

PENRITH CITY COUNCIL

NOTICE OF DETERMINATION

DESCRIPTION OF DEVELOPMENT

Application number:	DA20/0081
Description of development:	Construction and Landscape Embellishment of the Central Reserve & Eastern Basin Park Open Space Areas & Associated Stormwater Bio-retention Areas
Classification of development:	N/A

DETAILS OF THE LAND TO BE DEVELOPED

Legal description:	Lot 1 DP 1226122
Property address:	16 Chapman Street, WERRINGTON NSW 2747

DETAILS OF THE APPLICANT

Name & Address:	GIn Planning Level 10 70 Pitt Street SYDNEY NSW 2000
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DECISION OF CONSENT AUTHORITY

In accordance with Section 4.18(1) (a) of the Environmental Planning and Assessment Act 1979, consent is granted subject to the conditions listed in attachment 1.

Please note that this consent will lapse on the expiry date unless the development has commenced in that time.

Date from which consent operates	2 November 2021
Date the consent expires	2 November 2026
Date of this decision	29 October 2021

POINT OF CONTACT

If you have any questions regarding this determination you should contact:

Assessing Officer:	Donna Clarke
Contact telephone number:	(02) 4732 7991

NOTES

Reasons

The conditions in the attached schedule have been imposed in accordance with Section 4.17 of the Environmental Planning and Assessment Act 1979 as amended.

Conditions

Your attention is drawn to the attached conditions of consent in attachment 1.

Certification and advisory notes

You should also check if this type of development requires a construction certificate in addition to this development consent.

It is recommended that you read any Advisory Note enclosed with this notice of determination.

Review of determination

The applicant may request Council to review its determination pursuant to Division 8.2 of the Environmental Planning and Assessment Act 1979 within twelve months of receiving this Notice of Determination.

These provisions do not apply to designated development, complying development or crown development pursuant to Section 8.2(2) of the Environmental Planning and Assessment Act 1979.

Appeals in the Land and Environment Court

The applicant can appeal against this decision in the Land and Environment Court within twelve months of receiving this Notice of Determination.

There is no right of appeal to a decision of the Independent Planning Commission or matters relating to a complying development certificate pursuant to clause 8.6(3) of the Environmental Planning and Assessment Act 1979.

Designated development

If the application was for designated development and a written objection was made in respect to the application, the objector can appeal against this decision to the Land and Environment Court within 56 days after the date of this notice.

If the applicant appeals against this decision, objector(s) will be given a notice of the appeal and the objector(s) can apply to the Land and Environment Court within 56 days after the date of this appeal notice to attend the appeal and make submissions at that appeal.

Sydney Western City Planning Panels

If the application was decided by the Sydney Western City Planning Panel, please refer to Section 2.16 of the Environmental Planning and Assessment Act, 1979 (as amended) for any further regulations.

ATTACHMENT 1: CONDITIONS OF CONSENT

General

- 1 The development must be consistent with the plans stamped approved by Council, the application form and any supporting information received with the application, except as may be amended in red on the attached plans and by the following conditions, as listed below.

Description	Plan No.	Revision	Prepared By	Date
Civil Works Plans	-	1	Cardno Pty Ltd	December 2019
Stormwater Drainage Plans	80219053-001-SK125	4	Cardno Pty Ltd	6/11/2020
	80219053-001-SK126	5		
	80219053-001-SK127	4		
Survey Plan	-	-	Cardno Pty Ltd	1/10/2019
Open Spaces DA Package	Project Reference: 2519036	7	Place Design Group	9/04/2021

