A number of noxious weeds have been identified as occurring at the site by GHD (Sect 4.2.3) including Blackberry, African Olive, Privet, Lantana and Bridal Creeper

The GHD report has identified a number actions/mitigation measures to be undertaken prior to construction to avoid impacts to threatened species. All noxious weeds are to be managed and controlled.

In assessing this report against the relevant legislation, the development is unlikely to have a significant effect on threatened species, populations or ecological communities, or their habitats.

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

The development has been assessed in accordance with the matters for consideration under Section 79BA (Consultation and development consent—certain bush fire prone land) of the Environmental Planning and Assessment Act 1979.

The application was supported by a Bushfire Assessment report from GHD, dated July 2015. The application was referred to the RFS. The RFS classified the site's vegetation as 'Forest' with a slope of 10-15 degrees, and therefore the following conditions apply:

- At the commencement of building works and in perpetuity, the property around the dwelling must be maintained to ensure a defensible space is available for firefighting purposes to a distance of 39 metres. The distance shall be maintained as an inner protection zone (IPZ) as outlined within Section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for Asset Protection Zones'.
- New construction on the eastern, western and southern elevations, and roof shall comply with Sections 3 and 8 (BAL 40) of AS 3959-2009 'Construction of buildings in bushfire-prone areas' and Section A3.7, Addendum Appendix 3 of 'Planning for Bushfire Protection'.
- New construction on the northern elevation shall comply with Sections 3 and 8 (BAL 29) of AS 3959-2009 'Construction of buildings in bushfire-prone areas' and Section A3.7, Addendum Appendix 3 of 'Planning for Bushfire Protection'.

- **Section 79C - Evaluation**

The 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

State Environmental Planning Policy No 55—Remediation of Land

An assessment has been undertaken of the site against relevant criteria within State Environmental Planning Policy No. 55—Remediation of Land and the site is satisfactory. There are no known historical land uses of the site that would result in possible contaminating activities or preclude the site from the proposed residential development.

Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

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

Local Environmental Plan 2010 (Amendment 4)

Provision	Compliance
Clause 2.3 Permissibility	Complies
Clause 2.3 Zone objectives	Complies
Clause 5.10 Heritage conservation	Complies - See discussion
Clause 7.5 Protection of scenic character and landscape values	Complies
Clause 7.18 Mulgoa valley	Complies

Clause 5.10 Heritage conservation

The site is identified in Schedule 5 of Penrith LEP 2010 as having local heritage significance due to the curtilage it has to the State significant heritage item of the Fernhill Estate. The proposed development is a significant distance from the heritage item of Fernhill and separated by a large amount of biobanked land on both this site and the Fernhill Estate site. There will be minimal visual impact to and from the State significant heritage item.

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

There are no draft environmental planning instruments that apply to the proposal.

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

Development Control Plan 2014

Provision	Compliance
C1 Site Planning and Design Principles	Complies
C2 Vegetation Management	Complies
C3 Water Management	Complies
C4 Land Management	Complies
C5 Waste Management	Complies
C6 Landscape Design	Complies
C7 Culture and Heritage	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	Complies
D1.3. Farm buildings	N/A
D1.4 Agricultural Development	N/A
D1.5. Non-Agricultural Development	Complies
E9 Mulgoa Valley controls	Does not comply - see Appendix - Development Control Plan Compliance

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

There are no planning agreements applying to this proposal.

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

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

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

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

Site design

The site is constrained by Biobanking Agreement No.112 and therefore has limited developable area. The developable part of the site is also constrained by slope and vegetation.

During assessment, design changes were requested so the proposed dwelling responded to site constraints. This resulted in the dwelling minimising cut and fill, and conditions have been applied to manage and conserve vegetation outside of the required APZ.

Visual impact

The proposed dwelling will have minimal visual impact on the heritage item in the Fernhill Estate. The proposed development is a significant distance from the heritage item within the Fernhill Estate, and is separated by a large amount of biobanked vegetation. There will be minimal visual impact to the State significant heritage item.

Although the front setback is reduced to 15m, the single storey nature of the dwelling will reduce visual impacts on the streetscape of Mayfair Road. As this dwelling application was submitted along with 3 adjoining lots, design changes were requested to ensure each site had an individual design/appearance. This was to ensure the streetscape was not dominated by a repetitive dwelling design.

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

The site is suitable for the following reasons:

- The site is zoned to permit the proposed use
- The use is compatible with surrounding/adjoining land uses
- The design proposed is site suitable, having minimised any cut/fill and vegetation removal

Section 79C(1)(d) Any Submissions

Community Consultation

In accordance with Clause 4.4 of Appendix F4 of Penrith Development Control Plan 2014, the proposed development was notified to nearby and adjoining residents.

