

PENRITH CITY COUNCIL

NOTICE OF DETERMINATION

DESCRIPTION OF DEVELOPMENT

Application number:	DA20/0229
Description of development:	Demolition of Existing Structures & Construction of Part Two (2) Storey & Part Three (3) Storey Seniors Housing Development comprising Three (3) Buildings including 33 Independent Living Units, Related Communal Facilities, Basement Car Parking & Associated Site Works
Classification of development:	Class 2 , Class 7a

DETAILS OF THE LAND TO BE DEVELOPED

Legal description:	Lot 1 DP 20976 Lot 2 DP 20976 Lot A DP 405051 Lot 1 DP 25705
Property address:	162 Stafford Street, PENRITH NSW 2750 160 Stafford Street, PENRITH NSW 2750 156 Stafford Street, PENRITH NSW 2750 154 Stafford Street, PENRITH NSW 2750

DETAILS OF THE APPLICANT

Name & Address:	Joanne Mcintosh G18, 25 Solent Circuit BAULKHAM HILLS NSW 2153
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DECISION OF CONSENT AUTHORITY

In accordance with Section 2.17 and 4.18(1) (a) of the Environmental Planning and Assessment Act 1979 (as amended), consent is granted subject to the conditions implementation in attachment 1.

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

Date from which consent operates	12 November 2020
Date the consent expires	12 November 2025

Date of this decision	11 November 2020
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POINT OF CONTACT

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

Assessing Officer:	Sandra Fagan
Contact telephone number:	+612 4732 7992

NOTES

Reasons

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

Conditions

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

Certification and advisory notes

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

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

Review of determination

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

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

Appeals in the Land and Environment Court

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

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

Designated development

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

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

Sydney Western City Planning Panels

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

ATTACHMENT 1: CONDITIONS OF CONSENT

General

1 The development must be implemented substantially in accordance with the following plans stamped approved by Council, the application form, and the following supporting documents submitted with the application (except as may be amended by the conditions of this consent):

- StormFilter Operations and Maintenance Manual, prepared by Ocean Protect, Revision 1, dated March 2019;
- Stormwater Drainage Design Report, prepared by Tonkin, Reference 20181340R002A, dated 28 April 2020 (except as may be amended to reconcile with the amended civil drawings listed in the table below);
- DA Acoustic Report (ID: 102FHC R01v2), prepared by PKA Acoustic Consulting, dated 21 July 2020;
- Remedial Action Plan (10791EV.P.90-R01), prepared by Construction Sciences, dated 20 August 2020;
- BCA Assessment Report (Ref: 200150), prepared by Blackett Magure Goldsmith, dated April 2020;
- Waste Management Report, prepared by Smith & Tzannes, dated 30 April 2020;
- Statement of Compliance - Access for People with a Disability, prepared by Accessible Building Solutions, dated 14 April 2020;
- Nationwide House Energy Rating Scheme - Certificate Number 0004802630;
- Geotechnical Report prepared by JK Geotechnics, dated 8 April 2020;
- Aboricultural Impact Assessment Report, prepared by Jacksons Nature Works, dated 30 April 2020; and
- BASIX Certificate No. 995155M_02.

Drawing Title - Project Number 19_086	Drawing No.	Revision Number	Prepared By	Dated
Title	DA-A-000	C	Smith & Tzannes	16/10/2020
Notes	DA-A-001	C	Smith & Tzannes	16/10/2020
Site Plan	DA-A-010	B	Smith & Tzannes	31/08/2020
Demolition Plan	DA-A-030	A	Smith & Tzannes	30/04/2020
Level 0 (Ground)	DA-A-100	B	Smith & Tzannes	21/08/2020
Level 1	DA-A-101	B	Smith & Tzannes	21/08/2020
Level 2	DA-A-102	B	Smith & Tzannes	21/08/2020
Roof Level	DA-A-103	A	Smith & Tzannes	30/04/2020
Elevations	DA-A-200	B	Smith & Tzannes	21/08/2020
Internal Elevations	DA-A-201	B	Smith & Tzannes	21/08/2020
Sections	DA-A-202	A	Smith & Tzannes	30/04/2020
Area Calculations	DA-A-800	B	Smith & Tzannes	31/08/2020