- 2 **The development shall not be used or occupied until a Final Engineering Completion Certificate has been issued.**
- 3 Exterior lighting shall be located and directed in such a manner so as not to create a nuisance to surrounding landuses. The lighting shall be the minimum level of illumination necessary for safe operation. The lighting shall be in accordance with AS 4282 "Control of the obtrusive effects of outdoor lighting" (1997).
- 4 The finishes of all surfaces including retaining walls and landscape features are to have a graffiti resistant coating applied, surfaces are to be maintained at all times and any graffiti or vandalism immediately removed/repaired.
- 5 **A Construction Certificate and/or Subdivision Works Certificate** shall be obtained prior to commencement of any works in relation to this consent.
- 6 The development is to be carried out in accordance with the Vegetation Management Plan (VMP) approved under DA19/0704. Details of compliance with the requirements of the VMP shall be provided with the Construction Certificate and/or Subdivision Works Certificate.
- 7 **Prior to the issue of a Construction Certificate and/or Subdivision Works Certificate**, any fabric play ground shade sails shall be specified from the range provided by Central Industries Pty Ltd, to ensure it meets Councils standard specifications.
- 8 **Prior to the issue of a Construction Certificate and/or Subdivision Works Certificate**, the plans shall be amended to only include playground fencing to the perimeter of the children's play-space. The fencing is not required to continue in a northerly or easterly direction along the park-edge of Road 03 and 09.

- 9 **Prior to issue of a Construction Certificate and/or Subdivision Works Certificate**, the accessible parking spaces indicated within the road reserve of Road 3 shall be deleted.
- 10 All concrete seating or walls are to be fitted with appropriate skateboard deterrents **prior to dedication**, details of the location and walls subject to the deterrents shall be discussed with Council prior to handover.
- 11 **Prior to the issue of a Construction Certificate and/or Subdivision Works Certificate**, details of any directional and identification signage is to be submitted to and approved by Council's Development Services Manager. The signage is to be erected prior to the issue of a Final Engineering Completion Certificate or handover of the asset.

Heritage/Archaeological relics

- 12 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

- 13 All land that has been disturbed by earthworks is to be spray grassed or similarly treated to establish a grass cover.
- 14 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.
- 15 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 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 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.

- 16 All waste materials stored onsite 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 the areas are to be fully enclosed when the site is unattended.
- 17 All excavated material and other wastes generated as a result of the development are to be re-used, recycled or disposed of in accordance with the approved waste management plan.

Waste materials not specified in the approved waste management plan are to be disposed of at a lawful waste management facility. Where the disposal location or waste materials have not been identified in the waste management plan, details shall be provided to the Certifying Authority as part of the waste management documentation accompanying the Construction Certificate application.

All receipts and supporting documentation must be retained in order to verify lawful disposal of materials and are to be made available to Penrith City Council on request.

- 18 **Prior to the issue of a Construction Certificate**, an Unexpected Finds Protocol shall be prepared and implemented during construction works. The Unexpected Finds Protocol shall be prepared by a suitably qualified and experienced person and include a procedure for asbestos containing materials.

BCA Issues

- 19 All aspects of the works 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).

Utility Services

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

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

Construction

- 21 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.

- 22 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).

- 23 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.

Engineering

- 24 All roadworks, stormwater drainage works, signage, linemarking, associated civil works and dedications, required to effect the consented development shall be undertaken by the applicant at no cost to Penrith City Council.
- 25 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 commencement of any works on site or prior to the issue of any Construction Certificate and Subdivision Works Certificate, whichever occurs first. 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 4732 7777 or visit Penrith City Council's website for more information.

- 26 **Prior to the issue of any Construction Certificate or Subdivision Works Certificate**, a Section 138 Roads Act applications, including payment of application and inspection fees together with any applicable bonds, 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) Road openings for lead in public utilities
- b) Road occupancy or road closures
- c) Temporary construction access
- d) The placement of hoardings, structures, containers, waste 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 specifications, guidelines and best engineering practice.

Contact Penrith City Council's City Assets Department on 4732 7777 or visit Penrith City Council's website for more information.

Note:

- 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 or Subdivision Works Certificate.
- All works associated with the Roads Act approval must be completed prior to the issue of any Occupation Certificate or Subdivision Certificate as applicable.

