

# PENRITH CITY COUNCIL

## NOTICE OF DETERMINATION

### DESCRIPTION OF DEVELOPMENT

|                                |                                                                                                                                                                                                                                 |
|--------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Application number:            | DA20/0200                                                                                                                                                                                                                       |
| Description of development:    | Integrated Housing Comprising Site Preparation, Construction of 26 Detached Dwelling Houses and Subdivision to Create 26 Torrens Title Residential Lots on Residue Lots 1252, 1263, 2046, 2048 and 2212 Created under DA19/0704 |
| Classification of development: | Class 1a                                                                                                                                                                                                                        |

### 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: | Lendlease Communities (Werrington) Pty Ltd<br>Tower 3<br>Level 14 300 Barangaroo Avenue<br>BARANGAROO NSW 2000 |
|-----------------|----------------------------------------------------------------------------------------------------------------|

### DECISION OF CONSENT AUTHORITY

Penrith Council has determined to grant “Deferred commencement” consent under Section 4.16(3) of the Environmental Planning and Assessment Act 1979. In accordance with Section 4.17 of the Act, the “Deferred commencement” consent is granted subject to the conditions listed in this Notice.

The conditions listed in Schedule 1 are to be complied with prior to the commencement of the consent. On completion of all conditions in Schedule 1 that need to be satisfied before the consent can be commenced, Council will issue an operational consent for the development. If the conditions in Schedule 1 are approved by an accredited certifier, then a copy of the certification relating to the satisfaction of the Schedule 1 condition(s) are to be submitted to Council.

The conditions to be satisfied prior to commencement of the consent will need to be completed within 1 year from 10 March 2021.

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

|                                                        |               |
|--------------------------------------------------------|---------------|
| Date from which deferred commencement consent operates | 10 March 2021 |
| Date the deferred commencement consent expires         | 10 March 2022 |
| Date of this decision                                  | 9 March 2021  |

## POINT OF CONTACT

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

|                           |                |
|---------------------------|----------------|
| Assessing Officer:        | Jake Bentley   |
| Contact telephone number: | +612 4732 8087 |

## NOTES

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### **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 Schedule 1 requiring compliance prior to the development consent becoming operational.

Council will issue an operational development consent on compliance of all conditions listed in Schedule 1 by the given timeframe.

### **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.

## OTHER APPROVALS

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### APPROVAL BODIES

| APPROVAL BODY NAME     | DATE OF<br>GENERAL<br>TERMS OF<br>APPROVAL | REF. NO.         | NO. OF<br>PAGES | RELEVANT LEGISLATION |
|------------------------|--------------------------------------------|------------------|-----------------|----------------------|
| NSW Rural Fire Service | 25/06/2020                                 | DA20200617002127 | 3               | Rural Fires Act 1997 |

The approval bodies listed above have provided General Terms of Approval for this development in accordance with the relevant legislation. A copy of these General Terms of Approval is provided with this development consent notice. Compliance with the relevant State Government departments' General Terms of Approval are required in conjunction with the following conditions listed in Attachment 1: Conditions of Consent issued by Penrith City Council.

## **SCHEDULE 1: CONDITIONS TO BE COMPLIED WITH PRIOR TO CONSENT BECOMING OPERATIONAL**

### **Schedule 1 (Deferred Commencement)**

- 1 An acoustic report shall be prepared by a duly qualified and experienced person and submitted to Penrith City Council for review and approval. The acoustic report shall make reference to the noise criteria established in '16 Chapman Street, Werrington: Precinct Subdivision - Noise Impact Assessment - Development Application' prepared by SLR Consulting Australia (Ref. 610.18940-R01 -v2.1, dated March 2020). It is to assess all potential sources of noise impacts specific to the development, including the adjacent industrial estate and Collector Road. Recommendations are to be provided for the mitigation of noise impacts on the development to ensure that the noise criteria can be achieved. Clear specifications and plans for any proposed acoustic walls are to be provided ensuring a suitable treatment is provided noting the visual prominence of the rear wall.

## **SCHEDULE 2: STAGING STRATEGY**

The development is to be carried out generally in accordance with the stamped approved plans and the staging strategy outlined in those plans and accompanying documentation submitted in respect to this application.