Solar Access & Cross Ventilation	DA-A-801	B	Smith & Tzannes	12/10/2020
Apartment Types (01)	DA-A-802	B	Smith & Tzannes	31/08/2020
Apartment Types (02)	DA-A-803	A	Smith & Tzannes	30/04/2020
Ceiling Height Non-Compliance	DA-A-804	-	Smith & Tzannes	17/06/2020
Shadows - Winter Solstice (1)	DA-A-850	B	Smith & Tzannes	31/08/2020
Shadows - Winter Solstice (2)	DA-A-851	B	Smith & Tzannes	31/08/2020
Views From the Sun	DA-A-852	B	Smith & Tzannes	31/08/2020
Solar Access POS 68-70 Doonmore Street	DA-A-853	A	Smith & Tzannes	30/04/2020
Solar Access POS 72 Doonmore / 23-25 Cronin Street	DA-A-854	A	Smith & Tzannes	30/04/2020
Solar Access 150-152 Stafford Street	DA-A-855	A	Smith & Tzannes	30/04/2020
Aerial	DA-A-900	B	Smith & Tzannes	31/08/2020
Height Blanket Diagrams	DA-A-901	-	Smith & Tzannes	16/10/2020
Location Plan & Drawing Schedule	001	C	Tonkin - Job 20181340	21 July 2020
Erosion and Sediment Control Details	110	C	Tonkin - Job 20181340	21 July 2020
Erosion and Sediment Control Plan	101	C	Tonkin - Job 20181340	21 July 2020
Site Work Plan	301	C	Tonkin - Job 20181340	21 July 2020

Catchment Plan	401	C	Tonkin - Job 20181340	21 July 2020
Stormwater Layout	402	C	Tonkin - Job 20181340	21 July 2020
Drainage Details	403	C	Tonkin - Job 20181340	21 July 2020
Landscape Site Plan	Sheet 1 of 5	B	Paul Scrivener Landscape Job - 20/2153	20 August 2020
Ground Floor - Planting Plan	Sheet 2 of 5	B	Paul Scrivener Landscape Job - 20/2153	20 August 2020
Level 1 - Masterplan	Sheet 3 of 5	B	Paul Scrivener Landscape Job - 20/2153	20 August 2020
Level 1 - Planting Plan	Sheet 4 of 5	B	Paul Scrivener Landscape Job - 20/2153	20 August 2020
Calculations Plan	Sheet 5 of 5	B	Paul Scrivener Landscape Job - 20/2153	20 August 2020

- 2 The lots associated with this development site are to be consolidated into one lot. This includes Lots 1 and 2 in DP 20976, Lot A in DP 405051, and Lot 1 in DP 25705.

Written evidence that the request to consolidate the lots has been lodged with Land and Property Information division of the Department of Lands is to be submitted to the certifying authority before the Construction Certificate for the development can be issued by the certifier.

A copy of the registered plan of consolidation from Land and Property Information division of the Department of Lands is to be submitted to the Principal Certifying Authority (PCA) and Penrith City Council, if Council is not the PCA, prior to the issue of the Occupation Certificate for the development.

- 3 The development shall not be used or occupied until an Occupation Certificate has been issued.**
- 4 The business is to be registered with Penrith City Council by completing the "Registration of Premises" form. This form is to be returned to Council prior to the issue of the Occupation Certificate and operation of the business.
- 5 The finishes of all structures and buildings are to be maintained at all times and any graffiti or vandalism immediately removed/repaired.

6 Any air conditioning units shall not be installed to the development without the prior approval of Penrith City Council if the:

- air conditioning unit is located within 3m of a property boundary;
- air conditioning unit is located above the ground floor level of the development; and
- noise levels emitted by the air conditioning unit will exceed 5dB(A) above the ambient background noise level measured at the property boundary.

A separate development application shall be sought and obtained from Council prior to the installation of an air conditioning unit unless the works constitute exempt or complying development.

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

8 The accommodation permitted by this development consent can only be occupied by those persons described at Clause 18 (1) of the State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004. A Restriction to User is to be registered against the title of the property in accordance with Section 88E of the Conveyancing Act 1919 limiting the use of the accommodation to the kinds of people referred to in Clause 18(1). Evidence of such restriction on title is to be to the satisfaction of the Principal Certifying Authority prior to the release of any Occupation Certificate.

9 Prior to the issue of any Occupation Certificate, the applicant is to provide evidence to the Principal Certifying Authority that a commercial contract for all waste collection services to the site has been entered into. Such a contract must be retained and maintained while the site is being used. All costs associated with waste collection are to be at the expense of the developer/operator/landowner.

Further, prior to the issue of any Occupation Certificate, a restriction to user and positive covenant shall be registered on the title of the property advising that Council's domestic waste fee will be charged to residents or the landowner in addition to any private contract fees.