27 Prior to the issue of any Construction Certificate or Subdivision Works Certificate, the Certifying Authority shall ensure that a separate Section 138 Roads Act application, including payment of application and inspection fees, has been lodged with, and approved by Penrith City Council (being the Roads Authority under the Roads Act), for provision of any drainage works within the road reserve of Webb Street that are necessary to drain the conservation area of the central park.

Engineering plans are to be prepared in accordance with the development consent, Penrith City Council's Design Guidelines for Engineering Works for Subdivisions and Developments, Engineering Construction Specification for Civil Works, Austroads Guidelines, and best engineering practice.

Contact Penrith City Council's Development Engineering Department on 4732 7777 to obtain a formal fee proposal prior to lodgement and visit Penrith City Council's website for more information.

Note:

- 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 or Subdivision Works Certificate.
- All works associated with the Roads Act approval must be completed prior to the issue of any Occupation Certificate or Subdivision Certificate as applicable.

28 A Construction Certificate is to be approved by the Certifying Authority for the provision of engineering and landscaping works.

Prior to the issue of a Construction Certificate, the Certifying Authority shall ensure that the engineering and landscape plans are consistent with: the stamped approved engineering plans prepared by Cardno, drawing number 80219053-001-SK125), revision 4, dated 06-11-2020; drawing number 80219053-001-SK126, revision 5, dated 06-11-2020; and drawing number 80219053-001-SK127), revision 4, dated 06-11-2020; and the stamped approved landscaping plans prepared by Place Design Group. The Certifying Authority shall ensure that all engineering, landscaping and stormwater management system works have been designed in accordance with the development consent, Penrith City Council's: Design Guidelines for Engineering Works for Subdivisions and Developments; Engineering Construction Specification for Civil Works; Stormwater Drainage for Building Developments; and Water Sensitive Urban Design (WSUD) policies, along with Austroads Guidelines and best engineering practice.

The works may include but are not limited to the following:

- Stormwater management (quantity and quality)
- Interallotment drainage
- Sediment and erosion control measures
- Overland flow paths
- Earthworks, retaining walls and other structures

- Landscaping and embellishment works

The Construction Certificate must be supported by engineering plans, calculations, specifications and any certification relied upon.

Note:

Council's Development Engineering Department can provide this service. Contact Penrith City Council's Development Engineering Department on 4732 7777 to obtain a formal fee proposal prior to lodgement and visit Penrith City Council's website for more information.

- 29 The stormwater management system shall be provided generally in accordance with the concept plan/s lodged for development approval, prepared by Cardno, drawing numbers 80219053-001-SK125 (Revision 4) dated 6/11/2020, 80219053-001-SK126 (Revision 5) dated 6/11/2020 and 80219053-001-SK127 (Revision 4) dated 6/11/2020 and Landscape Design Plans prepared by Place Design Group, document number 2519036, Revision 7, dated 19/04/2021.

Engineering and landscaping plans and supporting calculations for the stormwater management systems (including vegetated stormwater treatment measures) are to be prepared by a suitably qualified engineer and a suitably qualified ecologist that has relevant tertiary qualifications and technical knowledge relating to Water Sensitive Urban Design (WSUD) and shall accompany the application for a Construction Certificate.

Prior to the issue of any Construction Certificate and/or Subdivision Works Certificate the Certifying Authority shall ensure that the stormwater management system has been designed in accordance with Penrith City Council's Stormwater Drainage for Building Developments, Council's Water Sensitive Urban Design (WSUD) Policy.

- 30 **Prior to the commencement of any works on-site (including demolition works) or prior to the issue of any Construction Certificate or Subdivision Works Certificate**, whichever occurs first, a Construction Traffic Management Plan (CTMP) shall be submitted to Council's City Assets Department for endorsement. The CTMP shall be prepared by a suitably qualified consultant with appropriate training and certification from the Roads & Maritime Services (RMS). The CTMP shall include details of any required road closures, work zones, loading zones and the like. Approval of the CTMP may require approval of the Local Traffic Committee.