## ATTACHMENT 1: CONDITIONS OF CONSENT

### General

- 1 The development must be consistent with the 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.

| Drawing Title                               | Prepared By | Drawing No.            | Revision | Date       |
|---------------------------------------------|-------------|------------------------|----------|------------|
| <b><i>Civil Drawings</i></b>                |             |                        |          |            |
| Cover Sheet                                 | Cardno      | 80219053-DA004-SL-1001 | 3        | 04/12/2020 |
| General Notes and Legends                   | Cardno      | 80219053-DA004-SL-1011 | 3        | 04/12/2020 |
| General Arrangement Plan                    | Cardno      | 80219053-DA004-SL-1031 | 3        | 04/12/2020 |
| Erosion and Sediment Control Plan 1 of 3    | Cardno      | 80219053-DA004-SL-1101 | 3        | 04/12/2020 |
| Erosion and Sediment Control Plan 2 of 3    | Cardno      | 80219053-DA004-SL-1102 | 3        | 04/12/2020 |
| Erosion and Sediment Control Plan 3 of 3    | Cardno      | 80219053-DA004-SL-1103 | 3        | 04/12/2020 |
| Erosion and Sediment Control Details        | Cardno      | 80219053-DA004-SL-1131 | 3        | 04/12/2020 |
| Cut and Fill Plan                           | Cardno      | 80219053-DA004-SL-1141 | 3        | 04/12/2020 |
| Site Sections                               | Cardno      | 80219053-DA004-SL-1151 | 3        | 04/12/2020 |
| Siteworks and Stormwater Plan 1 of 4        | Cardno      | 80219053-DA004-SL-1301 | 3        | 04/12/2020 |
| Siteworks and Stormwater Plan 2 of 4        | Cardno      | 80219053-DA004-SL-1302 | 3        | 04/12/2020 |
| Siteworks and Stormwater Plan Sheet 3 of 4  | Cardno      | 80219053-DA004-SL-1303 | 3        | 04/12/2020 |
| Siteworks and Stormwater Plan Sheets 4 of 4 | Cardno      | 80219053-DA004-SL-1304 | 3        | 04/12/2020 |

|                                  |                |                        |   |            |
|----------------------------------|----------------|------------------------|---|------------|
| Siteworks and Stormwater Details | Cardno         | 80219053-DA004-SL-2201 | 3 | 04/12/2020 |
| <b>Subdivision Plans</b>         |                |                        |   |            |
| Overall Subdivision Plan         | Cardno         | 80219053-004-SK001     | 2 | 10/12/2020 |
| Subdivision Plan Stage 01        | Cardno         | 80219053-004-SK002     | 2 | 10/12/2020 |
| Subdivision Plan Stage 02        | Cardno         | 80219053-004-SK003     | 2 | 10/12/2020 |
| Subdivision Plan Stage 03        | Cardno         | 80219053-004-SK004     | 2 | 10/12/2020 |
| Subdivision Plan Stage 04        | Cardno         | 80219053-004-SK005     | 2 | 10/12/2020 |
| Subdivision Plan Stage 05        | Cardno         | 80219053-004-SK006     | 2 | 10/12/2020 |
| Subdivision Plan Stage 06        | Cardno         | 80219053-004-SK007     | 2 | 10/12/2020 |
| <b>Architectural Plans</b>       |                |                        |   |            |
| Title Page                       | Creation Homes | Sheet 1 of 25          | 3 | 09/12/2020 |
| Overall Site Plan                | Creation Homes | Sheet 2 of 25          | 3 | 09/12/2020 |
| Site Plan 125201 - 125204        | Creation Homes | Sheet 3 of 25          | 3 | 09/12/2020 |
| Elevations Lot 125201 - 125204   | Creation Homes | Sheet 4 of 25          | 3 | 09/12/2020 |
| Site Plan 125205 - 125209        | Creation Homes | Sheet 5 of 25          | 3 | 09/12/2020 |
| Elevations Lot 125205 - 125209   | Creation Homes | Sheet 6 of 25          | 3 | 09/12/2020 |
| Site Plan 204601 - 204605        | Creation Homes | Sheet 7 of 25          | 3 | 09/12/2020 |
| Elevations Lot 204601 - 204605   | Creation Homes | Sheet 8 of 25          | 3 | 09/12/2020 |
| Site Plan 204606 - 204610        | Creation Homes | Sheet 9 of 25          | 3 | 09/12/2020 |
| Elevations Lot 204606 - 204610   | Creation Homes | Sheet 10 of 25         | 3 | 09/12/2020 |
| Site Plan 204701 - 204707        | Creation Homes | Sheet 11 of 25         | 3 | 09/12/2020 |
| Elevations Lot 204701 - 204707   | Creation Homes | Sheet 12 of 25         | 3 | 09/12/2020 |
| House Type 1 Plans               | Creation Homes | Sheet 13 of 25         | 3 | 09/12/2020 |



