

PENRITH CITY COUNCIL

NOTICE OF DETERMINATION

DESCRIPTION OF DEVELOPMENT

Application number:	DA17/0559
Description of development:	Proposed 45 x Unit Residential Flat Building Including Area for a Future Potential Ground Floor Child Care Centre with Associated Basement Car parking, Landscaping & Drainage works
Classification of development:	Class 2 , Class 7a

DETAILS OF THE LAND TO BE DEVELOPED

Legal description:	Lot 10 DP 1224143
Property address:	72 Park Avenue, KINGSWOOD NSW 2747

DETAILS OF THE APPLICANT

Name & Address:	Pam Cornerstone Pty Ltd P O Box 3739 PARRAMATTA NSW 2124
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DECISION OF CONSENT AUTHORITY

Penrith Council has determined to grant “Deferred commencement” consent under Section 80(3) of the Environmental Planning and Assessment Act 1979. In accordance with Section 81(1) (a) of the Act, the “Deferred commencement” consent is granted subject to the conditions listed in this Notice.

The conditions listed in Schedule 1 are to be complied with prior to the commencement of the consent. On completion of all conditions in Schedule 1 that need to be satisfied before the consent can be commenced, Council will issue an operational consent for the development. If the conditions in Schedule 1 are approved by an accredited certifier, then a copy of the certification relating to the satisfaction of the Schedule 1 condition(s) are to be submitted to Council. [Note: this is to enable Council to issue the operational consent for the development as the accredited certifier cannot issue the operational consent.]

The conditions to be satisfied prior to commencement of the consent will need to be completed within 12 months from 14 November 2018.

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

Date from which deferred commencement consent operates	14 November 2018
Date the deferred commencement consent expires	14 November 2019
Date of this decision	12 November 2018

POINT OF CONTACT

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

Assessing Officer:	Jane Hetherington
Contact telephone number:	+612 4732 8078

NOTES

Reasons

The conditions in the attached schedule have been imposed in accordance with Section 80A of the Environmental Planning and Assessment Act 1979 as amended.

Conditions

Your attention is drawn to the conditions of consent listed in Schedule 1 requiring compliance prior to the development consent becoming operational. Council will issue a operational development consent on compliance of all conditions listed in Schedule 1 by the given timeframe.

Certification and advisory notes

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

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

Review of determination

The applicant may request Council to review its determination pursuant to Section 82A of the Environmental Planning and Assessment Act 1979 within 6 months of receiving this Notice of Determination.

You cannot make this request if the development is Designated Development, Integrated Development or State Significant development or if the application was decided by Sydney West Planning Panel.

Appeals in the Land and Environment Court

The applicant can appeal against this decision in the Land and Environment Court within six (6) months of receiving this Notice of Determination.

You cannot appeal if a Commission of Inquiry was held for the subject development application, or if the development is a State Significant Development.

An appeal to the Land and Environment Court is made by lodging an application to the Court in accordance with the Rules of the Court.

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 28 days after the date of this notice. The objector cannot appeal if a Commission of Inquiry was held.

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 28 days after the date of this appeal notice to attend the appeal and make submissions at that appeal.

Sydney West Planning Panels

If the application was decided by the Sydney West Planning Panel, please refer to Section 18 of the Greater Sydney Commission Act 2015 and Section 23H of the Environmental Planning and Assessment Act, 1979 (as amended) for any further regulations.

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

Schedule 1 (Deferred Commencement)

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

Evidence of Sydney Trains approval (as outlined below) is to be submitted to Council prior to the issue of an operational consent.

The following documentation is to be provided to and approved/certified by Sydney Trains in compliance with relevant ASA Standards(<https://www.transport.nsw.gov.au/industry/standards-and-accreditation/standards>):

1. Revised Geotechnical Report including a rail specific section identifying any potential impact to the Rail Corridor and assets (Including the High Voltage Aerial Transmission Line Pole) and Structural report/drawings that meet Sydney Trains requirements. The Geotechnical Report must be based on actual borehole testing conducted on the site closest to the rail corridor.

2. Construction methodology with construction details pertaining to structural support during excavation. The Applicant is to be aware that Sydney Trains will not permit any rock anchors/bolts (whether temporary or permanent) within its land or easements.

