

PENRITH CITY COUNCIL

MAJOR ASSESSMENT REPORT

Application number:	DA20/0200
Proposed 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
Property address:	16 Chapman Street, WERRINGTON NSW 2747
Property description:	Lot 1 DP 1226122
Date received:	21 April 2020
Assessing officer	Jake Bentley
Zoning:	SEPP WSA - Affected by Obstacle Limitation SEPP WSA - Affected by Wildlife Buffer Zone E2 Environmental Conservation - LEP 2010 IN2 Light Industrial - LEP 2010 Zone R1 General Residential - LEP 2010 Zone R4 High Density Residential - LEP 2010 RE1 Public Recreation - LEP 2010
Class of building:	Class 1a
Recommendations:	Approve

Executive Summary

Council is in receipt of a development application for staged 26 lot Torrens Title subdivision, site preparation works and construction of 26 dwellings with associated landscaping and drainage works at 16 Chapman Street, Werrington. The proposal is permissible with consent under the provisions of Penrith Local Environmental Plan 2010 (PLEP 2010) noting the split zoning of the subject area being R1 General Residential and R4 High Density Residential.

The proposal relates to 5 residue lots created via the parent subdivision approval DA19/0704 which was assessed concurrently with the subject application. The parent subdivision approval included drainage, roads, pedestrian link and site preparation works which benefits the proposed subdivision. The subject area of works is located between road 11 (east/west collector road) and road 01 with the proposed lots accessible via road 01 to the north.

The following issues were raised and addressed during the assessment of the proposal:

- The parent subdivision approval included a late change to locate the residue lots (subject lots) further north into residential zoned land. In this regard, a Clause 4.6 variation request to the minimum lot size and reliance on Clause 5.3 Development near zone boundaries was no longer required,
- Noise impacts associated with the industrial land and east-west collector road to the south of the proposed development remains outstanding. In this regard, deferred commencement conditions of consent have been recommended to ensure acoustic impacts and any recommended mitigation measures are implemented prior to an operational consent being issued,
- Land contamination however, this component will be addressed via the parent subdivision approval considering works in the relevant stage will occur prior to works under this approval,
- Privacy from overlooking balcony windows,
- The proposal seeks to batter the eastern side of lots and construct retaining walls at dwelling construction stage. Recommended conditions of consent will ensure these retaining walls will be constructed at subdivision work stage, and
- The extent of fill has been lowered under the parent subdivision approval therefore, retaining wall heights and visual impact concerns have been addressed.

The application was lodged as integrated development considering the development requires a Bush Fire Safety Authority (BFSA) under the provisions of the Rural Fires Act 1997. The New South Wales Rural Fire Service (NSW RFS) issued general terms of approval (GTA) for the proposal on 25 June, 2020.

In accordance with Council's Community Engagement Strategy 2019 the integrated development application triggered advertising and notification requirements. The proposal was advertised within the Western Weekender newspaper between 18 May and 1 June, 2020 and was notified to surrounding property owners between the same dates. A total of 4 submission were received in response.

An assessment under Section 4.15 and 4.46 of the Environmental Planning and Assessment Act 1979 has been undertaken and the application is recommended for approval, subject to recommended deferred commencement conditions of consent and general conditions.

Site & Surrounds

The subject site is legally defined as Lot 1 DP 1226122 covering an area of approximately 27.97 hectares and is currently occupied by grassland and vegetation clusters. The site consumes a large portion of land identified for urban development consisting of residential and employment generating activities (light industrial) known as the South Werrington Urban Village (SWUV). The site is occupied by numerous land use zones under PLEP 2010 including R1 General Industrial, R4 High Density Residential, RE1 Public Recreation, IN2 Light Industrial and E2 Environmental Conservation.

The land to the north and north-east of the site is occupied by medium density residential housing forms as well as the Western Railway Line and Werrington Train station. The land to the east of the site is occupied by a vacant lot benefited by a court approved 83 lot Torrens Title subdivision (DA15/0207) and Thorndale Estate (disability employment service) which is bordered by Werrington Road further east. The adjoining land to the south is occupied by Cobham Youth Justice Centre and Wollemi College, whilst the land to the west is occupied by Western Sydney University North Werrington Campus. It is noted that the university site is subject to a rezoning application seeking to rezone the land abutting this site to the west R1 General Residential as opposed to the current B7 Business Park zoning.