|                                                 |                             |                |   |                |
|-------------------------------------------------|-----------------------------|----------------|---|----------------|
| House Type 1 Elevations                         | Creation Homes              | Sheet 14 of 25 | 3 | 09/12/2020     |
| House Type 2 Plans                              | Creation Homes              | Sheet 15 of 25 | 3 | 09/12/2020     |
| House Type 2 Elevations                         | Creation Homes              | Sheet 16 of 25 | 3 | 09/12/2020     |
| House Type 3 Plans                              | Creation Homes              | Sheet 17 of 25 | 3 | 09/12/2020     |
| House Type 3 Elevations                         | Creation Homes              | Sheet 18 of 25 | 3 | 09/12/2020     |
| House Type 4 Plan                               | Creation Homes              | Sheet 19 of 25 | 3 | 09/12/2020     |
| House Type 4 Elevations                         | Creation Homes              | Sheet 20 of 25 | 3 | 09/12/2020     |
| Concept Stormwater Plans                        | Creation Homes              | Sheet 24 of 25 | 3 | 09/12/2020     |
| Indicative Materials                            | Creation Homes              | Sheet 25 of 25 | 3 | 09/12/2020     |
| <b><i>Landscape Plans</i></b>                   |                             |                |   |                |
| Landscape Plan                                  | Umbaco Landscape Architects | SK 01          | D | December 2020  |
| Typical Landscape Treatment and Typical Details | Umbaco Landscape Architects | SK 02          | D | December, 2020 |
| Plant Materials                                 | Umbaco Landscape Architects | SK 03          | D | December, 2020 |

- Bushfire Assessment Report, reference no. 201359, prepared by Building Code and Bushfire Hazard Solutions Pty Limited and dated 16 April, 2020,
- Waste Management Plan, prepared by Creation Homes and dated 15 January, 2020,
- New South Wales Rural Fire Service General Terms of Approval and Bush Fire Safety Authority, reference no. DA20200617002127-Original-1 and dated 25 June, 2020, and
- the following BASIX Certificate Nos. 1092435S, 1092467S, 1092465S, 1092370S, 1092371S, 1092331S, 1092434S, 1092461S, 1092369S, 1092214S, 1092366S, 1092188S, 1092205S, 1092432S, 1092459S, 1092363S, 1092428S, 1092458S, 1092357S, 1092425S, 1092456S, 1092452S, 1092183S, 1092427S, 1092113S and 1092341S.

- 2 The development is to be carried out generally in accordance with the stamped approved plans and the staging strategy outlined in those plans and accompanying documentation submitted in respect to this application.
- 3 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.

- 4 **The development shall not be used or occupied until an Occupation Certificate has been issued.**
- 5 The finishes of all structures and buildings are to be maintained at all times and any graffiti or vandalism immediately removed/repaired.
- 6 The development shall adhere to the requirements of the New South Wales Rural Fire Service General Terms of Approval and Bush Fire Safety Authority, reference no. DA20200617002127-Original-1 and dated 25 June, 2020.
- 7 A **Construction Certificate** shall be obtained prior to commencement of any building works.
- 8 All required fencing and retaining walls shall be at the full cost of the property owner/developer. The colours of any new retaining walls shall match or complement the external materials of the dwellings. Retaining walls are to be of masonry construction.
- 9 **Prior to the issue of a Subdivision Certificate**, the batter noted on the approved civil drawings as being replaced with a retaining wall at house construction stage shall be constructed. In this regard, the earthworks and retaining walls as mentioned above shall form part of the subdivision works and be shown on the Subdivision Work Certificate drawings.
- 10 **Prior to the issue of a Subdivision Certificate for each stage**, the Subdivision Certificate for the relevant stage approved under DA19/0704 shall be issued.
- 11 **Prior to the issue of an Occupation Certificate**, the hedge planting serving as the screen within the private open space areas shall be of a suitable height to ensure adequate privacy is provided.
- 12 Sight distances at the street frontage shall be provided in accordance with AS2890.1.
- 13 The garage doors shall be treated with a colour complimenting the approved dwellings as required by Penrith Development Control Plan 2014.
- 14 **Prior to the issue of a Construction Certificate**, the relevant lots are to be registered.