3. Cross sectional drawings showing the rail corridor, sub soil profile, proposed basement excavation and structural design of sub ground support adjacent to the rail corridor. All measurements are to be verified by a Registered Surveyor.

4. Detailed Survey Plan showing the relationship of the proposed developed with respect to Sydney Trains easement and rail corridor land.

5. If required by Sydney Trains, an FE analysis which assesses the different stages of loading-unloading of the site and its effect on the rock mass surrounding the rail corridor.

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, the BASIX Certificate and any supporting information received with the application, except as may be amended in red on the approved plans and by the following conditions.

Drawing Title	Drawing Reference	Prepared By	Dated
Architectural Plans	17-090 DA001-DA093 (Rev F)	Urban Link	04/07/2018
Landscape Plans	L/00 – L/03	A Total Concept – Landscape Architects	08/06/2018
Stormwater Concept Plan	20160414 Sheets SW01-07	SGC Consulting Engineers P/L	23/02/2017
Waste Management Plan	Version 3	Dickens Solutions	1/06/2018

- 2 **The development shall not be used or occupied until an Occupation Certificate has been issued.**
- 3 Delivery, waste and service vehicles generated by the development are limited to the hours of 8am and 8pm on Saturday, Sundays and public holidays, and 7am to 8pm Monday to Friday.
- 4 **Prior to the issue of an Occupation Certificate**, a lighting system shall be installed for the development to provide uniform lighting across common areas and driveways. Exterior lighting shall be located and directed in such a manner so as not to create a nuisance to surrounding landuses. The lighting shall be the minimum level of illumination necessary for safe operation. The lighting shall be in accordance with AS 4282 “Control of the obtrusive effects of outdoor lighting” (1997).
- 5 The finishes of all structures and buildings are to be maintained at all times and any graffiti or vandalism immediately removed/repaired.
- 6 A **Construction Certificate** shall be obtained prior to commencement of any building works.
- 7 **Prior to the issue of a Construction Certificate**, the design recommendations of 'Statement of Compliance - Access for People with a Disability', prepared by Accessible Building Solutions and dated 15 February 2017 shall be incorporated into the Construction Certificate plans. The works shall be certified accordingly by a suitably qualified access consultant **prior to the issue of an Occupational Certificate.**

A minimum of 5 apartments shall be constructed as adaptable apartments to meet the requirements for persons with a disability and in accordance with the stamped approved plans. The adaptable units shall each be allocated an accessible car parking space compliant with AS 2890.6 and shall be evenly distributed throughout the building and not be concentrated in any one area or level.
- 8 **Prior to the issue of an Occupation Certificate**, a design verification statement from a qualified designer shall be submitted. The design verification statement shall verify that the development achieves the design quality shown in the approved Construction Certificate plans and specifications, having regard to the design

quality principles set out in Part 2 of *State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development*.

- 9 **Prior to the issue of a Construction Certificate**, a design verification statement from a qualified designer shall be submitted. The design verification statement shall verify that the Construction Certificate plans and specifications achieve or improve the design quality of the development for which development consent was granted, having regard to the design quality principles set out in Part 2 of *State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development*.
- 10 All mechanical ventilation equipment, ducts, air conditioning services and the like shall be shown on the Construction Certificate documentation as being contained within the building.
- 11 **Prior to the issue of a Construction Certificate and/or Occupation Certificate** (as relevant), the following Crime Prevention Through Environmental Design measures shall be incorporated into the development:

Car Parking

- A security system must be installed on any pedestrian and vehicle entry/exit points to the car park, including the lift and stairwell, to minimise opportunities for unauthorised access.
- All areas of the car park (including lift lobbies, stairwells, garbage rooms and storage areas) must be well-lit, with consistent lighting to prevent shadowing or glare.
- Signage must be in place to clearly identify exit and access points, the location of lifts and stairwells.
- All surfaces in the car park should be painted in light coloured paint or finished in light coloured concrete to reflect as much light as possible.