Please contact Council's City Assets Department on 4732 7777 and refer to Council's website for a copy of the Temporary Road Reserve Occupancy Application Form.

- 31 Prior to commencement of works sediment and erosion control measures shall be installed in accordance with the approved Construction Certificate and to ensure compliance with the Protection of the Environment Operations Act 1997.

The erosion and sediment control measures shall remain in place and be maintained until all disturbed areas have been rehabilitated and stabilised.

- 32 **Prior to commencement of any works associated with the development**, a Traffic Control

Plan, including details for pedestrian management, shall be prepared in accordance with AS1742.3 "Traffic Control Devices for Works on Roads" and the Roads and Maritime Services' publication "Traffic Control at Worksites" and certified by an appropriately accredited Roads and Maritime Services Traffic Controller.

Traffic control measures shall be implemented during the construction phase of the development in accordance with the certified plan. A copy of the plan shall be available on site at all times.

Note:

- A copy of the Traffic Control Plan shall accompany the Notice of Commencement to Penrith City Council.
- Traffic control measures may require road occupancy / road closure approvals issued under Section 138 of the Roads Act by Penrith City Council prior to the issue of a Construction Certificate or Subdivision Works Certificate.

33 Work on the development shall not commence until:

- a Construction Certificate has been issued;
- a Certifying Authority has been appointed for the project, and;
- any other matters prescribed in the development consent for the subdivision and the Environmental Planning and Assessment Act and Regulation have been complied with.

A Notice of Commencement of works is to be submitted to Penrith City Council five (5) days prior to commencement of engineering works or clearing associated with the subdivision.

34 All earthworks shall be undertaken in accordance with AS3798 and Penrith City Council's Design Guidelines for Engineering Works for Subdivisions and Developments and Engineering Construction Specification for Civil Works.

The level of testing shall be determined by the Geotechnical Testing Authority/ Superintendent in consultation with the Principal Certifying Authority.

35 Upon completion of all works in the road reserve, all verge areas fronting and within the development are to be turfed. The turf shall extend from the back of kerb to the property boundary, with the exception of concrete footpaths, service lids or other infrastructure which is not to be turfed over. Turf laid up to concrete footpaths, service lids or other infrastructure shall finish flush with the edge.

36 **Prior to the issue of any Final Engineering Completion Certificate or Subdivision Certificate**, the Principal Certifying Authority shall ensure that all works associated with a S138 Roads Act approval or S68 Local Government Act approval have been inspected and signed off by Penrith City Council.

37 **Prior to the issue of a Subdivision Certificate**, the Principal Certifying Authority shall ensure that all subdivision works required by this consent have been satisfactorily completed or that suitable arrangements have been made with Penrith City Council for any outstanding works.

38 **Prior to the issue of the Subdivision Certificate**, an Outstanding Works Bond for the construction, landscaping and implementation of the ultimate stormwater management system is to be lodged with

Penrith City Council.

The Outstanding Works bond will be refunded once the stormwater management system works have been completed to Penrith City Council's satisfaction and a separate Maintenance Bond has been lodged with Penrith City Council.

The value of the bonds shall be determined in accordance with Penrith City Council's adopted Fees and Charges.

Note: Contact Penrith City Council's Engineering Services Department on 4732 7777 for further information relating to bond requirements.

39 Prior to the issue of a Subdivision Certificate the following compliance documentation shall be submitted to the Principal Certifying Authority. A copy of the following documentation shall be provided to Council where Council is not the Principal Certifying Authority: *Nominate*

