

# PENRITH CITY COUNCIL

## NOTICE OF DETERMINATION

### DESCRIPTION OF DEVELOPMENT

Application number:	DA19/0810
Description of development:	Vegetation Removal and Construction of 2 x Stormwater Detention Basins (Basin C and V6) and Remediation of Land
Classification of development:	N/A

### DETAILS OF THE LAND TO BE DEVELOPED

Legal description:	Lot 4 DP 1216994 Lot 5 DP 1216994
Property address:	9 Bethany Circuit, JORDAN SPRINGS NSW 2747 9 A Delany Circuit, JORDAN SPRINGS NSW 2747

### DETAILS OF THE APPLICANT

Name & Address:	Lendlease C/- Maryland Development Company Pty Ltd 88 Phillip Street PARAMATTA NSW 2150
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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	27 July 2021
Date the consent expires	27 July 2026
Date of this decision	21 July 2021

## POINT OF CONTACT

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

Assessing Officer:	Lucy Goldstein
Contact telephone number:	+61247328136

## NOTES

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### **Reasons**

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

### **Conditions**

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

## OTHER APPROVALS

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### APPROVAL BODIES

<b>APPROVAL BODY NAME</b>	<b>DATE OF GENERAL TERMS OF APPROVAL</b>	<b>REF. NO.</b>	<b>NO. OF PAGES</b>	<b>RELEVANT LEGISLATION</b>
Heritage NSW	25/11/2020	EF20/29506	2	Section 90 of the National Parks and Wildlife 1974 Act
Natural Resource Access Regulator	20/02/2020	IDAS1121501	3	Section 91 of the Water Management Act 2000

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

# ATTACHMENT 1: CONDITIONS OF CONSENT

## General

- 1 The development must be implemented substantially in accordance with the following stamped approved plans issued by Penrith City Council and any supporting information or documents submitted with the application, except as may be amended in red on the attached plans and by the following conditions.

Description	Drawing No.	Revision	Prepared by	Dated
Concept Engineering Plans of Jordan Springs Regional Basins C and V6	300225-CENG-001 to 300225-CENG-601	D	ADW Johnson	18 March 2021
Stormwater Management Plan	n/a	D	ADW Johnson	19 March 2021

- 2 The development must be carried out in accordance with the General Terms of Approval issued by the Natural Resources Access Regulator, Reference IDAS1121501, dated 20 February 2020, as outlined below:

- **Design of works and structures**

Before commencing any proposed controlled activity on waterfront land, an application must be submitted to Natural Resources Access Regulator, and obtained, for a controlled activity approval under the Water Management Act 2000.(GT0009-00010)
- **Erosion and sediment controls**
  - Erosion and Sediment Controls Plan must be:
    - (a) prepared in accordance with Managing Urban Stormwater: Soils and Construction, Volume 1 (Landcom, 2004), as amended or replaced from time to time; and
    - (b) submitted with an application for a controlled activity approval. (GT0006-00001)
  - The proposed erosion and sediment control works must be inspected and maintained throughout the construction or operation period of the controlled activity and must not be removed until the site is fully stabilised. (GT0021-00004)
- **Plans, standards and guidelines**
  - NRAR's General Terms of Approval (GTAs) only applies to the proposed activity described in the plans and associated documents found in Schedule One, relating to Development Application 2019 provided by Council to Natural Resources Access Regulator. Any amendments or modifications to the proposed activity may render the GTA invalid. If the proposed controlled activity is amended or modified, Natural Resources Access Regulator, Parramatta Office, must be notified in writing to determine if any variations to the GTA will be required. (GT0002-00665)
  - The application for a controlled activity approval must include the following document(s): - outlet structures; Erosion and Sediment Control Plan; Soil and Water Management Plan; Vegetation Management Plan. (GT0003-00002)
  - All documents submitted to Natural Resources Access Regulator as part of an application for a controlled activity approval must be prepared by a suitably qualified person. (GT0010-00006)

- Any proposed controlled activity must be carried out in accordance with plans submitted as part of a controlled activity approval application, and approved by Natural Resources Access Regulator. (GT0010-00004)
- The application for a controlled activity approval must include plans prepared in accordance with Natural Resources Access Regulator's guidelines located on the website <https://www.industry.nsw.gov.au/water/licensingtrade/approvals/controlled-activities> (GT0030-00006)

- **Rehabilitation and maintenance**

When the proposed controlled activity is completed, and the rehabilitation plan has been implemented, maintenance of the site must be carried out for a period of 2 years in accordance with that rehabilitation plan submitted as part of the controlled activity approval, and approved by Natural Resources Access Regulator. (GT0007-00006)

- **Reporting requirements**

The consent holder must inform Natural Resources Access Regulator in writing when the proposed construction of the controlled activity has been completed. (GT0020-00004)

**A copy of the General Terms of Approval as referenced above shall be submitted to the Principal Certifying Authority, before the Construction Certificate can be issued for the development.**

3 **Prior to the handover of assets**, suitable arrangements must be in place to provide Council legal access to the development, to enable the maintenance of the assets in perpetuity.