**Residential
Developments
Building
Identification
Building Security
& Access Control**

- Each building entry should clearly state the unit numbers accessed from that entry.
- Each individual dwelling should be clearly numbered.
- Unit numbers should be clearly provided on each level.
- Intercom, code or swipe card locks or similar must be installed for main entries to buildings including car parks.
- Main entry doors for apartment buildings should be signed requesting residents to not leave doors wedged open.
- Australian Standard 220 door and window locks must be installed in all dwellings including doors onto balconies, to minimise the risk of break and enter offences.
- If security grills are used on windows they should be operable from inside in case of emergencies.
- Ensure skylights and /or roof tiles cannot be readily removed or opened from outside.
- Consider monitored alarm systems.
- CCTV cameras must be provided to public areas of the development. As a minimum, cameras must be positioned to provide coverage of vehicular and pedestrian entry/exit points (including entries/exits to buildings), key thoroughfares and activity nodes as well as all areas of the car park. Signage must be provided to indicate that CCTV cameras are in operation.

- Graffiti/Vandalism** • Procedures must be in place to ensure the prompt removal and/or repair of graffiti or vandalism to the buildings, fencing, commercial tenancies and common areas. This includes reporting incidents to police and/or relevant authorities.
 - Graffiti resistant coatings must be used to external surfaces where possible, including signage, furniture, retaining walls, the architectural screen shielding the car park etc.
- Way Finding/Finding Help** • Signs should be strategically located at entrances and near activity nodes such as intersections of corridors or paths.
 - Signs should indicate how to report maintenance problems in the complex.
 - Signs throughout the development should be large and legible, and strong colours, standard symbols and simple graphics. They should indicate where to go for help or assistance.
- Fencing** • Front fences should preferably be no higher than 1.2 metres. Where a higher fence is proposed, it will only be considered if it is constructed of open materials e.g. spaced pickets, wrought iron etc.
 - Fence design to the ground floor units should maximise natural surveillance from the street to the building and from the building to the street, and minimise the opportunities for intruders to hide.

12 **Prior to the issue of a Construction Certificate and/or Occupation Certificate** (as relevant), the following Sydney Trains conditions are to be complied with:

- Sydney Trains or Transport for NSW (TfNSW), and persons authorised by those entities for the purpose of this condition, are entitled to inspect the site of the development and all structures to enable it to consider whether those structures have been or are being constructed and maintained in accordance with the approved plans and these conditions of consent, on giving reasonable notice to the principal contractor for the development or the owner or occupier of the part of the site to which access is sought.

□

- Copies of any certificates, drawings, approvals/certification or documents endorsed by, given to or issued by Sydney Trains must be submitted to Council for its records prior to the issuing of a Construction Certificate.

- Any conditions issued as part of Sydney Trains approval/certification of any documentation for compliance with the Sydney Trains conditions of consent, those approval/certification conditions will also form part of the consent conditions that the Applicant is required to comply with.

- Where a condition of consent requires Sydney Trains or Transport for NSW endorsement the Principal Certifying Authority is not to issue a Construction Certificate or Occupancy Certificate, as the case may be, until written confirmation has been received from those entities that the particular condition has been complied with. The issuing of staged Construction Certificates dealing with specific works and compliance conditions can be issued subject to written agreement from those entities to which the relevant conditions applies.

- Unless advised by Sydney Trains in writing, all excavation, shoring and piling works within 25m of the rail corridor are to be supervised by a geotechnical engineer experienced with such excavation projects.

- No rock anchors/bolts are to be installed into Sydney Trains property or easements.

- Sydney Trains advises they have an 11kV H/V aerial transmission line near to this site and any works, scaffolding and crane movements within 6 metres of the nearest transmission line conductor must be discussed and approved by Sydney Trains beforehand.

In addition, all works within 6 metres of the nearest transmission line conductor must comply with: □

a) ISSC 20 – Guideline for the Management of Activities within Electricity Easements and Close to Electricity Infrastructure. b) The Safe Approach Distances (SADs) in the Sydney Trains Document titled "SMS-06-GD-0268 – Working Around Electrical Equipment".

- Prior to the issuing of a Construction Certificate the Applicant is to submit to Sydney Trains a plan showing all craneage and other aerial operations for the development and must comply with all Sydney Trains requirements. If required by Sydney Trains, the Applicant must amend the plan showing all craneage and other aerial operations to comply with all Sydney Trains requirements. The Principal Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from the Sydney Trains confirming that this condition has been satisfied.