- a) Work as Executed (WAE) drawings of all civil works. The WAE drawings shall be marked in red on copies of the stamped Construction Certificate drawings signed, certified and dated by a registered surveyor or the design engineer. The Work as Executed drawings shall be prepared in accordance with Council's Engineering Construction Specification for Civil Works.
- b) The WAE drawings shall clearly indicate the 1% Annual Exceedence Probability flood lines (local and mainstream flooding).
- c) The WAE drawings shall be accompanied by plans indicating the depth of fill for the entire development site. The plans must show, by various shadings or cross hatchings, the depth of any fill within 0.3m depth ranges.
- d) CCTV footage in DVD format to Council's requirements and a report in "SEWRAT" format for all drainage within future public roads and public land. Any damage that is identified is to be rectified in consultation with Penrith City Council.
- e) A copy of all documentation, reports and manuals required by Section 2.7 of Penrith City Council's WSUD Technical Guidelines (Version 4 October 2020) for handover of stormwater management facilities to Council.
- f) Surveyor's Certificate certifying that all pipes and services are located wholly within the property or within appropriate easements and that no services encroach boundaries.
- g) Documentation for all road pavement materials used demonstrating compliance with Council's Engineering Construction Specification for Civil Works.
- h) A Geotechnical Report certifying that all earthworks and road formation have been completed in accordance with AS3798 and Council's Design Guidelines and Construction specifications. The report shall include:
 - Compaction reports for road pavement construction
 - Compaction reports for bulk earthworks and lot regrading
 - Soil classification for all residential lots

- Statement of Compliance

- i) Structural Engineer's construction certification of all structures
- j) A slope junction plan for interallotment drainage lines indicating distances to boundaries and depths.

40 Prior to the issue of a Subdivision Certificate, a Maintenance Bond is to be lodged with Penrith City Council for all engineering and landscaping works..

The value of the bond shall be determined in accordance with Penrith City Council's adopted Fees and Charges.

Note: Contact Penrith City Council's Engineering Services Department on 4732 7777 for further information relating to bond requirements.

41 Prior to the issue of any Final Engineering Completion Certificate or Subdivision Certificate, the following compliance documentation shall be submitted to the Principal Certifying Authority. A copy of the following documentation shall be provided to Penrith City Council where Penrith City Council is not the Principal Certifying Authority:

- a) Works As Executed (WAE) drawings of all civil and landscaping works. The WAE drawings shall be marked in red on copies of the stamped Construction Certificate drawings signed, certified and dated by a registered surveyor or the design engineer. The WAE drawings shall be prepared in accordance with Penrith City Council's Engineering Construction Specification for Civil Works.
- b) The WAE drawings shall be accompanied by plans indicating the depth of cut / fill for the entire development site. The survey information is required to show surface levels and site contours at 0.5m intervals. All levels are to be shown to AHD.
- c) CCTV footage in DVD format to Penrith City Council's requirements and a report in "SEWRAT" format for all drainage as identified as Council's future assets. Any damage that is identified is to be rectified in consultation with Penrith City Council.
- d) A copy of all documentation, reports and manuals required by Section 2.6 of Penrith City Council's WSUD Technical Guidelines for handover of stormwater management facilities to Penrith City Council.
- e) Surveyor's Certificate certifying that all pipes and services are located wholly within the property or within appropriate easements and that no services encroach boundaries, private or public lands.
- f) A Geotechnical Report certifying that all earthworks have been completed in accordance with AS3798 and Penrith City Council's Design Guidelines and Construction specifications. The report shall include:
 - Compaction reports for bulk earthworks and lot regarding.
 - Statement of Compliance.
- g) Structural Engineer's construction certification of all structures.

- 42 **Prior to the issue of a Subdivision Certificate or prior to the dedication of any public reserve or drainage reserve to Penrith City Council**, the Certifying Authority shall ensure that a Deed of Agreement for the upkeep and maintenance of any public reserve or drainage reserve, has been entered into between the Proponent and Penrith City Council.

Contact Council's City Assets Department on 4732 7777 for a model Deed of Agreement.

- 43 Any Stormwater Quality Improvement Devices (SQID's), including Gross Pollutant Traps (GPT's), constructed as part of the development shall be operated and maintained by the proponent for a 12-month defect liability period following completion of the works.

Regular inspection records and evidence of cleaning regimes undertaken are required to be submitted to Penrith City Council at the completion of the defect liability period.

