

PENRITH LOCAL PLANNING PANEL

DETERMINATION AND STATEMENT OF REASONS

APPLICATION NUMBER	DA24/0394
DATE OF DETERMINATION	13 November 2024
PANEL MEMBERS	Stephen Alchin (Chair) Clare Swan (Expert) Patrick Hurley (Expert) Vanessa Howe (Community Representative)
DECLARATIONS OF INTEREST	No conflicts of interest were declared
COUNCIL ATTENDEES	Alexandra Pearce – Council Development Assessment Planner (Online) Robert Craig – Council Principal Planner (Online) Katelyn Davies – Council Panel Management Support Officer (Online) Gavin Cherry – Council Development Assessment Coordinator (Online)

An Electronic Determination Meeting held online via video conference on Wednesday, 13th November 2024, starting at 9.00am.

Matter Determined pursuant to Section 4.16 of the Environmental Planning and Assessment Act 1979

DA24/0394, Construction of Single Storey Dwelling to Form Detached Dual Occupancy at nos. 2497–2507 The Northern Road, Mulgoa, NSW, 2745.

Panel Consideration

The Panel had regard to the assessment report prepared by Council staff, supporting plans and information, and the following environmental planning instruments and policies:

- State Environmental Planning Policy (Biodiversity & Conservation) 2021
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

- State Environmental Planning Policy (Resilience & Hazards) 2021
- Penrith Local Environmental Plan 2010
- Penrith Development Control Plan 2014

The Panel also considered the applicant's Clause 4.6 request to vary the development standard relating to minimum lot size as outlined within Clause 7.10 of the PLEP 2010. The Panel was satisfied that:

- i) The applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and
- ii) The proposed development will be in the public interest because it is consistent with the objectives of the particular standard in that effluent management is suitably managed and the development provides for housing opportunities within the local government area.

Council staff outlined a verbal and written concern raised by the applicant regarding Condition No. 7 relating to the imposition of a positive covenant for the management of a required asset protection zone. The Panel noted the applicant's concerns raised regarding Condition No. 7. However, the Panel agreed with the recommendation of the assessment report and the imposition of a positive covenant to ensure that the required APZ is managed and maintained in perpetuity in accordance with the requirements of Planning for Bushfire Protection 2019.

The Panel also considered the Biodiversity Values Map as it related to the subject site and considered that there was not a requirement for a BDAR assessment. This is in addition to Council's Senior Biodiversity Officer also reviewing this aspect and raising no concerns with the subject proposal.

In terms of considering community views, the Panel noted there were zero (0) submissions received in response to the public notification of the Development Application. There were also no registered speakers at the electronic meeting.

Panel Decision

In accordance with Section 4.16 of the Environmental Planning and Assessment Act 1979, DA24/0394, Construction of Single Storey Dwelling to Form Detached Dual Occupancy at nos. 2497-2507 The Northern Road, Mulgoa, NSW, 2745 be approved subject to the recommended conditions of consent accompanying the assessment report as well as the following:

- Consolidation of conditions No. 6 and No. 7 and amendment to capture all recommendations and requirements in the Bushfire Hazard Assessment Report by Bushfire Consultancy Australia dated 11 April 2024.




- Addition of a new condition requiring an amended roof colour (lighter colour) prior to the issue of a construction certificate.
- Amendment of Condition 39 to delete reference to "outside of the bushfire asset protection zone and".

Reasons for the Decision

- The Panel agreed with the assessment of the proposal outlined within the Council's assessment report.
- Appropriate conditions (as amended above) have been imposed to ensure the proposed development and associated works will have minimal environmental impacts and the site is suitable for the proposed development.
- The proposal presents a development outcome which is suitable, having regard to the built form character of the locality.
- The proposal is suitable having regard to the objectives of the Penrith Development Control Plan 2014, and where variations are proposed, they are considered suitable as outlined within Council's assessment report.
- The Panel considered the potential need for a condition dealing with unexpected finds but agreed that in this case such a condition was unnecessary.
- The Panel considered the Applicant's written Clause 4.6 request to vary a development standard and agreed that that compliance with the minimum lots size standard (under PLEP 2010 clause 7.10) is unreasonable and unnecessary in the circumstances, and that there are sufficient environmental planning grounds to justify the contravention of the lot size development standard.

Votes

The decision was unanimous.

<p>Stephen Alchin (Chair)</p> 	<p>Clare Swan (Expert)</p> 
<p>Patrick Hurley (Expert)</p> 	<p>Vanessa Howe (Community Representative)</p> 