## **Environmental Matters**

- 15 All land that has been disturbed by earthworks is to be spray grassed or similarly treated to establish a grass cover.
- 16 Dust suppression techniques are to be employed during construction to reduce any potential nuisances to surrounding properties.
- 17 Mud and soil from vehicular movements to and from the site must not be deposited on the road.
- 18 Where a building is to take place on any land that is to be filled, such filling is to be compacted in accordance with AS3798-1996. Certification is to be submitted to the Principal Certifying Authority by a Geotechnical Engineer verifying that the work has been undertaken prior to the commencement of the construction of any building.

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

- 19 All construction 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.

- 20 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.

- 21 Noise levels within the premises shall not exceed the relevant noise criteria detailed in the acoustic report approved by Penrith City Council to satisfy the deferred commencement condition within Schedule 1 of this consent.

The approved recommendations provided in the above-mentioned acoustic report shall be implemented and incorporated into the design and construction of the development, and **shall be shown on plans accompanying the Construction Certificate application.**

**Prior to the issue of an Occupation Certificate**, a certificate is to be obtained from a qualified acoustic consultant and submitted to the Principal Certifying Authority certifying that the development has been constructed to meet the noise criteria in accordance with the approved acoustic report.

- 22 The operating noise level of plant and equipment shall not exceed 5dB(A) above the background noise level when measured at the boundaries of the premises. The provisions of the Protection of the Environment Operations Act 1997 apply to the development, in terms of regulating offensive noise.
- 23 Only clean and unpolluted water is to be discharged into Penrith City Council's stormwater drainage system. Liquid wastes suitable for discharge to the mains sewer are to be discharged in accordance with Sydney Water requirements.

If mains sewer is not available or if Sydney Water will not allow disposal to the sewer then a licensed waste contractor is to remove the liquid waste from the premises to an appropriate waste facility.

The waste contractor and waste facility are to hold the relevant licenses issued by the NSW Environment Protection Authority.

- 24 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 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 2014) 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.

An appropriately qualified person/s (as defined in the Penrith Development Control Plan 2014) shall:

- Supervise the filling works,
- (On completion of filling works) carry out an independent review of all documentation relating to the filling of the site, and shall submit a review findings report to Council and any Principal Certifying Authority,
- Certify by way of a Compliance Certificate or other written documentation that fill materials have been placed on the site in accordance with all conditions of this consent and that the site will not pose an unacceptable risk to human health or the environment. A copy of the Compliance Certificate or other documentation shall be submitted to Council and any Principal Certifying Authority.

The contact details of any appropriately qualified person/s engaged for the works shall be provided with the Notice of Commencement.

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.

Note: Penrith Development Control Plan 2014 defines an appropriately qualified person as "a person who, in the opinion of Council, has a demonstrated experience, or access to experience in hydrology, environmental chemistry, soilscience, 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."

- 25 An Unexpected Finds Protocol (the Protocol) is to be developed by an appropriately qualified environmental consultant. **Prior to works commencing on-site**, the Protocol is to be submitted to Council for approval. If Council is not the certifying authority for this development, the report is required to be provided to Penrith City Council for approval.

The Protocol is to address, at minimum, the management of any contamination found on the site during the demolition, excavation and construction phases of the development, including at minimum, contaminated soils, groundwater, buried building materials, asbestos, odour and staining.

The above Protocol is to be complied with at all times during the subdivision works. All remediation works within the Penrith Local Government Area are considered to be Category 1 works under State Environmental Planning Policy 55-Remediation of Land. Should any contamination be found during subdivision works and should remediation works be required, development consent is to be sought from Penrith City Council before the remediation works commence.

- 26 **Prior to works commencing within Stages 3 and 4**, Condition 19 of DA19/0704 shall be satisfied and the site shall be deemed suitable for residential use.