4 The development must be carried out in accordance with the General Terms of Approval issued by Heritage NSW, Reference EF20/29506, dated 25 November 2020, as outlined below:

- A Section.90 Aboriginal Heritage Impact Permit (AHIP) for the works must be sought and granted, prior to the commencement of works.
- The AHIP application must be accompanied by appropriate documentation and mapping as outlined on page 6 of Applying for an Aboriginal Heritage Impact Permit: Guide for applicants (OEH 2011).
- Consultation with the Aboriginal community undertaken as part of the AHIP application must be in accordance with the Aboriginal Cultural Heritage Consultation Requirements for Proponents
- Long term management of Aboriginal objects must be considered as part of the AHIP application.

**A copy of the General Terms of Approval as referenced above shall be submitted to the Principal Certifying Authority, before the Construction Certificate can be issued for the development.**

5 The development must be maintained by the Applicant for a minimum period of three (3) years. The maintenance period shall commence upon completion of the following:

- lodgement of relevant bonds
- satisfactory completion of works as determined by Council

- entering into a Deed of Agreement

At the satisfactory completion of the maintenance period as determined by Council, the development shall be delivered to Penrith City Council, at no cost to Council. *Note:* refer to separate conditions in this consent relating to handover requirements.

- 6 The development must be carried out in accordance with National Parks and Wildlife Services requirements, as outlined in their referral response dated 12 February 2020 and as outlined below:
- (a) The applicant undertakes a 3-year maintenance period of the basins to ensure;
    - The basins successfully service the intended water
    - The change in water regimes results in no negative impacts on Wianamatta Regional Park, such as weeds, nutrient loading, erosion or rubbish
  - (b) A detailed landscaping plan including planting schedules and materials is approved by NPWS prior to construction.
  - (c) Macrofauna Fencing must always be maintained around the construction site to prevent the movement of macrofauna outside the Regional Park.
  - (d) That the development provides appropriate access suitable for Category 1 firefighting vehicles.
  - (e) Prior to works commencing the proponent consult with NPWS regarding the use of fire trails within the park for haulage; and NPWS access and fencing strategies post construction.
  - (f) The proponent is to remediate fire trails to the satisfaction of NPWS once construction activities have been completed.
- 7 Due to the proximity of the works to Sydney Water Assets, a Building Plan Approval for the development is to be obtained from Sydney Water prior to the issue of any Construction Certificate.
- 8 **Prior to the issue of a Construction Certificate** a detailed Operation and Maintenance manual and a Water Quality and Wetland Monitoring Program for the proposed stormwater treatment measures shall be submitted to and approved by Council's Development Services Manager.
- (a) The manual shall include details on the cleaning and maintenance requirements, as well as provide details on the estimated annual and lifecycle costs associated with the proposed treatment measures. The Operation and Maintenance plan should include details including but not limited to, the following:
    - i. Site description (area, imperviousness, land use, annual rainfall, topography etc)
    - ii. Site access description
    - iii. Likely pollutant types, sources and estimated loads
    - iv. Locations, types and descriptions of measures proposed
    - v. Operation and maintenance responsibility
    - vi. Inspection methods (including inspection checklists)
    - vii. Maintenance methods (frequency, equipment and personnel requirements);
    - viii. Landscape and weed control requirements

- ix. Operation and maintenance costs;
- x. Waste management and disposal options; and
- xi. Reporting.

(b) **Prior to the issue of a Construction Certificate**, a Draft Water Quality and Wetland Monitoring and Reporting Program shall be prepared by a suitably qualified expert and be submitted to and approved by Council's Development Services Manager.

The monitoring program must be undertaken at no cost to Council, for the duration of the 3-year establishment and maintenance period.

The monitoring and reporting program shall provide sufficient details to demonstrate that the wetlands are both treating stormwater to the intended design, as well as demonstrate that the vegetation has established to a satisfactory standard (e.g. 95% coverage with planted vegetation with a mature height and >95% weed free) and is in a condition consistent with the design, and to Council's satisfaction at the time of handover.