- 44 Prior to the handover of the assets, Council requires all of the following conditions to be met:

- The WSUD assets / measures are constructed and operate in accordance with the approved design specifications / parameters and any other specific design agreements previously entered into with Council
- The performance of the WSUD measure(s) has been validated, which must include the provision of a Performance Validation Report supporting the performance of the WSUD measure
- Where applicable, the build up of sediment has resulted in no more than a 10% reduction of operational volume
- Asset inspections for defects has been completed and, if any defects are found, rectified to the satisfaction of Council
- The WSUD infrastructure is to the satisfaction of Council, structurally and geotechnically sound (this will require the submission of documents demonstrating that such infrastructure has been certified by suitably qualified persons)
- Design drawings have been supplied in a format acceptable to Council
- Works as Executed (WAE) drawings have been supplied for all infrastructure in a format and level of accuracy acceptable to Council
- Other relevant digital files have been provided (e.g. design drawings, surveys, bathymetry, models etc)
- Landscape designs have been supplied, particularly those detailing the distribution of functional vegetation, i.e. vegetation that plays a role in water quality improvement (clearance certificates from the landscape architect will need to be supplied)
- The condition of the infrastructure associated with the land complies with the approved design specification
- Vegetation densities in bioretention systems and surrounding vegetated areas (i.e. batters) should have a coverage of >95% and be >95% weed free. This is to be certified by a suitably qualified ecologist / horticulturalist with 5 years relevant experience.
- Filter media infiltration rates are within 10% of the rates of the design parameters for the filtration system concerned
- Comprehensive operation and maintenance manuals (including indicative costs) have been provided. The plan should include details on the following
 - i. Site description (area, imperviousness, land use, annual rainfall, topography etc)
 - ii. Site access description
 - iii. Likely pollutant types, sources and estimated loads
 - iv. Locations, types and descriptions of measures proposed

- v. Operation and maintenance responsibility
- vi. Inspection methods (including inspection checklists)
- vii. Maintenance methods (frequency, equipment and personnel requirements);
- viii. Landscape and weed control requirements
- ix. Operation and maintenance costs;
- x. Waste management and disposal options; and
- xi. Reporting.

The following will must also be completed:

- A Geotechnical Engineer must be engaged by the developer to undertake in-situ Saturated Hydraulic Conductivity Testing of the bioretention system in accordance with Practise Note 1 of the FAWB guidelines. Test points are to be spatially distributed. Where the hydraulic conductivity of the filter media differs from the rate specified in MUSIC of 125 mm/hr (tolerance 125mm/hr to a maximum of 400mm/hr), remediation works will be required over the whole filter area to restore the conductivity and the test repeated in different locations until the hydraulic conductivity is achieved. A Geotechnical Engineer is to then certify that in accordance with Practise Note 1 of the FAWB guidelines, the Saturated Hydraulic Conductivity is within tolerance of the rate specified in MUSIC for the bioretention system; and
- A Horticulturalist or ecologist that has relevant tertiary qualifications and technical knowledge with a minimum of five (5) years demonstrated experience, is to certify that the planting within the bioretention area including bank areas, is of the same quality in type and quantity as per the construction certificate approved landscape plans, that any plants lost have been replaced the area is free of rubbish and that any areas of scour or disrepair have been restored.

- 45 The bio-retention basins are to be maintained by the proponent as sediment basins until 90% of housing construction is completed and be retained in the ownership of the proponent. After 90% of housing has been constructed the sediment basin is to be decommissioned and the bio-retention basin completed. After completion of the bio-retention basin has occurred, the proponent is to maintain the bio-retention basin for a period of 3 years after which time handover is permitted.

Regular inspection records are required to be maintained and made available to Penrith City Council. All necessary improvements are required to be made immediately upon awareness of any deficiencies in the stormwater management systems. A copy of all inspection records and maintenance records shall be provided to Penrith City Council at the completion of the maintenance period and prior to handover of the assets to Penrith City Council (see separate conditions relating to handover).