The site is benefitted by an approval for staged subdivision creating 227 residential lots, 17 industrial lots, open space lots, 14 residue lots and road dedication works including site preparation, vegetation removal, bulk earthworks, civil works, construction of roads, drainage infrastructure and basins (DA19/0704).

The above mentioned approval created 5 residue lots to the north of the east-west collector road and south of proposed road 01. These residue lots have a north/south orientation and 17m lot depth therefore, it could not be determined whether a suitable housing form could be provided on these lots (known as smart lots). In this regard, the subject development application was lodged to determine the suitability of the intended residue lots.

The area of the site subject to the proposed works is zoned R1 and R4. The subject area is bordered by road 01 and proposed residential allotments to the north, east and west and proposed industrial lots to the south as well as the east-west collector road (road 11). The site is identified as being bush fire prone land, impacted by flooding and has a slope from west to east.

Further Site History

The site benefits from the following approvals:

DA14/0627 - Residential subdivision to the western portion of the site,

DA16/1148 - Round about works at Werrington Road and further residential subdivision within the subject site, and

DA16/0789 - Subdivision and construction of three residential flat buildings within the northern section of the site.

The proposal was the subject of a pre-lodgement meeting (PL20/0008) and the plans have remained similar to those provided at the pre-lodgement meeting.

Proposal

The proposal seeks consent for a 26 lot Torrens Title subdivision (Lot 125201 - Lot 204707) of 5 residue lots across 6 stages and construction of 26 detached dwelling houses with the following features:

- 17m depth and varying widths between 16.2m and 17m providing lot sizes between 278.4m² and 289m²,
- North/south lot orientation,
- Retaining walls to address the west to east slope and at the rear of some sites,
- Rear acoustic fencing,
- 4 two storey dwelling house designs alternating across the proposed 26 lots with vehicle access from road 01 (north),
- Maximised front setbacks, minimal rear setbacks and private open space areas located in front setback screened by fencing and hedge plantings, and
- Drainage into the approved stormwater system within road 01.

It is noted that pad levels and the batter to the east/west collector road at the rear of the proposed lots has been established as part of the parent subdivision approval.

Plans that apply

- Local Environmental Plan 2010 (Amendment 4)
- Development Control Plan 2014
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- State Environmental Planning Policy (Western Sydney Aerotropolis) 2020
- State Environmental Planning Policy No 55—Remediation of Land
- Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

Planning Assessment

• **Section 1.7 - Application of Part 7 of Biodiversity Conservation Act 2016**

The clusters of vegetation on-site and within the area of proposed works is identified as having biodiversity values on the NSW Government Biodiversity Values Map and Threshold Tool. The parent subdivision approval included the clearing of vegetation within the area of works and the proposal will not require any further vegetation clearing (i.e. for asset protection zones). In this regard, the proposal is not development or an activity likely to significantly affect threatened species and therefore, does not require a biodiversity development assessment report.

• **Section 4.15 - Evaluation**

The development has been assessed in accordance with the matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979, and having regard to those matters, the following issues have been identified for further consideration.

• **Section 4.46 - Integrated development**

The proposal involves subdivision on bushfire prone land for the purposes of residential development. In this regard, the proposal requires a BFSA under the Rural Fires Act 1997 and therefore, triggers Integrated Development provisions. The application was referred to the NSW RFS on 7 May, 2020 to which the NSW RFS responded on 25 June, 2020 issuing general terms of approval which requires the subject lots to be maintained as an inner protection zone in perpetuity. Recommended conditions of consent will ensure the general terms of approval are adhered too.

Section 4.15(1)(a)(i) The provisions of any environmental planning instrument

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

This Policy ensures the implementation of the BASIX scheme which encourages sustainable residential development. It requires certain kinds of residential development to be accompanied by a list of commitments to be carried out by applicants.

This application is subject to these requirements as it involves the construction of 26 two storey dwellings on individual lots.

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 were submitted with the development application demonstrating compliance with set sustainability targets for water and energy efficiency and thermal comfort.

A standard condition of consent is recommended to ensure the commitments in the Certificates are maintained during the life of the proposed development.

State Environmental Planning Policy (Western Sydney Aerotropolis) 2020

Clause 19 Aircraft noise

The proposal is identified as noise sensitive development and is within land shown on the Obstacle Limitation Surface Map. In this regard, the proposal is required to meet indoor sound level requirements however, Clause 2 Commencement states that this provision commences on the 26 April, 2021. In light of the above, the proposal is not required to meet indoor sound level requirements as the application will be determined prior to this date.