Council notified 11 residences in the area and the Mulgoa Progress Association. The exhibition period was between 8 August and 22 August 2016. Council received 1 submission in response.

Submissions

The following issues were raised in the submission received and have formed part of the assessment.

<i>Issue Raised</i>	<i>Comments</i>
<i>Repetitive appearance of dwelling on this site and the 3 adjoining sites</i>	<i>During assessment, design changes occurred at the request of Council to ensure individuality between dwellings for the four sites along Mayfair Road. Satisfactory changes have been made for the proposed dwellings on Lot 3 and Lot 4 and conditions will be applied to the approvals for Lots 1 and 2 to ensure a suitable design outcome.</i>
<i>Front setback</i>	<i>The site is affected by Biobanking Agreement 112 which has reduced the developable depth of the site. The property owners sought advice from Council in January 2015 regarding the opportunity to development this site and agreement was reached to allow a reduction in the front setback control to 15m. The proposal complies with this setback control.</i>

A written response was sent to the submitter on 13/04/17 advising of the consideration given to their concerns.

Referrals

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

Referral Body	Comments Received
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

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

Conclusion

In assessing this application against the relevant environmental planning policies, being Penrith Local Environmental Plan 2010, Penrith Development Control Plan 2014 and Penrith City Council's On-Site Sewage Management and Greywater Reuse Policy, the proposal satisfies the aims, objectives and provisions of these policies.

The site is suitable for the proposed development, the proposal is in the public interest, and there is unlikely to be negative impacts arising from the proposed development.

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

Recommendation

1. That DA16/0738 for a dwelling and on-site sewage management system at 106-118 Mayfair Road, Mulgoa, be approved subject to the attached conditions.

General

1 A001

The development must be implemented substantially in accordance with the plans numbered 004-16/DA (Issue B), drawn by Brighton Designs, dated 28 February 2017, and stamped approved by Council, the application form, BASIX Certificate No. 728354S and any supporting information received with the application, except as may be amended in red on the approved plans and by the following conditions.

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

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

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

3 A019 - OCCUPATION CERTIFICATE (ALWAYS APPLY)

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

4 A041 - CONSTRUCTION IN BUSHFIRE AREAS (AMENDED)

The dwelling shall be constructed in accordance with the provisions of '*Planning for Bushfire Protection*' December 2006, and AS 3959-2009 'Construction of buildings in bushfire-prone areas'. In this regard, the development is to comply with the following requirements:

(a) Asset Protection Zone

At the commencement of building works and in perpetuity, the property around the dwelling must be maintained to ensure a defensible space is available for firefighting purposes to a distance of 39 metres. The distance shall be maintained as an inner protection (IPZ) as outlined within Section 4.1.3 and Appendix 5 of '*Planning for Bush Fire Protection 2006*' and the NSW Rural Fire Service's document '*Standards for Asset Protection Zones*'.

(b) Water and Utilities

A 20,000 litre water supply shall be provided for fire fighting purposes.

(c) Design and Construction

- New construction on the western, eastern and southern elevations, and roof shall comply with Sections 3 and 8 (BAL 40) of AS 3959-2009 'Construction of buildings in bushfire-prone areas' and Section A3.7, Addendum Appendix 3 of '*Planning for Bushfire Protection*'.
- New construction on the northern elevation shall comply with Sections 3 and 8 (BAL 29) of AS 3959-2009 'Construction of buildings in bushfire-prone areas' and Section A3.7, Addendum Appendix 3 of '*Planning for Bushfire Protection*'.

(d) Landscaping

Landscaping of the site is to comply with the principles of Appendix 5 of '*Planning for Bush Fire Protection 2006*'.

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

An Asset Protection Zone for protection from bushfire shall be provided and maintained as an Inner Protection Area in accordance with the requirements of the RFS as follows:

- i. An Inner Protection Area of 39m shall be provided and maintained for the term of the development.
- ii. The Inner Protection Area (IPA) shall be maintained as follows:
 - A tree canopy cover of less than 15% is to be established and maintained and the tree canopy should be located greater than 2.0 metres from any part of the roof line of a dwelling. Excessive tree removal is not to be undertaken.
 - Garden beds of flammable shrubs should not be located under trees and should be located not closer than 10 metres from an exposed window or door.
 - Trees should have lower limbs removed up to a height of 2.0 metres above the ground. Ground fuels such as fallen leaves, twigs (less than 6mm in diameter) and branches should be removed on a regular basis, and grass needs to be kept closely mown and where possible green.
 - No future landscaping features, planting of shrubs, trees or other vegetation shall occur in such a manner as to compromise the integrity of the asset protection zone.