- An acoustic assessment is to be submitted to Council prior to the issue of a construction certificate demonstrating how the proposed development will comply with the Department of Planning's document titled "Development Near Rail Corridors and Busy Roads- Interim Guidelines".

- Prior to the issue of a Construction Certificate the Applicant is to engage an Electrolysis Expert to prepare a report on the Electrolysis Risk to the development from stray currents. The Applicant must incorporate in the development all the measures recommended in the report to control that risk. A copy of the report is to be provided to the Principal Certifying Authority with the application for a Construction Certificate.

- The design, installation and use of lights, signs and reflective materials, whether permanent or temporary, which are (or from which reflected light might be) visible from the rail corridor must limit glare and reflectivity to the satisfaction of Sydney Trains. The Principal Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.

- If required by Sydney Trains, prior to the issue of a Construction Certificate a Risk Assessment/Management Plan and detailed Safe Work Method Statements (SWMS) for the proposed works are to be submitted to Sydney Trains for review and comment on the impacts on rail corridor. The Principal Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.

- If required by Sydney Trains, a track and/or transmission line pole monitoring plan (including instrumentation and the monitoring regime during excavation and construction phases) is to be submitted to Sydney Trains for review and endorsement prior to the issuing of a Construction Certificate. The Principal Certifying Authority is not to issue a Construction Certificate until written confirmation has been received from Sydney Trains advising of the need to undertake the track monitoring plan, and if required, that it has been endorsed.

- If required, prior to the issue of a Construction Certificate the Applicant is to contact Sydney Trains Engineering Management Interfaces to determine the need for public liability insurance cover. If insurance cover is deemed necessary this insurance be for sum as determined by Sydney Trains and shall not contain any exclusion in relation to works on or near the rail corridor, rail infrastructure. The Applicant is to contact Sydney Trains Engineering Management Interfaces to obtain the level of insurance required for this particular proposal. Prior to issuing the Construction Certificate the Principal Certifying Authority must witness written proof of this insurance in conjunction with Sydney Trains written advice to the Applicant on the level of insurance required.

- If required, prior to the issue of a Construction Certificate the Applicant is to contact Sydney Trains Engineering Management Interfaces to determine the need for the lodgement of a Bond or Bank Guarantee for the duration of the works. The Bond/Bank Guarantee shall be for the sum determined by Sydney Trains. Prior to issuing the Construction Certificate the Principal Certifying Authority must witness written advice from Sydney Trains confirming the lodgement of this Bond/Bank Guarantee.

- If required by Sydney Trains, prior to the commencement of works, prior to the issue of the Occupation Certificate, or at any time during the excavation and construction period deemed necessary by Sydney Trains, a joint inspection of the rail infrastructure and property in the vicinity of the project is to be carried out by representatives from Sydney Trains and the Applicant. These dilapidation surveys will establish the extent of any existing damage and enable any deterioration during construction to be observed. The submission of a detailed dilapidation report will be required unless otherwise notified by Sydney Trains.

- 13 As per the plans marked in red, the design of the basement levels are to be amended, to provide additional deep soil zones within the site.
- 14 A separate development approval is to be obtained from Penrith City Council regarding the occupation and fit-out of any child care centre, as a child care centre does not form an approved land use as part of this consent.

Environmental Matters

- 15 Dust suppression techniques are to be employed during earthworks to reduce any potential nuisances to surrounding properties.
- 16 Mud and soil from vehicular movements to and from the site must not be deposited on the road.
- 17 No fill material is to be imported to the site without the prior approval of Penrith City Council in accordance with Sydney Regional Environmental Plan No.20 (Hawkesbury- Nepean River) (No.2-1997). No recycling of material for use as fill material shall be carried out on the site without the prior approval of Council.
- 18 No fill material shall be imported to the site until such time as a Validation Certificate(with a copy of any report forming the basis for the validation) for the fill material has been submitted to, considered and approved by Council. The Validation Certificate shall:
 - state the legal property description of the fill material source site,
 - be prepared by an appropriately qualified person (as defined in Penrith Contaminated Land Development Control Plan) with consideration of all relevant guidelines (e.g. EPA, ANZECC, NH&MRC), standards, planning instruments and legislation,
 - clearly indicate the legal property description of the fill material source site,
 - provide details of the volume of fill material to be used in the filling operations,
 - provide a classification of the fill material to be imported to the site in accordance with the Environment Protection Authority's "Environmental Guidelines: Assessment, Classification & Management of Non-Liquid Wastes" 1997, and
 - (based on the fill classification) determine whether the fill material is suitable for its intended purpose and land use and whether the fill material will or will not pose an unacceptable risk to human health or the environment.