During the 3-year establishment maintenance period, quarterly reports on the maintenance activities and water quality monitoring shall be submitted to and approved by Council's Development Services Manager.

At the end of the 3 year establishment and maintenance period, a detailed report on the Water Quality and Wetland Monitoring Program undertaken during the 3-year establishment and maintenance period, shall be submitted to and approved by Council's Development Services Manager. The report shall demonstrate the wetlands have been constructed and are in a condition consistent with the design intent.

## **Heritage/Archaeological relics**

- 9 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**

- 10 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.

- 11 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.

- 12 Only clean and unpolluted water is to be discharged into Penrith City Council's stormwater drainage system. Liquid wastes suitable for discharge to the mains sewer are to be discharged in accordance with Sydney Water requirements.

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

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

- 13 An appropriately qualified person/s shall:

(a) Supervise all filling works.

(b) On completion of filling works, carry out an independent review of all documentation relating to the filling of the site, and submit a review findings report to Council and any Principal Certifying Authority. All fill material documentation is to (at minimum):

- be prepared by an appropriately qualified person with consideration of all relevant guidelines, standards, planning instruments and legislation (e.g. EPA, NEPM, ANZECC, NH&MRC),
- clearly state the legal property description of the fill material source site and the total amount of fill tested,
- 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 NSW Environment Protection Authority's "Waste Classification Guidelines" 2014, 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.

(c) 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:* An appropriately qualified person is defined as “a person who, in the opinion of Council, has a demonstrated experience, or access to experience in hydrology, environmental chemistry, soil science, ecotoxicology, 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.”

14 All works will 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.

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

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

16 **Prior to the issue of the Construction Certificate**, a Construction Management Plan (CMP) is to be prepared by a suitably experienced / qualified person and submitted to and approved by Council's Development Services Manager. If Council is not the certifying authority, a copy of Council's approval is to be provided to the Principal Certifying Authority.

The CMP is to address the environmental aspects of the construction phase of the development and is to include details on the environmental management practices and controls to be implemented on the site. The CMP is to address, but is not limited to the following:

- Noise control and hours of operation, incorporating the recommendations included in Section 6 of the 'St Marys Development Site - Basins C & V6: Noise & Vibration Construction Impacts' (dated November 2019, Report No. 14145-F-NV, prepared by Wilkinson Murray Pty Ltd);
- Dust suppression, incorporating the recommendations included in Section 6 of the 'St Marys Development Site - Basins C & V6: Air Quality Construction Impacts' (dated November 2019, Report No. 14145-F-AQ, prepared by Wilkinson Murray Pty Ltd);
- Water quality management, including erosion and sediment control; and
- Waste management (including solid and liquid waste).

**All construction activities on the site are to be implemented and carried out in accordance with the Council approved CMP.**

The CMP is to provide for weekly reporting to Council of monitoring results, identification of any exceedance and performance criteria and responsive measures where needed. Provision is to be made for a complaints hotline. In the event that substantial and ongoing complaints are received in relation to the construction of the development from adjoining and surrounding properties, the developer and contractor is to meet with Council to review the CMP, and revise the document where relevant to address concerns. Any variations to the CMP must be submitted to and approved by Council's Development Services Manager.

17 In the event that any amendments or additional works are required to be undertaken in relation to the haul road and/or access tracks for the development, a development application is to be submitted to Council, and is to suitably consider ecological impacts, including all direct, indirect and prescribed impacts on biodiversity.

18 An appropriately qualified person/s shall:

- Supervise the remediation works.
- Supply Penrith City Council with a copy of any relevant documentation for further testing carried out during the remediation works.
- 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**.

*Note:*

An appropriately qualified person is defined 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”.

19 **Prior to the commencement of works (including the approved remediation works)**, the auxiliary areas of the subject site (including haul roads, access roads, channels and head walls) are to be investigated and assessed for contamination.

This investigation is to consider the requirements of the National Environment Protection (Assessment of Site Contamination) Measure 1999 [NEPC 2013], relevant NSW Environment Protection Authority Guidelines and Australian Standards and be prepared by an appropriately qualified person.

Documentation is to be submitted to and approved by Council's Development Services Manager, certifying that these areas of the site are suitable for their intended use, in accordance with State Environmental Planning Policy 55 - Remediation of Land. Should it be identified in the assessment that remediation works are required to be undertaken to address these areas of the site, the approved Remedial Action Plan is to be amended and submitted to and approved by Council's Development Services Manager.

*Note:*

An appropriately qualified person is defined 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 **Prior to the commencement of works**, a compliance inspection of tree protection measures implemented within the site is to be undertaken by a Penrith Council Officer unless otherwise specified in an approved Site specific Tree Protection Plan (Specification) and Drawing.