## BCA Issues

27 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

28 The rainwater tank must be maintained so as not to create a nuisance and it must be protected against mosquito infestation.

## Utility Services

29 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](http://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 a Subdivision Certificate**.

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

In the event that a pad mounted substation is necessary to service the development, Penrith City Council shall be consulted over the proposed location of the substation before the Construction Certificate for the development is issued as the location of the substation may impact on other services and building, driveway or landscape design already approved by Council.

31 **Prior to the issue of a Construction Certificate**, the Principal Certifying Authority shall be satisfied that telecommunications infrastructure may be installed to service the premises which complies with the following:

- The requirements of the Telecommunications Act 1997:
- For a fibre ready facility, the NBN Co’s standard specifications current at the time of installation; and
- For a line that is to connect a lot to telecommunications infrastructure external to the premises, the

line shall be located underground.

Unless otherwise stipulated by telecommunications legislation at the time of construction, the development must be provided with all necessary pits and pipes, and conduits to accommodate the future connection of optic fibre technology telecommunications.

**Prior to the issue of an Occupation Certificate**, written certification from all relevant service providers that the telecommunications infrastructure is installed in accordance with the requirements above and the applicable legislation at the time of construction, must be submitted to the Principal Certifying Authority.

## Construction

32 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 on-site, 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.

33 Prior to the commencement of construction works:

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

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

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

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

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

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

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

34 The rainwater tanks are to be:

- erected on a self-supporting base in the approved location on the property in accordance with the stamped-approved site plans for the development,
- structurally sound and constructed in accordance with AS/NZS 3500 1.2- 1998: National Plumbing and Drainage - Water Supply - Acceptable Solutions,
- fully enclosed and all openings sealed to prevent access by mosquitoes,
- fitted with a first flush device,
- fitted with a trickle system to top up from mains water,
- provided with an air gap, and
- installed by a licensed plumber in accordance with Sydney Water's "Plumbing requirements Information for rainwater tank suppliers and plumbers April 2003" and the NSW Code of Practice: Plumbing and Drainage.

Additionally, the following are to be provided:

- A back flow prevention device shall be provided at the water meter in accordance with Sydney Water requirements.
- In the event of a power failure, a back up supply of mains water shall be provided to at least one toilet in the dwelling.
- The rainwater tanks 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.

Before the rainwater tanks 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**.

- 35 The catchment area for the rainwater tanks includes the parts of the roof of the dwellings 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 air conditioners, 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.
- 36 The rainwater tank supply must not be connected to drinking and bathing water tap outlets.
- 37 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.
- 38 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 that do not involve the use of equipment that emits noise are not restricted to the construction hours stated above.

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



## Engineering

- 39 All roadworks, stormwater drainage works, signage, line marking, associated civil works and dedications required to effect the consented development shall be undertaken by the applicant at no cost to Penrith City Council.
- 40 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 or 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 Asset Management Department on 4732 7777 or visit Penrith City Council's website for more information.

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

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

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

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

Note:

- Where Penrith City Council is the Certifier for the development, the Roads Act approval for the above works may be issued concurrently with the Construction Certificate or Subdivision Works Certificate.
- Separate approval may be required from the Roads and Maritime Services for classified roads.
- All works associated with the Roads Act approval must be completed **prior to the issue of any Occupation Certificate or Subdivision Certificate as applicable.**
- On completion of any awning over the road reserve, a certificate from a practising structural engineer certifying the structural adequacy of the awning is to be submitted to Council before Council will inspect the works and issue its final approval under the Roads Act.

- 42 A Subdivision Works Certificate (previously a Construction Certificate) is to be approved by the Certifier for the provision of any subdivision works (earthworks and retaining walls).

**Prior to the issue of any Subdivision Works Certificate**, the Certifier shall ensure that engineering plans are consistent with the stamped approved plan/s prepared by Cardno P/L, reference number 80219053-DA001-SL-1001 to 2201, revision 3, dated 4/12/2020, and that all subdivision 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, Austroads Guidelines and best engineering practice.

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

- Public and private roads
- Stormwater management (quantity and quality)
- Interallotment drainage
- Private access driveways
- Sediment and erosion control measures
- Earthworks, retaining walls and other structures
- Landscaping and embellishment works

The Subdivision Works 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.