Clause 21 Wildlife hazards

The land is within the 13km wildlife buffer zone however, the proposal is not identified as 'relevant development' therefore the provisions of this clause is not applicable.

Clause 24 Airspace operations

The land is shown on the Obstacle Limitation Surface Map however, the proposal will not penetrate the prescribed airspace and is not considered to be a controlled activity. In this regard, the provisions of this clause are not applicable.

State Environmental Planning Policy No 55—Remediation of Land

In accordance with Clause 7 Contamination and remediation to be considered in determining development application 'a consent authority must not consent to the carrying out of any development on land unless:

(a) it has considered whether the land is contaminated, and

(b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and

(c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.'

The parent subdivision approval was accompanied by numerous land contamination assessments/reports which considered the site suitable for the proposed development. However, the reports required further investigation to occur within the soil underneath a composting toilet and shed which was conditioned under DA19/0704. The composting toilet and shed is located within Stage 2A of the parent subdivision approval which correlates with the subject area of proposed works.

The condition imposed to capture the above outstanding land contamination matter requires the land contamination investigation to occur and be approved by Council prior to a Construction Certificate being issued for works within Stage 2A. In addition, if remediation is required as a result of the investigation then a separate application/approval for this purpose is required prior to works in Stage 2A commencing.

Recommended conditions of consent will ensure the land contamination investigation/works will be conducted to make the land suitable for the intended use prior to the relevant stages.

Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

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

It is noted that stormwater capture and water quality measures for the estate were assessed and approved via the parent subdivision application.

Local Environmental Plan 2010 (Amendment 4)

Provision	Compliance
Clause 1.2 Aims of the plan	Complies
Clause 2.3 Permissibility	Complies - See discussion
Clause 2.3 Zone objectives	Complies
Clause 2.6 Subdivision - consent requirements	Complies
Clause 4.1 - Minimum subdivision lot size	Complies - See discussion
Clause 4.3 Height of buildings	Complies - See discussion
Clause 7.2 Flood planning	Complies - See discussion
Clause 7.4 Sustainable development	Complies
Clause 7.6 Salinity	Complies
Clause 7.7 Servicing	Complies

Clause 2.3 Permissibility

The subject area of works is located across the R1 and R4 zones in which dwelling houses are a permissible with consent land use.

Clause 4.1 - Minimum subdivision lot size

The PLEP Lot Size Map does not specify a minimum lot size within the area of proposed works.

Clause 4.3 Height of buildings

The PLEP Height of Buildings Map specifies a 10m maximum building height within the R1 zone and a 15m maximum building height in the R4 zone. None of the proposed dwellings exceed these heights.

Clause 7.2 Flood planning

The proposal has been referred to Council's Development Engineering Department which have raised no objections to the proposal subject to recommended conditions of consent. The parent subdivision approved pipe and road networks which will achieve flood safe access and improve localised flooding within the site. It is noted that the parent subdivision approved the earthworks within the area of proposed works.

Section 4.15(1)(a)(ii) The provisions of any draft environmental planning instrument**Draft Environmental SEPP**

The Draft Environment SEPP was exhibited from 31 October 2017 to 31 January 2018. This consolidated SEPP proposes to simplify the planning rules for a number of water catchments, waterways, urban bushland, and Willandra Lakes World Heritage Property. Changes proposed include consolidating a total of seven existing SEPPs being:

- State Environmental Planning Policy No. 19 – Bushland in Urban Areas
- State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011
- State Environmental Planning Policy No. 50 – Canal Estate Development
- Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment
- Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (No.2-1997)
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005
- Willandra Lakes Regional Environmental Plan No. 1 – World Heritage Property.

It is noted that the amendments to Sydney Regional Environmental Plan No 20 – Hawkesbury – Nepean River (No. 2 – 1997) do not impact the proposed development. In this regard, the proposal is not inconsistent with the provisions of this Draft Instrument.

Draft Remediation of Land SEPP

The Department of Planning and Environment has announced a Draft Remediation of Land SEPP, which will repeal and replace the current State Environmental Planning Policy No 55—Remediation of Land.