**During works**, no fill, machinery, or materials are to be placed or stored within the designated Tree protection Zone (TPZ) as calculated using AS4970 – 2009, Protection of trees on development sites or as defined in the Species Impact Statement - Regional Detention Basin C and Regional Detention Basin V6, prepared by Cumberland Ecology, dated 23 October 2020 and Addendum to the Species Impact Statement

(Cumberland Ecology, dated 12 April 2021) of any tree that is to be retained.

**During works**, tree protection measures are to be implemented as outlined in the above referenced Species Impact Statement and Addendum, OR AS4970 – 2009, Protection of trees on development sites.

21 Prior to the commencement of any works, or the issuing of a Construction Certificate whichever occurs first, a Vegetation Management Plan (VMP) is to be submitted to and approved by Council's Development Services Manager. The VMP must:

(a) Be consistent with relevant environmental legislation and policies, including, but not limited to, the NSW Biodiversity Conservation Act 2016, the Biosecurity Act 2015 the Water Management Act 2000, the Rural Fires Act 1997 as well as the federal Environment Protection and Biodiversity Conservation Act 1999, and guidelines such as the Rural Fire Services Planning for Bushfire Protection 2006 and Recovering Bushland on the Cumberland Plain: Best practice guidelines for the management and restoration of bushland (DEC, 2005). It is to also have regard to any Recovery Plans and recovery actions that are relevant.

(b) Identify ongoing management and maintenance of the conservation areas in terms of impacts of flora and fauna and vegetation management requirements. The focus is to be on the protection and conservation of native vegetation and fauna habitats on the site and on maintaining connectivity.

(c) Clearly outline how vegetation will be protected and managed during construction of proposed future development.

(d) Identify potential impacts from the development of the site (both during construction and post construction) on the on-site and adjacent vegetation and habitats, and how these impacts will be managed and mitigated throughout the life of the development. Impacts include (but are not limited to) weeds, erosion and sedimentation, recreation, on-going under scrubbing and tree removal, and other disturbance.

(e) Identify ongoing future management of the vegetation that is to be retained on site and any identified threatened species.

(f) Identify a suitable style of boundary fence, and fence for the protected vegetation that permits fauna movement to assist with maintaining connectivity and minimises the requirement to remove any further vegetation.

(g) Identify habitat improvement measures that are to be undertaken across the site.

(h) Detail monitoring and reporting requirements.

(i) Address the implementation of any recommendations detailed in the Species Impact Statement (Prepared by Cumberland Ecology, Dated 26 October 2020 and addendum to the Species Impact Statement, dated 13 April 2021).

(j) The VMP is to include a clear outline of works to be undertaken along with timing of works and estimated costs. It is also to include details on how the VMP will be implemented across multiple lots.

(k) Management actions suggested by the VMP should be as cost effective and sustainable as possible to ensure ongoing implementation by the lot owners. The VMP is to have specific sections (or similar) for each Lot to make it simpler for each future landowner to understand the requirements for their Lot.

(l) The VMP is to be prepared by an Ecological Consultant or Bush Regenerator with a minimum of 5 years

practical experience in bushland restoration and management on the Cumberland Plain. They are required to hold a Certificate IV in Conservation and Land Management or equivalent tertiary qualifications, as a minimum.

(m) All activities on site are to be implemented and carried out in accordance with the VMP. Council may request a review and if necessary updating of the VMP to reflect current environmental standards and site conditions. Council must be satisfied with any changes prior to the amendment of the VMP.

(n) The VMP, once it is approved by Council, must be implemented in its entirety. All reports specified in the VMP are to be submitted to Council's Development Services Manager within 2 months of the time frame specified in the VMP.

- 22 Measures to mitigate impacts on fauna and flora during construction are to be implemented in accordance with the following sections of the supporting Species Impact Statement, prepared by Cumberland Ecology, dated 23 October 2020 and Addendum to the Species Impact Statement, prepared by Cumberland Ecology, dated 12 April 2021.