{Note: Penrith Contaminated Land Development Control Plan defines an appropriately qualified person as "a person who, in the opinion of Council, has a demonstrated experience, or access to experience in hydrology, environmental chemistry, soil science, eco-toxicology, sampling and analytical procedures, risk

evaluation and remediation technologies. In addition, the person will be required to have appropriate professional indemnity and public risk insurance.”}

If the Principal Certifying Authority or Penrith City Council is not satisfied that suitable fill materials have been used on the site, further site investigations or remediation works may be requested. In these circumstances the works shall be carried out prior to any further approved works.

- 19 Cut and fill operations on the property are only permitted in conjunction with the building works as detailed on the approved plans and specifications, and shall not extend more than 2 metres past the defined building footprint.

Before any fill material is imported to site, a validation certificate issued by an appropriately qualified person is to be provided to the Principal Certifying Authority. The validation certificate must demonstrate that the fill material is free from contaminants and weeds, that it is suitable for its intended purpose and land use, and that it will not pose an unacceptable risk to human health or the environment.

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

{Note: Penrith Contaminated Land Development Control Plan defines an appropriately qualified person as “a person who, in the opinion of Council, has a demonstrated experience, or access to experience in hydrology, environmental chemistry, soil science, eco-toxicology, sampling and analytical procedures, risk evaluation and remediation technologies. In addition, the person will be required to have appropriate professional indemnity and public risk insurance.”}

- 20 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.
- 21 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.

- 22 Noise levels from the premises shall not exceed the relevant noise criteria detailed in "71 Park Avenue Kingswood - Acoustic and Railway Vibration DA Assessment" Reference SYD2017-1005-R001E, prepared by Acouras Consultancy dated 09/07/2018. The 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. 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.

- 23 All mechanical plant and equipment associated with the development is to be located in enclosed plant rooms in the basement, in accordance with the "71 Park Avenue Kingswood - Acoustic and Railway Vibration DA Assessment" Reference SYD2017-1005-R001E, prepared by Acouras Consultancy dated 09/07/2018.
- 24 A construction and excavation management plan report which assesses the impact of the development during the construction phase is to be forwarded to Council and agreed to, **prior to the issue of the Construction Certificate**. This report is to address issues such as noise and vibration associated with the basement construction and nearby school and detail necessary mitigation measures to be incorporated into the works for the development.
- 25 A detailed acoustic assessment is to be carried out **prior to the issue of the construction certificate**, as recommended in section 3.4 of "71 Park Avenue Kingswood – acoustic and railway vibration DA assessment" Reference SYD2017-1005-R001F, dated 06/08/2018 . The acoustic assessment is to include noise from all mechanical plant and equipment associated with the development.
- 26 Should any "unexpected finds" occur during the excavation and earthworks, including, but not limited to, the identification/finding of contaminated soils, buried building materials, asbestos, odour and/or staining, works are to cease immediately and Council is to be notified. Any such "unexpected finds" shall be addressed by an appropriately qualified environmental consultant.

All remediation works within the Penrith Local Government Area are considered to be Category 1 works under State Environmental Planning Policy No. 55 - Remediation of Land. Should any contamination be found during development works and should remediation be required, development consent is to be sought from Penrith City Council prior to remediation works commencing.

- 27 In the event of complaints relating to the development being received by Council, the owner and / or occupier of the development may be required by Council to obtain the services of a suitably qualified acoustic consultant to undertake a noise impact assessment of the development to address the concerns of the community.