10 No fencing is permitted within the frontage to Stafford Street. Any delineation between private and public land within the front setback is to be made using vegetation and planting only.

11 As the proposal has been granted pursuant to Clause 4.6 to vary a development standard, and because the variation granted is linked to the quality of the design, in order to ensure the design quality excellence of the development is retained to completion, the design architect(s) comprising Smith & Tzannes is to have direct involvement in the design documentation and construction stages of the project, including at Construction Certificate stage. The design architect/s is not to be changed without prior notice and approval of the Council's Development Assessment Coordinator. Such approval should not be unreasonably withheld by Council.

Any future Modification Applications which change the design of the approved development are to include a written review from the design architect upon the reasonable request of Council staff.

12 The residential units in the completed development are not permitted to be strata subdivided. A Restriction to User is to be placed on the consolidated lot prior to the issue of any Occupation Certificate to this effect.

13 The doors to the bulky goods waste room are to be amended to be 180 degree outward opening doors.

14 The Principal Certifying Authority is to obtain further design details that demonstrate that the approved development complies with the relevant clauses at Schedule 3 of the State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004. These matters relate to equitable and accessible

design. The details are to be shown with the Construction Certificate drawings and application.

15 An operational 'Plan of Management' is to be approved by the Principal Certifying Authority prior to the issue of any Occupation Certificate. The Plan of Management is to include at least details of the following:

- The 24 hour contact details of any property caretaker or manager, who has overall responsibility for the operation, administration, cleanliness, maintenance and fire safety of the premises;
- Any rules, including details of how they will be publicised to residents, that cover guest behaviour, activities and noise, visitor policy and any other relevant rules;
- Measures to minimise unreasonable impact to the habitable areas of adjoining properties, including the management of communal open spaces. The use of communal open spaces should be restricted in accordance with the Acoustic Report and the communal open space areas are not to be used for large groups after 10:00pm or before 7:00am;
- Details of professional cleaning and pest and vermin control arrangements for the common areas;
- A pest management plan that clearly indicates how pest prevention, monitoring, and eradication will be completed. The pest management program shall include but not be limited to pest management program; frequency of pest service; maintenance and cleaning; area of service; time of service; sighting of pests and a response plan; reporting; and methods of treatment; and
- Details of how complaints will be investigated and managed.

16 The following community safety and crime prevention through environmental design (CPTED) requirements are required to be implemented:

Lighting

- All outdoor/public spaces throughout the development must be lit to the minimum Australian Standard of AS 1158. Lighting must be consistent in order to reduce the contrast between shadows and illuminated areas and must be designed in accordance with AS 4282 - Control of the obtrusive effects of outdoor lighting.

Car Parking

- A security system must be installed on any pedestrian and vehicle entry/exit points to the car park, including lifts and stairwells, to minimise opportunities for unauthorised access.
- All areas of the car park must be well-lit, with consistent lighting to prevent shadowing or glare.
- Car park surfaces including walls and ceilings are to be light coloured with details included with the **Construction Certificate** application.

Building Security & Access Control

- Intercom, code or card locks or similar must be installed for all entries to the buildings and restricted areas (i.e waste room, common room).
- Australian Standard 220 door and window locks must be installed in all dwellings.
- CCTV is to be provided to cover communal public space areas. Cameras must be of sufficient standard to be useful for police in the event of criminal investigations. Lighting must be provided to support cameras at night (alternatively infra-red cameras are recommended). Signage must be displayed to indicate that CCTV cameras are in use.
- Letterboxes must be located within a secure area, accessible only to residents. They must be secure with no front flap lock that can be easily broken.

Way-finding

- Unit numbers, names of buildings, maps and facilities must be clearly signposted.

Graffiti/Vandalism

- Graffiti resistant coatings must be used to external surfaces where possible, including signage,

- furniture, retaining walls, etc.
- Procedures must be in place to ensure the prompt removal and/or repair of graffiti or vandalism to the buildings, fencing, and common areas. This includes reporting incidents to police and/or relevant authorities.

Landscaping

- All vegetation must be regularly pruned to ensure that sight lines are maintained.

Demolition

17 **Prior to commencement of demolition works on site**, a Hazardous Building Materials Assessment is to be submitted to Council. The associated investigations are required to be carried out to assess the location, extent and condition of Hazardous Building Materials including but not limited to the following:

- Asbestos;
- Synthetic mineral fibres (SMF);
- Polychlorinated Biphenyls (PCBs);
- Lead-containing paint;
- Ozone depleting substances; and
- Lead dust in ceiling cavities.