The proposed new land remediation SEPP will:

- provide a state-wide planning framework for the remediation of land,
- maintain the objectives and reinforce those aspects of the existing framework that have worked well,
- require planning authorities to consider the potential for land to be contaminated when determining development applications and rezoning land,
- clearly list the remediation works that require development consent, and
- introduce certification and operational requirements for remediation works that can be undertaken without development consent.

It is also proposed that it will transfer the requirements to consider contamination when rezoning land to a direction under Section 9.1 of the Environmental Planning and Assessment Act 1979. Whilst the proposed SEPP will retain the key operational framework of SEPP 55, it will adopt a more modern approach to the management of contaminated land. Noting the above, the Draft SEPP will not alter or affect the findings in respect to contamination of the site.

Section 4.15(1)(a)(iii) The provisions of any development control plan

Development Control Plan 2014

Provision	Compliance
DCP Principles	Complies
C1 Site Planning and Design Principles	Complies
C2 Vegetation Management	N/A
C3 Water Management	Complies - see Appendix - Development Control Plan Compliance
C4 Land Management	Complies - see Appendix - Development Control Plan Compliance
C5 Waste Management	Complies - see Appendix - Development Control Plan Compliance
C6 Landscape Design	Complies
C7 Culture and Heritage	N/A
C8 Public Domain	N/A
C9 Advertising and Signage	N/A
C10 Transport, Access and Parking	Complies - see Appendix - Development Control Plan Compliance
C11 Subdivision	Complies - see Appendix - Development Control Plan Compliance
C12 Noise and Vibration	Complies - see Appendix - Development Control Plan Compliance
C13 Infrastructure and Services	Complies
D2.1 Single Dwellings	Does not comply - see Appendix - Development Control Plan Compliance
D2.2. Dual Occupancies	N/A
D2.3 Secondary Dwellings	N/A
D2.4 Multi Dwelling Housing	N/A
D2.5 Residential Flat Buildings	N/A
D2.6 Non Residential Developments	N/A
E12 Penrith Health and Education Precinct	Does not comply - see Appendix - Development Control Plan Compliance

Section 4.15(1)(a)(iiia) The provisions of any planning agreement

There is no current planning agreement applicable to the development.

Section 4.15(1)(a)(iv) The provisions of the regulations

Recommended conditions of consent will ensure the development complies with the relevant provisions of the Building Code of Australia and the regulations. The deferred commencement conditions and deferred commencement consent will achieve the provisions of the regulations.

Section 4.15(1)(b) The likely impacts of the development

The staged parent subdivision approval has provided the drainage, earthworks, road, vegetation removal, utilities and open spaces which will benefit the proposal. In this regard, recommended conditions of consent will ensure the applicable stages of the parent subdivision are completed prior to the development of the relevant stages for the proposal. As a result the proposed development will be appropriately serviced.

The proposed development provides for numerous non-compliances noting the dwelling type proposed however, the application has addressed these non-compliances by providing suitable private open space, front setbacks, landscaping and amenity given nearby noise sources. The dwelling types include numerous articulation and design features which provide a good presentation to all frontages. It is noted that acoustic impacts remain unclear therefore, deferred commencement conditions will ensure they are resolved prior to an operational consent being issued.

The proposal has achieved an acceptable response to the slope of the land given retaining walls are minimal. The proposal will not provide for any adverse privacy impacts given the measures incorporated into the proposal. In light of the above, there are no adverse likely impacts envisioned.

Section 4.15(1)(c) The suitability of the site for the development

As discussed earlier within this report the parent subdivision provides for the required services for the proposed development. It is noted that land contamination testing remains outstanding for some land within the area of proposed works however, this is required to be addressed prior to proposed works commencing. The bulk earthworks approval addressed flooding and vegetation removal/development will eliminate any bush fire planning concerns. Noise impacts will be addressed considering proximity of surrounding noise sources. An appropriate built form outcome is achievable on each lot. In this regard, the site is considered suitable for the proposed development.

Section 4.15(1)(d) Any Submissions

Community Consultation

In accordance with Council's Community Engagement Strategy 2019 the integrated development application triggered advertising and notification requirements. The proposal was advertised within the Western Weekender newspaper between 18 May and 1 June, 2020 and was notified to surrounding property owners between the same dates. A total of 4 submission were received in response.

The submissions received raised concerns with the following:

- Conflicts with drainage and road work requirements for a neighbouring approved development,
- Local roads and traffic generation.
- Staged nature of the proposal,
- Vegetation removal and preservation of ecological communities,
- Flooding, and
- Consideration of habitat for fauna, in particular kangaroos.