The noise impact assessment report is to be prepared and provided to Council for approval within 45 days of being requested. Any mitigation works are to be undertaken within 30 days from the date of notice from Council, unless otherwise specified.

- 28 **Prior to the issue of an Occupation Certificate** the following is to be submitted to and approved by Penrith City Council:

- For the internal movement of 1100L bins a bin tug device is required to be provided and stored within the development in accordance with section 3.6 of the 'Residential Flat Building Guideline' document. Device specifications, use and operational requirements are required to be submitted to Council for approval
- The developer is to enter into a formal agreement with Penrith City Council for the utilisation of Councils Waste Collection Service. This is to include Council being provided with indemnity against claims for loss and damage.

- **Note:** By entering into an agreement with Council for Waste Collection, the development will be required to operate in full compliance with Penrith City Councils Waste Collection and Processing Contracts for Standard Waste Collection. The provision of Councils waste collection service will not commence until formalisation of the agreement.

- 29 Councils bin infrastructure and collection service will be provided/commenced for the development upon the completion of all on-site waste collection infrastructure and the attainment of an Occupation Certificate.

30 The following waste management requirements must be complied with and details of compliance demonstrated to Council **prior to the issue of a Construction Certificate**:

- All on-site waste collection infrastructure, doors and access points (Waste Chute Room, Waste Collection Room, Bulky Household Waste Collection Room and the Secure Roller Door to the Basement) are to be locked through Councils Abloy Key System. System specifications are outlined in section 3.5.5 of the 'Residential Flat Building Guideline' document.
- All on-site waste collection infrastructure (Waste Chute Room, Waste Collection Room, Bulky Household Waste Collection Room and Loading bay) are to provide wash facilities through the use of a centralised mixing valve and hose cock. Respective drainage and water proofing to be installed to support the use of hose facilities as outlined within the Building Code of Australia.
- The proposed 'Traffic Signalling' system to provide supporting device specifications and an amended 'Plan of Operations' outlining how Council will use the system to restrict traffic movements during on-site waste collection periods.
- Acoustic treatments/infrastructure to be implemented within the basement to permit the use of Councils 10.5m Heavy Rigid Vehicle for waste collection within Basement 1.
- Amended swept path models to be submitted outlining the proposed access pathway for Councils 10.5m Heavy Rigid Vehicle in accordance with section 2.2.3 of the 'Residential Flat Building Waste Management Guideline' document.

BCA Issues

31 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).

- 32 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.
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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.

Utility Services

- 33 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.

- 34 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.

- 35 **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

36 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.

37 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.

38 **Prior to the issue of an Occupation Certificate**, clothes drying facilities are to be positioned and screened from public view.

39 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 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

- 40 An Infrastructure Restoration Bond is to be lodged with Penrith City Council for development involving works around Penrith City Council's Public Infrastructure Assets. The bond is to be lodged with Penrith City Council prior to the issue of any Construction Certificate. 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 (02) 4732 7777 or visit Penrith City Council's website for more information.

- 41 **Prior to the issue of any Construction Certificate**, a Section 138 Roads Act applications, including payment of application and inspection fees, 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 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)
 - 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

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 Works Department on (02) 4732 7777 or visit Penrith City Council's website for more information.

Note:

- a) 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.
 - b) Separate approvals may also be required from the Roads and Maritime Services for classified roads.
 - c) All works associated with the Roads Act approval must be completed prior to the issue of any Occupation Certificate or Subdivision Certificate as applicable.
 - d) 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 The stormwater management system shall be provided generally in accordance with the concept plan/s lodged for development approval, prepared by SGC, reference number 20160414, drawing no SW01 - SW07, revision A, dated 23/02/17.

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.

- 43 **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).
- 44 **Prior to the issue of any Construction Certificate**, the Certifying Authority shall ensure that the foundations of proposed structures adjoining the drainage and/ or services easement have been designed clear of the zone of influence.
- 45 Prior to commencement of works sediment and erosion control measures shall be installed in accordance with the approved Construction Certificate and to ensure compliance with the Protection of the Environment Operations Act 1997.

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

- 46 Prior to the issue of any Occupation Certificate, the Principal Certifying Authority shall ensure that all works associated with a S138 Roads Act approval or S68 Local Government Act approval have been inspected and signed off by Penrith City Council.
- 47 **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.