The Assessment is to also provide general recommendations for the removal of the hazardous materials, including the preparation of safe work method statements and risk assessments to appropriately address health and safety issues.

During demolition works, the approved Hazardous Building Materials Assessment must be implemented and complied with at all times.

At the completion of the demolition works, the applicant is to submit to Council a report demonstrating that the hazardous building materials identified in the Hazardous Building Materials Assessment have been removed and disposed of at a lawful waste facility.

18 All demolition works are to be conducted in accordance with the provisions of AS 2601-1991 "The Demolition of Structures". **Prior to demolition**, all services shall be suitably disconnected and capped off or sealed to the satisfaction of the relevant service authority requirements.

All demolition and excavated material shall be disposed of at a Council approved site or waste facility. Details of the proposed disposal location(s) of all excavated material from the development site shall be provided to the Principal Certifying Authority **prior to commencement of demolition**.

19 You should read Council's Fact Sheet titled "Handling and Disposal of Fibrous Cement Products" **before any demolition works commence on the site**.

Prior to commencement of demolition works on site, a portaloos with appropriate washing facilities shall be located on the site and the Principal Certifying Authority is to be satisfied that:

- Measures are in place so as to comply with the WorkCover Authority's "Short Guide to Working with Asbestos Cement" and
- The person employed to undertake the works is a licensed asbestos removal contractor and is holder of a current WorkCover Asbestos Licence.

Any demolition works involving the removal of all asbestos shall only be carried out by a licensed asbestos removal contractor who has a current WorkCover Asbestos Licence.

All asbestos laden waste, including asbestos cement flat and corrugated sheeting must be disposed of at a tipping facility licensed by the Environmental Protection Authority to receive asbestos wastes.

Heritage/Archaeological relics

- 20 If any archaeological relics are uncovered during the course of the work no further work shall be undertaken until further directed by Penrith City Council or the NSW Heritage Office. The applicant is advised that depending on the possible significance of the relics, an archaeological assessment and an excavation permit under the Heritage Act, 1977 may be required before any further work can be recommenced in that area of the site.

Environmental Matters

- 21 Erosion and sediment control measures shall be installed **prior to the commencement of works on site** including approved clearing of site vegetation. The erosion and sediment control measures are to be installed and maintained in accordance with the Department of Housing's "Managing Urban Stormwater: Soils and Construction" 2004.

The sediment and erosion control measures are to be **maintained throughout the construction phase of the development until the land, that was subject to the works, have been stabilised and grass cover established**. These measures shall ensure that mud and soil from vehicular movements to and from the site does not occur during the construction of the development.

- 22 Dust suppression techniques are to be employed during demolition to reduce any potential nuisances to surrounding properties.
- 23 **Prior to the issue of the Construction Certificate** for the erection of the buildings, site remediation works shall be carried out generally in accordance with 'Remedial Action Plan – 154-162 Stafford Street, Penrith, NSW' prepared by Construction Sciences Pty Ltd dated 20 August 2020 (Ref. 10791EV.P.90-R01), and the Council approved Remedial Action Plan Addendum, as well as the National Environment Protection (Assessment of Site Contamination) Measure 1999 [NEPC 2013], ANZECC and NHMRC Guidelines (1992), applicable NSW Environment Protection Authority Guidelines, applicable Australian Standards, and State Environmental Planning Policy No. 55 - Remediation of Land.
- 24 Mud and soil from vehicular movements to and from the site must not be deposited on the road.
- 25 All waste materials stored on-site are to be contained within a designated area such as a waste bay or bin to ensure that no waste materials are allowed to enter the stormwater system or neighbouring properties. The designated waste storage areas shall provide at least two waste bays / bins so as to allow for the separation of wastes, and are to be fully enclosed when the site is unattended.
- 26 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.

- 27 Noise levels from the premises shall not exceed the relevant noise criteria detailed in the approved acoustic report contained in Condition 1.

The recommendations provided in the 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. A certificate is to be obtained from a qualified acoustic consultant certifying that the building has been constructed to meet the noise criteria in accordance with the approved acoustic report. This certificate is to be submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

The provisions of the Protection of the Environment Operations Act 1997 apply to the development, in terms of regulating offensive noise.

The assumptions and operational recommendations of the acoustic report are to be implemented and managed by the applicant during the use of the premises.

The operator is to manage noise from the use of the development in accordance with the acoustic report. A complaints handling procedure is to be included in the operational Plan of Management that details how noise complaints will be investigated and managed.