It is noted that the above issues relate to the parent subdivision application as the approval included drainage, bulk earthworks, flooding, roads and vegetation removal works which benefits the proposed development. It is noted that a recommended condition of consent will ensure the staging of the proposal aligns with the approved staged subdivision to ensure lots are appropriately serviced as the proposal is developed.

Letters were issued to the 4 submitters informing of how their concerns were considered during the assessment of the application. No response to the letters have been received therefore, the matters are considered resolved.

Referrals

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

Referral Body	Comments Received
Development Engineer	No objections - subject to conditions
Environmental - Environmental management	Not supported, however conditions provided

Environmental - Environmental management

Council's Environmental Management Team raised concerns with land contamination and noise impacts. These concerns have been addressed as follows:

Land contamination

The parent subdivision approval was accompanied by numerous land contamination assessments/reports which considered the site suitable for the proposed development. However, the reports required further investigation to occur within the soil underneath a composting toilet and shed which was conditioned under DA19/0704. The composting toilet and shed is located within Stage 2A of the parent subdivision approval which correlates with the subject area of proposed works.

The condition imposed to capture the above outstanding land contamination matter requires the land contamination investigation to occur and be approved by Council prior to a Construction Certificate being issued for works within Stage 2A. In addition, if remediation is required as a result of the investigation then a separate application/approval for this purpose is required prior to works in Stage 2A commencing.

Recommended conditions of consent will ensure the land contamination investigation/works will be conducted to make the land suitable for the intended use prior to the relevant stages.

Noise impacts

The parent subdivision application and subject development application have been accompanied by Noise Impact Statements. The subject lots and dwellings are susceptible to noise impacts from the southern industrial lots and the east/west collector road (Road 11). The parent subdivision approval included a condition of consent requiring a covenant to be placed on the subject residue lots to ensure the noise criteria could be achieved by adopting recommendations made within the Noise Impact Statement.

The Noise Impact Statement provided for indicative information given the unknown nature of development forms/scales and mentioned that the recommendations should be reviewed as the project progresses. The proposal includes dwelling houses on the residue lots and the plans nominate a rear acoustic fence however, a further noise impact statement has not been submitted. In this regard, a deferred commencement condition is recommended requiring an acoustic report to be conducted referencing the established noise criteria and providing recommendations to ensure the proposal can achieve the set criteria. This condition will also require clear specifications and details of any proposed acoustic fencing to ensure an appropriate outcome is achieved.

Section 4.15(1)(e)The public interest

There are no significant issues relating to the public interest envisioned as a result of the proposal.

Section 94 - Developer Contributions Plans

The following Section 7.11 plans apply to the site:

- Section 7.11 - Werrington Enterprise Living and Learning (WELL) Precinct

The proposed contributions are determined by the number of residential properties. Which is broken down as follows;

WELL Capped Contribution rate \$30,000 and amount of lots proposed 26. The total contribution amount is $\$30,000 \times 26 = \$780,000$.

Separate to this application, the applicant has submitted a letter of offer to enter into a Voluntary Planning Agreement (VPA) for Council's consideration and this is currently under review by Council's City Planning Team. Since the proposed offer has not yet been endorsed by Council, and is currently being reviewed, it is recommended that a condition of consent be imposed that would allow the flexibility for Council and the applicant to either enter a VPA or have contributions payable.

Conclusion

In assessing the proposed development against the relevant environmental planning policies, being State Environmental Planning Policy No. 55 - Remediation of Land, Penrith Local Environmental Plan 2010 and Penrith Development Control Plan 2014 the proposal satisfies the aims, objectives and provisions of these policies. The site is suitable for the proposal and there are no negative impacts envisioned as a result of the proposal. Therefore, the application is worthy of support, subject to recommended deferred commencement conditions of consent and general conditions of consent.

Recommendation

That DA20/0200 for staged integrated housing including site preparation works, 26 lot Torrens Title subdivision, construction of 26 detached dwellings and associated landscaping and drainage works over approved residue lots at 16 Chapman Street, Werrington be approved, subject to the following recommended deferred commencement conditions of consent and following general consent conditions.