43 Stormwater drainage from the developments shall be discharged to the street drainage system.

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

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

44 Prior to commencement of any works associated with the development, sediment and erosion control measures shall be installed in accordance with the approved Construction Certificate or Subdivision Works Certificate and to ensure compliance with the Protection of the Environment Operations Act 1997 and Managing Urban Stormwater series from the Office of Environment and Heritage.

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

45 Work on the subdivision shall not commence until:

- a Subdivision Works Certificate has been issued;
- a Certifier 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.

- 46 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.
- 47 **Prior to the issue of any Occupation Certificate or Subdivision Certificate**, the Principal Certifier 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.
- 48 **Prior to the issue of any Subdivision Certificate**, the Principal Certifier 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.

## Landscaping

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

Landscaping shall be maintained:

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

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

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

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

- 52 All plant material associated with the construction of approved landscaping is to be planted in accordance with Penrith Development Control Plan 2014.
- 53 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.
- 54 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 in Penrith Development Control Plan 2014.

- 55 No trees are to be removed, ringbarked, cut, topped or lopped or wilfully destroyed (other than those within the proposed building footprint or as shown on the approved plans) without the prior consent of Penrith City Council and in accordance with State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017.

## Subdivision

- 56 **Prior to the issue of the Subdivision Certificate**, the following is to be submitted:

An original plan of subdivision and two (2) copies of the plan. The plan of subdivision must indicate, where relevant -

- All drainage easements, rights of way, restrictions and covenants.
- All proposed dedications of roads/drainage/public reserve, which are to be undertaken at no cost to Penrith City Council.

The following information is to be shown on one (1) copy of the plan.

- The location of all buildings and/or other permanent improvements shall comply with any statutory boundary clearances or setbacks as defined by the Building Code of Australia and Council's resolutions.
- All existing services are wholly contained within the lot served and/or covered by an appropriate easement.

**Prior to lodgement of the Subdivision Certificate Application, street address numbering must be obtained/approved by Penrith City Council's Rates Team. Proposed street addresses can be forwarded to [council@penrith.city](mailto:council@penrith.city) for approval.**

- 57 The linen plan of subdivision is to be supported by an 88B instrument creating a Restriction as to User or easement regarding the following:

- a) Dwelling construction shall be in accordance with the approved architectural plans under Development Consent DA20/0200.

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

## Section 94

- 58 This condition is imposed in accordance with Penrith City Council's Section 7.11 Contributions Plan for Werrington Enterprise Living and Learning (WELL) Precinct. Based on the current rates detailed in the accompanying schedule attached to this Notice, **\$780,000.00 is to be paid to Council prior to a Subdivision Certificate being** issued for this development (the rates are subject to quarterly reviews).

Alternatively, the proponent may seek to enter into a Voluntary Planning Agreement with Penrith City Council for the subject development/site.

If a VPA is endorsed by Penrith City Council and Prior to the issue of a Subdivision Certificate, a matrix table shall be submitted to and endorsed by Penrith City Council detailing any infrastructure works, development contributions and/or land dedications required as a result of this development consent pursuant to the subject VPA. All applicable infrastructure works, development contributions and/or land dedications shall be completed prior to the issue of a Subdivision Certificate or as detailed in the endorsed matrix table.

**N.B.** If the proponent opts to pay Section 7.11 Contributions Plan under the Werrington Enterprise Living and Learning (WELL) Precinct if contributions are not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted Section 7.11 Contributions plan. The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule.

Council should be contacted prior to payment to ascertain the rate for the current quarterly period. The S7.11 invoice accompanying this consent should accompany the contribution payment.

The timing of contributions payable may be otherwise affected in accordance with Planning Circular PS20-003 dated 3 July 2020 and the associated NSW Government Ministerial Direction - Infrastructure Contributions.

## Certification

- 59 A Subdivision Certificate is to be obtained prior to the release of the linen plan of subdivision. The Subdivision Certificate will not be issued if any of the conditions in this consent are outstanding.

60 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 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 6.6 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 6.6 of the Environmental Planning and Assessment Act 1979.

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

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

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

## **SIGNATURE**

|            |              |
|------------|--------------|
| Name:      | Jake Bentley |
| Signature: |              |

For the Development Services Manager