- 28 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.

- 29 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) 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) 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 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.”}

30 All vegetation and structures are to be inspected to allow for the safe removal and translocation of all residing fauna, prior to works progressing. This effort is to be undertaken by a suitably qualified expert, with assistance provided by a local wildlife carer as required.

31 **Prior to the issue of a Construction Certificate**, and upon completion of the remediation works, the following documents are to be provided the Principal Certifying Authority and Penrith City Council, if Council is not the Principal Certifying Authority:

- A validation report, prepared by an appropriately qualified person is to be submitted before any building work can commence on the remediated site. The report shall certify that the remediation works have been carried out in accordance with the approved Remedial Action Plan, relevant NSW Environment Protection Authority requirements and Penrith Development Control Plan;
- Written notification that the site remediation works have been completed is to be submitted within 30 days of the said works having been completed; and
- That the site is suitable for the proposed use in accordance with State Environmental Planning Policy No. 55 - Remediation of Land.

32 An appropriately qualified person shall:

- (a) Supervise the remediation works;
- (b) Carry out the ‘Supplementary Contamination Assessment Works’, as detailed in Section 10.5 of the Council approved Remedial Action Plan and submit the associated Remedial Action Plan Addendum to Council for approval prior to any additional remedial works commencing (other than those outlined in Section 10.4 of the approved Remedial Action Plan); and
- (c) Address off site impacts and proposed management strategies where relevant.

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

33 Contaminated topsoil shall not be mixed with uncontaminated underlying natural soils.

34 Should contamination be found during development works (outside the scope of the Council approved Remedial Action Plan), and should remediation be required, Penrith City Council is required to be notified

and consulted before the remediation works commence.

BCA Issues

35 Access and sanitary facilities for persons with disabilities are to be provided and maintained in accordance with the requirements of the Building Code of Australia and AS 1428 "Design for Access and Mobility". Details of compliance are to be provided in the relevant plans and specifications accompanying the Construction Certificate application.

36 The owner of a building, to which an essential fire safety measure is applicable, shall provide Penrith City Council with an annual fire safety statement for the building. The annual fire safety statement for a building must:

(a) deal with each essential fire safety measure in the building premises, and

(b) be given:

- within 12 months after the last such statement was given, or
- if no such statement has previously been given, within 12 months after a final fire safety certificate was first issued for the building.

As soon as practicable after the annual fire safety statement is issued, the owner of the building to which the statement relates:

- must also provide a copy of the statement (together with a copy of the current fire safety schedule) to the Commissioner of New South Wales Fire Brigades, and
- prominently display a copy of the statement (together with a copy of the current fire safety schedule) in the building.

37 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).

It is the owner's responsibility to place on display, in a prominent position within the building at all times, a copy of the latest fire safety schedule and fire safety certificate/statement for the building.

38 The external walls of the building including attachments must comply with the relevant requirements of the National Construction Code (NCC). Prior to the issue of a Construction Certificate and Occupation Certificate the Certifying Authority and Principal Certifying Authority must:

(a) Be satisfied that suitable evidence is provided to demonstrate that the products and systems proposed for use or used in the construction of external walls including finishes and claddings such as synthetic or aluminium composite panels comply with the relevant requirements of the NCC; and

(b) Ensure that the documentation relied upon in the approval processes include an appropriate level of detail to demonstrate compliance with the NCC as proposed and as built.

- 39 All retaining walls are to be of masonry construction and are not permitted to be constructed in timber. The retaining wall located in the rear (south-east) corner of the site is to be stepped into two layers as shown on the architectural drawings. So as to ensure there are no trapped lowpoints on adjoining properties, the wall is to be finished flush with the natural surface levels of the adjoining lot/s.
- 40 All recommendations contained in the BCA Assessment Report, Reference 200150, prepared by Blackett Maguire Goldsmith, dated April 2020 and the Statement of Compliance - Access for People with a Disability, prepared by Accessible Building Solutions, dated 14 April 2020, are to be adhered to at the Construction Certificate, construction and Occupation Certificate stage of the development. The Principal Certifying Authority is to ensure that the report is complied at the relevant stages of the development.