General

1 [A001 - Approved plans table](#)

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
Civil Drawings				
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
Subdivision Plans				

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
Architectural Plans				
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
Landscape Plans				
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 ad 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 [A004 - DA STAGING](#)

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 [A008 - Works to BCA requirements \(Always apply to building works\)](#)

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

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

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

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

5 [A039 - Graffiti](#)

The finishes of all structures and buildings are to be maintained at all times and any graffiti or vandalism immediately removed/repared.

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

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

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

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

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

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

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

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

Sight distances at the street frontage shall be provided in accordance with AS2890.1.

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

The garage doors shall be treated with a colour complimenting the approved dwellings as required by Penrith Development Control Plan 2014.

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

Prior to the issue of a Construction Certificate, the relevant lots are to be registered.

Environmental Matters

15 [D002 - Spraygrass](#)

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

16 [D004 - Dust](#)

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

17 [D005 - Mud/Soil](#)

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

18 [D008 - Filling compaction](#)

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 [D009 - Covering of waste storage area](#)

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 [D010 – Appropriate disposal of excavated or other waste](#)

All excavated material and other wastes generated as a result of the development are to be re-used, recycled or disposed of in accordance with the approved waste management plan.

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

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

21 [D013 - Approved noise level 1](#)

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 [D014 - Plant and equipment noise](#)

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

23 **D026 - Liquid wastes**

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 **D06A – Approval for bulk earthworks/major filling operations (Use for bulk earthworks/ major filling operations)**

No fill material shall be imported to the site until such time as a Validation Certificate (with a copy of any report forming the basis for the validation) for the fill material has been submitted to 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, soils 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."

25 **D Special - Unexpected Finds Protocol**

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 **D Special (BLANK)**

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 **E001 - BCA compliance**

All aspects of the building design shall comply with the applicable performance requirements of the Building Code of Australia so as to achieve and maintain acceptable standards of structural sufficiency, safety (including fire safety), health and amenity for the on-going benefit of the community. Compliance with the performance requirements can only be achieved by:

(a) complying with the deemed to satisfy provisions, or

(b) formulating an alternative solution which:

- complies with the performance requirements, or
- is shown to be at least equivalent to the deemed to satisfy provision, or

(c) a combination of (a) and (b).

Health Matters and OSSM installations

28 **F006 - Water tank & nuisance**

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

Utility Services

29 **G002 - Section 73 (not for**

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 a Subdivision Certificate**.

30 **G004 - Integral Energy**

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 [G006 -](#)

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 [H001 - Stamped plans and erection of site notice](#)

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

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

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

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

- at the commencement of, and for the full length of the, construction works 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.

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

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

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 **H038 - Connection of rainwater tank supply (Also impose H036, H037 & H039)**

The rainwater tank supply must not be connected to drinking and bathing water tap outlets.

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

The rainwater tank pump must not exceed 5dBA above ambient background noise level at the nearest residential property boundary. The provisions of the Protection of the Environment Operations Act 1997 apply to the development, in terms of regulating offensive noise.

38 [H041 - Hours of work \(other devt\)](#)

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

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

Other construction works carried out inside a building/tenancy and 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 [K101 - Works at No Cost to Council](#)

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 [K201 - Infrastructure Bond](#)

An Infrastructure Restoration Bond is to be lodged with Penrith City Council for development involving works around Penrith City Council's Public Infrastructure Assets. The bond is to be lodged with Penrith City Council **prior to 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 **K202 - S138 Roads Act - Minor Works in the Public Road**

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 **K206 - Subdivision Works Certificate for Subdivision Works**

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 **K209 - Stormwater Discharge – Minor Development**

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 **K301 - Sediment & Erosion Control**

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 **K303 - Matters to be Addressed Prior to Commencement of Subdivision Works**

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 **K405 - Turf to Verge**

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 **K501 - Penrith City Council Clearance - Roads Act / Local Government Act**

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 **K502 - Completion of Subdivision Works**

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 **L001 - General**

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 **L002 - Landscape construction**

The approved landscaping for the development must be constructed by a suitably qualified and experienced landscape professional.

51 **L003 - Report requirement**

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 **L005 - Planting of plant**

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

53 **L006 - Aust Standard**

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

All trees that are required to be retained as part of the development are to be protected in accordance with the minimum tree protection standards prescribed in Penrith Development Control Plan 2014.

55 **L008 - Tree Preservation Order**

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 **M008 - Subdivision Certificate requirements**

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 for approval.

57 **M009 - 88B Instrument**

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.