When selecting plants for removal, the following basic rules should be followed:

- (a) The removal of significant native species is to be avoided. Where possible, threatened species should not be removed to create the APZ.
- (b) Remove noxious and environmental weeds first.
- (c) Remove more flammable species such as those with rough, flaky or stringy bark.
- (d) Trees should be retained where possible.

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

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

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

Prior to the issue of a Construction Certificate, the Principal Certifying Authority must ensure that window treatments and the roof line have a design which is distinguishable from the dwellings approved on adjacent sites (Lot 2 DP 260373, Lot 3 DP 260373 and Lot 4 DP 260373).

8 [A special BLANK](#)

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

Heritage/Archaeological relics

9 [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

10 [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.

11 [D002 - Spraygrass](#)

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

12 [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.

13 **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.

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

All waste materials stored on-site are to be contained within a designated area such as a waste bay or bin to ensure that no waste materials are allowed to enter the stormwater system or neighbouring properties. The designated waste storage areas shall provide at least two waste bays / bins so as to allow for the separation of wastes, and are to be fully enclosed when the site is unattended.

15 **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.

16 **D Special - fencing of construction and development activities**

The areas outside of the nominated development footprint are to be fenced for the duration of construction activities. The exclusion fences are to be clearly signposted as 'no-go' areas. No spoil or construction materials or the parking of vehicles or machinery is to occur within the exclusion areas.

17 **D Special - Pre-clearance survey**

Prior to construction commencing, a pre-clearance survey is to be undertaken by a qualified ecologist as per the recommendations (Section 6 Mitigation Measures) within GHD's *Mayfair Road Ecological Assessment* dated July 2015.

18 **D Special - Weed control and Weed Management Plan**

All noxious and environmental weeds are to be controlled on an ongoing basis. A Weed Management Plan is to be prepared and provided to Council for approval before a Construction Certificate is issued.

The Weed Management Plan is to be prepared by an Ecological Consultant or Bush Regenerator with theoretical and practical experience in bushland restoration and management on the Cumberland Plain. A Certificate IV in Conservation and Land Management is required as a minimum. All activities on site are to be implemented and carried out in accordance with the plan.

19 **D Special BLANK**

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

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).

Health Matters and OSSM installations

21 **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

22 **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 the dwelling can be occupied and prior to the issue of an Occupation Certificate.

Construction

23 **H001 - Stamped plans and erection of site notice**

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

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

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

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

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

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

24 **H002 - All forms of construction**

Prior to the commencement of construction works:

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

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

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

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

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

25 **H036 - Rainwater Tank (Also impose H037, H038, H039, G005 & Q010)**

The rainwater tank(s) is to be:

- In-ground tank to be installed. However should part of the tank be out of the ground due to the slope of the land then the exposed sides is to be suitably landscaped so it is not visible from the street. The tank shall be located in the approved location on the property in accordance with the stamped-approved site plans for the development,
- structurally sound and constructed in accordance with AS/NZS 3500 1.2- 1998: National Plumbing and Drainage - Water Supply - Acceptable Solutions,
- fully enclosed and all openings sealed to prevent access by mosquitoes,
- fitted with a first flush device,
- fitted with a trickle system to top up from mains water,
- provided with an air gap, and
- installed by a licensed plumber in accordance with Sydney Water's "Plumbing requirements Information for rainwater tank suppliers and plumbers April 2003" and the NSW Code of Practice: Plumbing and Drainage.

Additionally, the following are to be provided:

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

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

- the Manufacturer's Specifications, and
- Sydney Water and NSW Health requirements.

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

26 **H037 - Safe supply of water from catchment areas (Also impose H036, H038 & H039)**

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

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

27 **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 where mains water is available.

Where mains water is not available the water supply shall comply with the NSW Department of Health requirements including the publication *Guidance on use of rainwater tanks*.

28 **H039 - Rainwater tank pumps (Also impose H036, H037 & H038)**

The rainwater tank 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.

29 **H041 - Hours of work (other devt)**

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

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

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

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

30 **H Special (BLANK)**

The roof of the dwelling is to be a dull, non-reflective surface and colour. The external finishes and colours of the dwelling are to be in accordance with the approved schedule of external building materials or selected in accordance with Penrith Development Control Plan 2014, Part E9 Mulgoa Valley, Clause 9.1.3 to complement and blend with the established streetscape and rural-residential character.

Engineering

31 **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.