Health Matters and OSSM installations

- 41 When/If an air handling, hot water, warm water or water cooling system is installed:
- A certificate is to be obtained certifying that the system has been installed in accordance with the Public Health (Microbial Control) Regulation 2000 and AS 3666.1:1995.
 - All relevant information required under clause 15(3) of the Public Health (Microbial Control) Regulation 2000 shall be submitted to Penrith City Council on completion of the building.
 - The occupier of the premises shall ensure that the system is maintained in accordance with requirements of the Public Health (Microbial Control) Regulation 2000 and AS 3666.1:1995, unless the Council has been notified otherwise.
- 42 Any/all rainwater tank(s) must be maintained so as not to create a nuisance and it must be protected against mosquito infestation.

Utility Services

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

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

- 44 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.

- 45 **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

46 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 are to be erected:

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

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

47 Prior to the commencement of construction works:

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

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

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

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

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

(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.

48 Demolition and Construction 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

49 All roadworks, stormwater drainage works, signage, linemarking, associated civil works and dedications, required to effect the consented development shall be undertaken by the applicant at no cost to Penrith City Council.

50 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, whichever occurs first. The bond and applicable fees are in accordance with Council's adopted Fees and Charges.

An application form together with an information sheet and conditions are available on Council's website. Contact Penrith City Council's City Works Department on 4732 7777 or visit Penrith City Council's website for more information.

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

- a) Vehicular crossings (including kerb reinstatement of redundant vehicular crossings);
- b) Concrete footpaths;
- c) Road opening for utilities and stormwater (including stormwater connection to Penrith City Council roads and other Penrith City Council owned drainage);
- d) Road occupancy or road closures;
- e) The placement of hoardings, structures, containers, waster skips, signs etc. in the road reserve;
- f) Temporary construction access; and
- g) Temporary ground anchors (for basement construction).

All works shall be carried out in accordance with the Roads Act approval, the development consent, including the stamped approved plans, and Penrith City Council's specifications, guidelines and best engineering practice. Contact Penrith City Council's City Assets Department on 4732 7777 or visit Penrith City Council's website for more information.

Note:

- Where Penrith City Council is the Certifying Authority for the development, the Roads Act approval for the above works may be issued concurrently with the Construction Certificate.
- All works associated with the Roads Act approval must be completed prior to the issue of any Occupation Certificate.

52 The stormwater management system shall be consistent with Stormwater Plans identified in the table of approved drawings at Condition 1. Engineering plans and supporting calculations for the stormwater management systems are to be prepared by a suitably qualified person and shall accompany the application for a Construction Certificate. Prior to the issue of any Construction Certificate, the Certifying Authority shall ensure that the stormwater management system has been designed in accordance with Penrith City Council's Stormwater Drainage for Building Developments and Water Sensitive Urban Design (WSUD) Policies.

53 Prior to the issue of any Construction Certificate, the Certifying Authority shall ensure that the stormwater

drainage system for the basement car park has been designed in accordance with the requirements for pumped systems in AS 3500.3 (or as amended) (Plumbing and Drainage – Stormwater Drainage).

- 54 Prior to the issue of any Construction Certificate, the Certifying Authority shall ensure that vehicular access, circulation, maneuvering, pedestrian and parking areas associated with the subject development are in accordance with AS 2890.1, AS 2890.2, AS 2890.6 and Penrith City Council's Development Control Plan.
- 55 Prior to the commencement of any works on-site (including demolition works) or prior to the issue of any Construction Certificate, a Construction Traffic Management Plan (CTMP) shall be submitted to Council's City Assets Department for endorsement. The CTMP shall be prepared by a suitably qualified consultant with appropriate training and certification from the Roads & Maritime Services (RMS). The CTMP shall include details of any required road closures, work zones, loading zones and the like. Approval of the CTMP may require approval of the Local Traffic Committee. Please contact Council's City Assets Department on 4732 7777 and refer to Council's website for a copy of the Temporary Road Reserve Occupancy Application Form.
- 56 Prior to the issue of a Construction Certificate, a geotechnical investigation report and strategy shall be submitted to the Certifying Authority to ensure stability of the Council infrastructure and surrounding developments. The geotechnical investigation, report and strategy shall comply with the recommendations contained in the technical direction GTD 2012/001 prepared by the Road and Maritime Services as amended.
- 57 The developer shall undertake a dilapidation report for all surrounding buildings and Council owned infrastructure that confirms that no damage occurs due to the excavations associated with the development. If Council is not the Certifying Authority the dilapidation report shall be submitted to Council prior to the issue of any Construction Certificate and then updated and submitted prior to the issue of any Occupation Certificate confirming no damage has occurred. The dilapidation report/s are to take into account the recommendations of the Geotechnical Report submitted with the application and in particular Part 4 of that report with regard to surveys of adjoining properties. Surveys of adjoining properties are to be undertaken with the relevant landowners consent and all reasonable and fair attempts are to be made to obtain the required relevant landowners consent to enter properties.
- 58 Prior to the issue of any Occupation Certificate, the Principal Certifying Authority shall ensure that all works associated with a Section 138 Roads Act approval or Section 68 Local Government Act approval have been inspected and signed off by Penrith City Council.
- 59 Prior to the issue of an Occupation Certificate, works-as-executed drawings, final operation and maintenance management plans and any other compliance documentation shall be submitted to the Principal Certifying Authority in accordance with Penrith City Council's Engineering Construction Specification for Civil Works, WSUD Technical Guidelines and Stormwater Drainage for Building Developments.