Development Contributions

58 **N001a - Section 7.11 contribution (apply separate condition for each Contribution Plan)**

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 **Q008 - Subdivision Certificate**

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 **Q01F - Notice of Commencement & Appointment of PCA2 (use for Fast Light only)**

Prior to the commencement of any earthworks or construction works on-site, the proponent is to:

(a) employ a Principal Certifying Authority to oversee that the said works carried out on the site are in accordance with the development consent and related Construction Certificate issued for the approved development, and with the relevant provisions of the Environmental Planning and Assessment Act 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 **Q05F - Occupation Certificate for Class10**

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

Schedule 1 (Deferred Commencement)

62 **S Deferred Commencement - noise**

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.

Appendix - Development Control Plan Compliance

Development Control Plan 2014

Part C - City-wide Controls

C3 Water Management

The parent subdivision approved water quality measures for the precinct. It is noted that the proposed lots and built forms will drain to the approved disposal network within Road 01 which is considered satisfactory.

The parent subdivision approved extensive bulk earthworks which is well above the flood level and included pipe networks to replace overland flow paths. In this regard, there are no adverse flood impacts.

C4 Land Management

The parent subdivision approved the bench levels for the subject sites. It is noted that the approval included bulk earthworks with the proposed lots sloping west to east with the more significant slope occurring in the western end which gradually reduces further east. As a result the proposed lots step down from west to east. Recommended conditions of consent will ensure the retaining walls between lots are constructed immediately as opposed to when the dwellings are constructed as noted on the civil plans.

The western lots rear boundaries are occupied by small retaining walls atop the rear landscaped mound to Road 11. The boundary retaining walls between the proposed lots gradually reduce further north as a result of the lowered driveway and lower neighbouring private open space areas. It is noted that the front retaining walls gradually reduce further to the higher western side and retain the elevated private open space areas. The level difference between sites is not considered to require excessive retaining wall heights and the distance between driveways and common boundaries provides suitable landscaped separations.

C5 Waste Management

The parent subdivision approved road widths and considered waste service vehicle access. The sites are provided with large frontages to Road 01 suitable for the required bin presentation with access via side setbacks to the bin storage areas at the rear of the sites. It is noted that a suitable waste management plan has been submitted and recommended conditions of consent will be imposed to ensure compliance with the plan.

C10 Transport, Access and Parking

During the assessment of the parent subdivision the subject residue lots were lowered in order to minimise the elevated lots from Road 11 which in turn reduced the height of the lots from Road 01. In this regard, the lot heights and garage floor levels provide for suitable driveway gradients and vehicle access.

The proposed dwellings are provided with double car garages and stacked parking within the driveway therefore, parking complies. It is noted that pedestrian links have been excluded from this application.

C11 Subdivision

It is noted that the parent subdivision approval included roads, drainage, street landscaping, services etc. which benefits the proposed development. Recommended conditions of consent will ensure required services are provided noting the lots are currently approved as residue lots.

The proposed lots are not long and narrow which are undesirable and the proposal includes dwellings on each lot which comply with the residential development principles for the area as discussed later within this report.

C12 Noise and Vibration

The parent subdivision application and subject development application have been accompanied by Noise Impact Statements. The subject lots and dwellings are susceptible to noise impacts from the southern industrial lots and the east/west collector road (Road 11). The parent subdivision approval included a condition of consent requiring a covenant to be placed on the subject residue lots to ensure the noise criteria could be achieved by adopting recommendations made within the Noise Impact Statement.

The Noise Impact Statement provided for indicative information given the unknown nature of development forms/scales and mentioned that the recommendations should be reviewed as the project progresses. The proposal includes dwelling houses on the residue lots and the plans nominate a rear acoustic fence however, a further noise impact statement has not been submitted. In this regard, a deferred commencement condition is recommended requiring an acoustic report to be conducted referencing the established noise criteria and providing recommendations to ensure the proposal can achieve the set criteria. This condition will also require clear specifications and details of any proposed acoustic fencing to ensure an appropriate outcome is achieved.

D2 Residential Development

The provisions within Chapter E12 Penrith Health and Education Precinct Part C - South Werrington Urban Village Precinct over ride the controls within this chapter. This report discusses the proposal's compliance with Chapter E12 later within this report.