- 48 **Prior to the issue of an Occupation Certificate**, the Principal Certifying Authority shall ensure that the:
- a) Stormwater management systems (including on-site detention and water sensitive urban design)
- 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 system/s shall be provided as part of the works-as-executed drawings.

- 49 **Prior to the issue of an 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)

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 Drainage for Building Development.

- 50 Prior to the issue of any Occupation Certificate, directional signage and linemarking shall be installed indicating directional movements and the location of customer parking to the satisfaction of the Principal Certifying Authority.
- 51 The stormwater management systems shall continue to be operated and maintained in perpetuity for the life of the development in accordance with the final operation and maintenance management plan.
- Regular inspection records are required to be maintained and made available to Penrith City Council on request. All necessary improvements are required to be made immediately upon awareness of any deficiencies in the stormwater management systems.
- 52 All car parking and manoeuvring must be in accordance with AS 2890.1-2004; AS 2890.2- 2—2; AS 2890.6-2009 and Council's requirements.
- 53 All car spaces are to be line marked and dedicated for the parking of vehicles only and not be used for storage of materials/products/waste materials etc.
- 54 Subleasing of car parking spaces is not permitted by this Consent.
- 55 All vehicles are to enter/exit the site in a forward direction.
- 56 **Prior to the issue of an Occupation Certificate**, secure bicycle parking is to be provided at convenient location(s) in accordance with AS 2890.3:2015 Bicycle Parking Facilities.
- 57 **Prior to the issue of an Occupation Certificate**, the car parking spaces are to be allocated as follows: 45 spaces for residents; 9 spaces for visitors; and 12 spaces for the future use of the ground floor tenancy (subject to separate development consent).

Landscaping

- 58 All landscape works are to be constructed in accordance with the stamped approved Landscape Plan, prepared by A Total Concept and dated 8/06/2018 and 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.

- 59 The approved landscaping for the site must be constructed by a suitably experienced and qualified landscape professional.
- 60 The following series of reports relating to landscaping are to be submitted to the nominated consent authority at the appropriate time periods as listed below. These reports shall be prepared by a suitably qualified and experienced landscape professional.

i. Implementation Report

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.

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.

- 61 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.
- 62 The Trees No. 11, 12, 13, 14, 15, 16 & 17 must be retained and protected in accordance with the recommendations of the Arboricultural Assessment, prepared by Tree and Landscape Consultants and dated 28 February 2017.

Section 94

- 63 This condition is imposed in accordance with Penrith City Council's Section 94 Contributions Plan for Cultural Facilities. Based on the current rates detailed in the accompanying schedule attached to this Notice, \$17,220 is to be paid to Council prior to a Construction Certificate being issued for this development (the rates are subject to quarterly reviews). If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted Section 94 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 S94 invoice accompanying this consent should accompany the contribution payment. The Section 94 Contributions Plan for Cultural Facilities may be inspected at Council's Civic Centre, 601 High Street, Penrith.

64 This condition is imposed in accordance with Penrith City Council's Section 94 Contributions Plan for District Open Space. Based on the current rates detailed in the accompanying schedule attached to this Notice, \$168,760 is to be paid to Council prior to a Construction Certificate being issued for this development (the rates are subject to quarterly reviews). If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted Section 94 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 S94 invoice accompanying this consent should accompany the contribution payment. The Section 94 Contributions Plan for District Open Space may be inspected at Council's Civic Centre, 601 High Street, Penrith.

65 This condition is imposed in accordance with Penrith City Council's Section 94 Contributions Plan for Local Open Space. Based on the current rates detailed in the accompanying schedule attached to this Notice, \$61,004 is to be paid to Council prior to a Construction Certificate being issued for this development (the rates are subject to quarterly reviews). If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted Section 94 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 S94 invoice accompanying this consent should accompany the contribution payment. The Section 94 Contributions Plan for Local Open Space may be inspected at Council's Civic Centre, 601 High Street, Penrith.

Certification

- 66 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 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.

67 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.

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

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

SIGNATURE

Name:	Jane Hetherington
Signature:	

For the Development Services Manager