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

Prior to the issue of a Construction Certificate, a 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) Opening of the road reserve for the provision of services including stormwater
- c) The placement of hoardings, structures, containers, waster skips, signs, etc in the road reserve

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 Design Guidelines and Construction Specifications for Civil Works.

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

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

Stormwater drainage from the site shall be discharged to 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.

34 **K Special (BLANK)**

The driveway for the dwelling shall be constructed of compacted gravel, or paved, or sealed in a dark coloured material.

35 **K Special (BLANK)**

All land required for vehicular access within the site is to be suitably stabilised.

36 **K Special (BLANK)**

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

Landscaping

37 **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. Tree protection measures are to be implemented as outlined in the Australian Standard AS 4970-2009 'Protection of trees on development sites'.

38 **L007 - Tree protection measures—no TMP with DA**

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 prescribed Penrith Development Control Plan 2014.

39 **L008 - Tree Preservation Order**

No native trees or other vegetation (including shrubs and other understory vegetation) are to be removed, ringbarked, cut, topped, lopped, slashed or wilfully destroyed (other than those shown on the approved plans) without the prior consent of Penrith City Council and in accordance with Council's Tree Preservation Order and Policy.

40 **L Special (BLANK)**

Only local native species are to be used in all landscaping activities. Species are to be native to the following vegetation communities:

- Cumberland Plain Woodland
- Shale Sandstone Transition Forest
- Moist Shale Woodland

Certification

41 **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.

42 **Q05F - Occupation Certificate for Class 10**

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 dwelling.

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

43 **R101 - Operational Approval prior to use**

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

- The “Environmental and Health Protection Guidelines for on Site Sewage Management for Single Households”,
- Australian Standard 1547:2012,
- Council’s On-Site Sewage Management and Greywater Reuse Policy,
- Current (at the time of installation) NSW Health Accreditation documentation,
- The Wastewater Report prepared by Harris Environmental Consulting, dated 5/7/16, ref. 1908ww,
- The Effluent Management Area Plan prepared by Harris Environmental Consulting, dated 5/7/16, ref. 1908ww, 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.

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

All wastewater generated on the site is to be diverted to an Ultra Clear AWTS and be disposed of by way of sub surface irrigation in the approved effluent management area. The effluent management area is to be located in accordance with the stamped approved Effluent Management Area Plan prepared by Harris Environmental Consulting, dated 5/7/16 ref. 1908ww and have a minimum area of 556m².

The system is to be utilised for a 4 bedroom dwelling or daily wastewater load of 600 litres in accordance with the Wastewater Report prepared by Harris Environmental Consulting, dated 5/7/16, ref. 1908ww. Any dwelling on the site greater than this may require a new wastewater report for Council’s consideration.

45 **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.

46 **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.

47 **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.

48 **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 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.**
- Sited so as not to contaminate the natural watercourse that traverses the subject property.

49 [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,

Sub surface -

- **sub-surface drip irrigation lines are also to be installed in accordance with AS 1547:2012 and are to evenly distribute treated effluent over the designated disposal area, and**
- **all subsurface drip irrigation is to be buried within a minimum of 250mm of topsoil in accordance with AS 1547:2012. Mulch is not to be used as part of the minimum top soil requirement.**

50 [R109 - No effluent runoff](#)

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

51 [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.

52 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 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.

53 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.

54 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.

55 R116 - Diversion of stormwater

All stormwater and seepage shall be diverted away from the septic tank and the disposal area by using an agricultural drain or earthen bund and dish drain.

56 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.

57 R118 - EMA protected from stock damage

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

58 [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.

Appendix - Development Control Plan Compliance

Development Control Plan 2014

E9 Mulgoa Valley

Clause	Not Applicable	Complies	Does Not Comply	Comments
9.1. Siting and Built Form controls	☒	☐	☐	
9.1.1. Heritage Items and Vistas	☐	☒	☐	
9.1.2. Siting	☐	☐	☒	The Mulgoa Valley controls require a 30m setback to a public road. However due to the site being constrained by Biobanking Agreement 112, prior agreement was reached between Council and the land owner (see letter dated 29 January 2015 reference ECM ID 6387378) to allow the rural lands control of a 15m setback to apply to this site.
9.1.3. Building Form, Materials and Colours	☐	☒	☐	
9.1.4. Planting	☐	☒	☐	
9.1.5. Access, Parking and Services	☐	☒	☐	
9.1.6. Fences and Entrances	☐	☒	☐	
9.1.7. Signage	☒	☐	☐	
9.2. Other Controls	☒	☐	☐	
9.2.1. Mulgoa Road	☒	☐	☐	