E12 Penrith Health and Education Precinct

Part C - South Werrington Urban Village Precinct

12.8.4.1 Subdivision

The proposed lots do not achieve 25m minimum depth requirements and do not maximise lot depth noting the northern orientation. However, the proposal has provided for private open space and living areas facing north to achieve suitable solar access and locate living areas away from the industrial and road noise sources.

The dwelling types being numbered 1 and 3 have been used at pedestrian link boundaries to provide an appropriate built form presentation to public areas.

It is noted that boundary retaining walls will be well below 1m in height.

12.8.4.2.1 Principal Private Open Space

The DCP encourages private open space areas to be located within the rear setback with secondary private open spaces permissible within the front setback for northern facing lots. The proposal provides the principal private open space area within the front setback with a connection to the internal living area and suitably screened by proposed vegetation. The front retaining walls are of a minor scale to retain the elevated private open space level. This arrangement provides maximised garden filled front setbacks and, considering the above, is therefore considered satisfactory as visual impacts are minimal and solar access is achieved.

12.8.4.4 Dwelling Design

The proposed dwellings design consist of a combination of external finishes and materials, projecting elements, building steps, projecting first floors over garages and articulation features to all elevations providing for a suitable presentation.

As discussed later within this report the applicable front setback for detached dwellings is 4.5m. The subject dwellings provide minimal rear setbacks to allow private open space areas within the front setback. In this regard, front setbacks are maximised and projecting elements do not provide for an unsightly projection or encroach 1.5m beyond the front setback.

It is noted that some elevations on the skillion roofed design dwellings do not provide for eaves however, no adverse visual impacts are envisioned an appropriate sun shading devices can be

applied internally to windows.

12.8.4.5 Visual and Acoustic Privacy

The proposal will not provide for any overlooking at ground level noting the positioning of fencing and the proposed finished floor levels. The orientation of the dwellings will not provide for any overlooking concerns from the second floor at the front and rear facades as the blocks have two road frontages. It is noted however, the balconies may provide overlooking opportunities to the lower private open space areas of adjoining lots. In this regard, the plans show full height walls or privacy screening to the side of the balcony.

The second storey side walls face garages and small ensuite windows therefore, there are no privacy impacts envisioned. It is noted that at pedestrian link boundaries dwelling forms flip however, side walls are separated by 12m therefore, no privacy impacts are envisioned.

The front facing private open space areas are treated with small vertical slate fencing to filter views and hedge planting within the site to provide privacy. This arrangement is considered satisfactory and recommended conditions of consent will ensure hedge planting is properly maintained.

Acoustic impacts have been discussed previously within this report noting the proximity of industrial land and the east/west collector road.

12.8.4.6 Fencing

The proposed side boundary fencing finishes inline with projecting verandah and front fencing is of a suitable height and material noting its visual prominence. A landscape batter occupies the rear of the site however, the recommended deferred commencement condition will require a suitably treated acoustic fence to be provided (should this be applicable).

12.8.5.2 Integrated Housing

The proposed detached dwellings are located on lots smaller than that required for the development type under this DCP. In this regard, the proposal is required to be designed by a registered architect. A Design Statement prepared by a registered architect has accompanied the application which endorses the proposal.

12.8.5.7 Detached Dwellings

The proposal does not comply with the following controls for detached dwellings:

Minimum lot size - 450m²

Landscaped area - 40% of site

Rear setbacks - 8m ground floor and 12m upper floor

The performance measures of these controls is to provide a spacious streetscape environment and the overall objective for all dwelling types is to promote a variety of housing choice and diversity. It is acknowledged that the proposed lots are not of a depth and size to accommodate the proposed dwelling types. However, the proposal has responded by providing maximised front setbacks in which private open space and landscape areas occupy providing a spacious streetscape presentation.

The landscaped area has been calculated at 30% however, this calculation did not include the rear 2m strip which is occupied by vegetation and an aggregate surface which has been provided in response to lack of solar access. Should this area have been included compliance would be achieved. In addition, the dwelling entrance and setback to driveways includes lush landscaping which is considered to be an acceptable outcome.

The rear setback non-compliance is considered to be acceptable as private open space and living areas have been directed north away from noise generating activities at the rear of the site

and toward the northern sun. The rear of the site is occupied by a landscape mound which addresses the east/west collector road. This outcome is considered acceptable as the encouraged vegetated rear setback can be replicated by the landscape mound and their are numerous benefits associated with relocating private open space areas north as discussed above.

In this regard, the non-compliances are considered acceptable as an appropriate outcome is achieved.