An original set of works-as-executed drawings and copies of the final operation and maintenance management plans and compliance documentation shall also be submitted to Penrith City Council with notification of the issue of the Occupation Certificate where Council is not the Principal Certifying Authority.

- 60 Prior to the issue of any Occupation Certificate, the Principal Certifying Authority shall ensure that the:
 - a) Stormwater management systems (including on-site detention and water sensitive urban design)
 - b) Basement pump out systems
 - Have been satisfactorily completed in accordance with the approved Construction Certificate and the requirements of this consent.

- Have met the design intent with regard to any construction variations to the approved design.
- Any remedial works required to be undertaken have been satisfactorily completed.

Details of the approved and constructed systems shall be provided as part of the Works As Executed drawings.

61 Prior to the issue of any Occupation Certificate, a restriction as to user and positive covenant relating to the:

- a) Stormwater management systems (including on-site detention and water sensitive urban design)
- b) Basement pump out systems

shall be registered on the title of the property. The restriction as to user and positive covenant shall be in Penrith City Council's standard wording as detailed in Penrith City Council's Stormwater and Drainage for Building Developments Policy.

62 The stormwater management systems shall continue to be operated and maintained in perpetuity to the satisfaction of Council in accordance with the final operation and maintenance management plan. Regular inspection records are required to be maintained and made available to Council upon request. All necessary improvements are required to be made immediately upon awareness of any deficiencies in the treatment measure/s

63 All vehicle parking spaces, parking aisles and driveways/circulating roads must be designed and built in accordance with AS 2890.1-2004; AS 2890.6-2009; AS 2890.2-2002 and Council's requirements.

64 All car spaces are to be sealed, line marked and dedicated for the parking of vehicles only and not be used for storage of materials, products, waste materials, etc.

65 The required sight lines around the driveway entrances are not to be compromised by landscaping, fencing or signage.

66 All vehicles are to enter/exit the site in a forward direction.

67 Subleasing of car parking spaces is not permitted by this consent. Car parking spaces are to be retained and maintained solely for the use of residents and staff of the development. Any staff parking spaces provided are to be free of charge to staff members.

68 Hydraulic rock hammers are not to be used unless further monitoring is carried out by a qualified consultant and the recommendations contained in the Geotechnical Report are adhered to.

69 The recommendations and requirements of the Geotechnical Report submitted with the application and specified in Condition 1 of this consent are to be adhered to at all times during excavation and construction.

Landscaping

70 All landscape works are to be constructed in accordance with the stamped approved plans noted in the table at Condition 1 and the Penrith Development Control Plan. 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.

71 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.

72 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 the Penrith Development Control Plan and industry best practice.

73 Arboricultural Consultant:

(a) The applicant shall engage a qualified Arboricultural Consultant with a minimum Level 5 qualification (AQF – Australian Qualification Framework) or the equivalent to be retained for the duration of the demolition and construction of the development.

(b) The consultant shall be engaged to prepare a site-specific Tree Protection Plan and Drawing in accordance with the conditions of this consent and Section 5 of AS 4970 – 2009, Protection of Trees on Development Sites. All trees to be retained and protected, and trees located on adjoining properties, within 5m of the subject property boundary, are to be covered by this report.

(c) An individual Tree Protection Plan and Drawing shall be required for each stage of the development where changes within the Tree Protection Zone (TPZ) are required.

(d) In addition, the consulting arborist is to identify key stages where monitoring and certification will be required as outlined in AS 4970 – 2009, Section 5.

(a) The relevant Tree Protection Plan and Drawing is to be retained and implemented on site at all times.

(b) The consulting arborist shall be present on-site during demolition and any of the key stages identified in the schedule required in the condition point above.

(e) A written account of the satisfactory completion of each of these stages as assessed by the consulting arborist is to be reported to the Principal Certifying Authority.