- 46 **Prior to the issue of a Construction Certificate and/or Subdivision Works Certificate**, the following information is to be submitted to Council for review

- Council should be given an opportunity to review and approve the proposed GPT so that considerations of the life cycle costs can be made. The proponent should provide Council with a detailed operation and maintenance manual which includes estimated costing
- Detailed construction plans including all calculations, drawings and designs which are consistent with the design parameters used in the modelling and approved concept designs from the Development Application

- 47 Handover of assets to Council will not occur until Council is satisfied that they are constructed in with the

approved plans, conditions of approval and all certification requirements have been complied with:

- a. Vegetated systems (e.g. bioretention measures) are required to remain 'on maintenance' for a minimum period of three (3) years or as otherwise approved and a performance-based inspection has been undertaken with Council. **Note:** This period may be extended in the case the treatment measures have not satisfactorily established to an agreed performance standard.
- b. The on-maintenance period for all vegetated systems can be considered as on-maintenance once 90% of dwellings are substantially completed within the development sub-catchment associated with the relevant treatment measure and after the treatment measures have been constructed and planted with vegetation.
- c. Certification is required to be provided for the installation of the filter media to demonstrate that the media complies with the approved specifications. At a minimum compliance is required with the "Guidelines for Soil Filter Media in Bioretention Systems" (Facility for Advancing Water Biofiltration).
- d. Photographs of the construction of the vegetated system are required as part of certification. A minimum of one labelled, date stamped photograph is required to be provided following each of the following construction phases:
 - i. Installation of the overflow pit and bulking out / trimming profiling
 - ii. Installation of under drainage
 - iii. Installation of cleanout points
 - iv. Installation of drainage layer
 - v. Installation of transition layer
 - vi. Installation of filtration media
 - vii. Laying of geofabric protection for build-out phase
 - viii. Laying of turf temporary protection layer
 - ix. Final planting

During the establishment and maintenance period, regular maintenance must be undertaken on the stormwater treatment measures by suitably qualified contractors (i.e. horticulturists / ecologists) in accordance with an approved maintenance schedule. During the 3-year maintenance period, the developer is to submit to Council's Asset Management Department, a quarterly report outlining all maintenance activities undertaken on the Stormwater treatment measures.

A final report shall be prepared by a suitably qualified engineer, ecologist / horticulturalist with 5 years relevant experience on completion of the establishment period, and be submitted to Council for approval.

A licensed surveyor is required to undertake an 'as constructed' survey of the bioretention device elements. The survey data is to demonstrate that design grades and levels have been achieved to the required tolerances. A copy of the survey is required to be lodged as part of the certification.

- 48 **Prior to the issue of any Construction Certificate**, the Certifying Authority shall ensure that an Operational Traffic and Pedestrian Management Plan is in place that address service vehicle access, vehicle manoeuvring and pedestrian safety along the driveway, shared path and basin. All service vehicle movements shall be in a forward direction with no reversing along the shared path.
- 49 **Prior to the issue of a Construction Certificate or Subdivision Works Certificate**, the Certifying Authority shall ensure that the invert levels of pit T01/2 at the eastern inlet to the eastern basin match with the invert levels of the subdivision development at No 25 Rance Road, Werrington, as approved under development consent number DA15/0207. Full details are to be submitted with the application for a

construction certificate.