74 The following changes are to be made to the approved Landscape drawings to the satisfaction of the Principal Certifying Authority prior to the release of any Construction Certificate:

- All outdoor communal seating shall include backrests and armrests;
- A minimum of one vegetable planter bed located on the communal roof top garden is to be raised in height so that it is easily reached and can be used by persons in a wheelchair;
- More communal seating is to be provided in the open space areas of the development as follows: in the Lower Courtyard - 4 seats plus one table and chair in front of the community room; 1 long bench near the entry to Building A; and 5 seats behind Building B or in the vegetable garden area;
- Lighting is to be provided to the common areas of the site to illuminate pathways, seating areas and

entrances to buildings. The lighting is to be designed so that it minimises light spill into the internal areas of dwellings on the site and at adjacent sites;

- The banksia shown at the front entry (Stafford Street) is to be replaced with a *Corymbia Maculata* (or similar species);
- The eastern side of the front setback to Stafford Street is to contain 2 street trees;
- Removal of the existing power pole located near the proposed front entry on Stafford Street is to be further investigated with a view to removing the power pole and providing further deep soil planting in the vacated area.

75 Tree Protection Plan and Drawing:

(a) The applicant shall engage a qualified Arboricultural Consultant with a minimum Level 5 qualification (AQF – Australian Qualification Framework) to prepare a site-specific Tree Protection Plan and Drawing in accordance with the conditions of this consent and Section 5 of AS 4970 – 2009, Protection of Trees on Development Sites.

(b) The Tree Protection Plan shall also specifically address (but not be limited to) the following points:

- i. All stages of the demolition/construction process;
- ii. Specific tree protection requirements, especially when intrusion into the Tree Protection Zone (TPZ) or when trunk and branch protection is required;
- iii. A requirement/specification stating that all underground services to be installed within the designated TPZ of a tree to be retained must be installed using directional drilling/thrust boring techniques;
- iv. An individual Tree Protection Plan and Drawing for each stage of the development where changes within the Tree Protection Zone (TPZ) are required (i.e. prior to commencement, demolition, during construction, post construction and landscaping).

(c) In addition, the consulting arborist is to identify key stages where monitoring and certification will be required as outlined in AS 4970–2009, Section 5.

(d) The completed Tree Protection Plan and Drawing is to be provided to the Manager of Development Services for final approval prior to the issue of a Construction Certificate.

(e) The approved Tree Protection Plan retained and implemented on site at all times.

76 The trees required to be retained must be protected in accordance with Australian Standard AS 4970 - 2009, Protection of Trees on Development Sites.

77 The trees identified as being retained must be retained and protected in accordance with the arborist's report recommendations.

Certification

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

- (a) employ a Principal Certifying Authority to oversee that the said works carried out on the site are in accordance with the development consent and related Construction Certificate issued for the approved development, and with the relevant provisions of the Environmental Planning and Assessment Act and accompanying Regulation, and
- (b) submit a Notice of Commencement to Penrith City Council.

The Principal Certifying Authority shall submit to Council an "Appointment of Principal Certifying Authority" in accordance with Section 81A of the Environmental Planning and Assessment Act 1979.

Information to accompany the Notice of Commencement

Two (2) days before any earthworks or construction/demolition works are to commence on site (including the clearing site vegetation), the proponent shall submit a "Notice of Commencement" to Council in accordance with Section 81A of the Environmental Planning and Assessment Act 1979.

79 An Occupation Certificate is to be obtained from the Principal Certifying Authority on completion of all works and prior to the occupation of the building(s). The commitments listed in the BASIX Certificate are to be completed prior to the issue of the Occupation Certificate.

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. This includes submitting the following documentation to the Principal Certifying Authority:

- a) Written documentation or Compliance Certificate from Penrith City Council certifying to the satisfactory completion of works approved under the Roads Act 1993;
- b) The provisions of AS 1428.1 and that any person with disabilities can access the building, including its perimeter. In this regard, the Compliance Certificate (or other documentation) is to be prepared by an accredited access consultant;
- c) Appropriate documentation that the positive covenant on the land has been lodged or registered with the Land and Property Information division of the Department of Lands in regard to the waste collection arrangements;
- d) Copy of registered 88B Instrument for the waste collection arrangement;
- f) Certification from the Design Architects(s) that the landscaping has been provided in accordance with the approved plans and the conditions of this consent requiring amendments to the landscaping.

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:	Sandra Fagan
Signature:	

For the Development Services Manager