Landscaping

- 50 The approved landscaping for the site must be constructed by a suitably qualified and experienced landscape professional.
- 51 All landscape works are to meet industry best practice and the following relevant Australian Standards:
- AS 4419 Soils for Landscaping and Garden Use,
 - AS 4454 Composts, Soil Conditioners and Mulches, and
 - AS 4373 Pruning of Amenity Trees.
- 52 **Prior to the issue of a Construction Certificate and/or Subdivision Works Certificate**, Council shall be consulted over the location and provision of any irrigation systems and water supply outlets in order to maintain any landscaping areas outside of the Conservation Areas. Details of the irrigation system must be provided in the Construction Certificate documentation, and include the following:
- (a) the irrigation system must be automatic;
 - (b) drip irrigation is to be provided in all gardens beds;
 - (c) pop up irrigation provided for open grassed areas,
 - (d) location of water supply outlets.
- 53 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 approved plans) without the prior consent of Penrith City Council.
- 54 **Prior to the issue of a Construction Certificate and/or Subdivision Works Certificate**, the pathway numbered 19 shall terminate at the most eastern boundary of Lot 1070 to discourage activity within areas of the site with limited connectivity to broader precinct footpaths and Conservation Areas.
- 55 All rubber softfall is to be UV resistant, certification shall be submitted to Council, **prior to issue of the Final Engineering Certification**.
- 56 Coastal Rosemary shall not be used anywhere within the Parks, Coastal Rosemary shall be replaced with a species suitable for the soil typology of Western Sydney.
- 57 **Prior to the installation of item 18**, feature wall with interpretative motif, plans shall be submitted to Council for approval of the final design and location. The feature wall shall be installed **prior to dedication of the asset**.
- 58 All vegetated areas shall be planted at a rate of 8 plants per m², details of compliance shall be submitted with the Construction Certificate and/or Subdivision Works Certificate.
- 59 **Prior to issue of a Construction Certificate and/or Subdivision Works Certificate**, Item 23 the footpath to the adjoining residue lot, shall be deleted.
- 60 No approval is granted or implied to any boundary fencing to residue allotments. Details of any fencing is to accompany future applications for housing.
- 61 No works, including stairs or ramps, are to be constructed within the conservation areas. The stairs and ramps shown on the civil plans shall be deleted.

Subdivision

62 A Surveyors Certificate is to be lodged with the application for a Subdivision Certificate or dedication of land that certifies that all pipes and services are located wholly within the property or within appropriate easements and that no services encroach boundaries.

63 **Prior to issue of a Subdivision Certificate or handover of the asset to Council**, a suitable legal mechanism (right of carriageway or easement for access) shall be provided over proposed Lot 1070 for the purpose of access to the basins within the Central Park area.

Council shall be nominated as the only authority permitted to modify, vary or rescind such restriction as to user.

64 All land identified as as Open Space, including Lot 1069 and part Lot 1070 & Lot 1257, is to be dedicated to Council in accordance with Drawing Ref 80219053-001-SK126A, Rev 2, Titled Open Space Park Plan and Dated 14.4.21.

Upon dedication, the land is vested in Council free of all trusts, obligations, estates, interests, contracts, charges and rates.

Prior to the dedication of land, there are to be no outstanding conditions of consent.

65 **Prior to issue of a Subdivision Certificate or handover of the asset to Council**, a sealed driveway shall be provided over proposed Lot 1070 from Chapman Street to the edge of the Open Space to ensure a suitably sealed path of travel can be provided for Council's vehicles to access and maintain the basins. Details shall be submitted to Council for approval prior to construction and works completed to Council's satisfaction.

66 The site is subject to an endorsed but not yet executed Voluntary Planning Agreement (VPA). The applicant is reminded of the obligations under the VPA with regard to the delivery of certain infrastructure, services, and monetary contributions as part of the development of the release area.

All works shall be carried out in accordance with the requirements of this consent and the final executable VPA unless otherwise agreed to, in writing, by Penrith City Council.

Payment of Fees

67 All roadworks, dedications and drainage works are to be carried out at the applicant's cost.

68 Prior to the commencement of any works on site, all fees associated with Penrith City Council-owned land and infrastructure shall be paid to Council. These fees include Road Opening fees and Infrastructure Restoration fees.

Certification

69 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 and/or Subdivision Works Certificate issued for the approved development, and with the relevant provisions of the Environmental Planning and Assessment Act 1979, 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 of 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.

SIGNATURE

Name:	Kate Smith Principal Planner
Signature:	

For the Development Services Manager