#### **Species Impact Statement**

- 7.2.7 Installation of Compensatory Nest Boxes
- 7.3.1.1 Seed Collection
- 7.3.1.2 Retention of Significant Trees
- 7.3.1.3 Environmental Considerations

#### **Addendum to the Species Impact Statement**

- A.2.3.1 Pre-clearing Surveys
- A.2.3.2 Demarcating the Area of Clearing,
- A.2.3.3 Tree Protection Fencing,
- A.2.3.4 Hygiene Protocols,
- A.2.3.5 Bush rock, Log and Felled Tree Reuse,
- A.2.3.6 Clearing Supervision,
- A.2.3.7 Stop Works Procedures
- A.2.3.8 Artificial Lighting

- 23 Site remediation works shall be carried out generally in accordance with the Council approved 'Remedial Action Plan for Basin C and V6: St Marys Development Site, NSW' prepared by JBS&G Australia Pty Ltd dated 20 November 2019 (Ref. No. 57591/ 125864 (Rev 0)), and Attachment 2 of letter correspondence prepared by JBS&G Australia Pty Ltd dated 27 May 2020 titled "Responses to Penrith City Council Request for Information regarding Development Application DA19/0810, Basin C and V6, Jordan Springs, NSW".

Works are also to be carried out in accordance with 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 55-Remediation of Land.

**On completion of the site remediation works**, the following documentation is to be submitted for approval to the Principal Certifying Authority and Penrith City Council, if Council is not the Principal Certifying Authority:

- (a) 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

(b) A Validation Report, prepared by an appropriately qualified person is to be submitted **before any work can commence on the remediated site**. The report shall certify:

- that the remediation works have been carried out in accordance with the Council approved Remedial Action Plan, relevant NSW Environment Protection Authority requirements and NEPC 2013.
- That the site is suitable for the proposed use in accordance with State Environmental Planning Policy 55-Remediation of Land.

*Note:*

An appropriately qualified person is defined 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”.

- 24 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.

## Construction

- 25 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) If the works are 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.

26 Stamped plans, specifications, a copy of the development consent, the Construction Certificate and any other Certificates to be relied upon shall be available on site at all times during construction. The following details are to be displayed in a maximum of 2 signs to be erected on the site:

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

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

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

All construction signage is to be removed on completion of earthworks or construction works and when a Compliance Certificate has been issued by the Principal Certifying Authority certifying that the development has complied fully with the development consent and, where required, been constructed in accordance with the Construction Certificate.

## Engineering

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

28 An Infrastructure Restoration Bond is to be lodged with Penrith City Council for development involving works around Penrith City Council's Public Infrastructure Assets. The bond is to be lodged with Penrith City Council prior to commencement of any works on site or prior to the issue of any Construction Certificate or Subdivision Works Certificate, whichever occurs first. The bond and applicable fees are in accordance with Council's adopted Fees and Charges.

An application form together with an information sheet and conditions are available on Council's website.

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

29 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:*

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

**30 A Construction Certificate is to be issued by the Certifying Authority for the provision of engineering works.**

**Prior to the issue of any Construction Certificate**, the Certifying Authority shall ensure that engineering plans are consistent with the stamped approved concept plan/s prepared by ADW Johnson, reference number 300225, revision D, dated 18.03.2021; Stormwater Management Plan report prepared by ADW Johnson, issue D, dated 19.03.2021 and that all subdivision works have been designed in accordance with the development consent, Penrith City Council's Design Guidelines for Engineering Works for Subdivisions and Developments, Engineering Construction Specification for Civil Works, Austroads Guidelines and best engineering practice.

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

- Public and private roads
- Storm water management (quantity and quality)
- Inter-allotment drainage
- Private access driveways
- Sediment and erosion control measures
- Flood control measures
- Overland flow paths
- Traffic facilities
- Earthworks
- Bridges, culverts, retaining walls and other structures
- Landscaping and embellishment works

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

Note:

- Council's Development Engineering Department can provide this service. Contact Penrith City Council's Development Engineering Department on (02) 4732 7777 or visit Penrith City Council's website for more information.

- 31 The stormwater management system shall be provided generally in accordance with the concept plan/s lodged for development approval, prepared by adw Johnson, project number 300225, drawing numbers 001 – 601, revision D dated 19/03/2021 and commitments made in the Stormwater Management Plan Basin C and V6 for Villages 3C and 6 Jordan Springs, prepared by ADW Johnson, Issue D dated 18/03/2021.

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

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

- 32 **Prior to the commencement of any works on-site or prior to the issue of any Construction Certificate, whichever occurs first**, a final Construction Traffic Management Plan (CTMP) shall be submitted to and approved by Council's Development Services Manager.

The construction route identified as 'Route 2' in the accompanying CTMP travelling from Delany Circuit via Third Avenue, Eight Avenue, Forrester Road into Dunheved is not supported, and is to be deleted in the final CTMP.

The CTMP shall be prepared by a suitably qualified consultant with appropriate training and certification from the Roads and 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 Asset Management Department on 4732 7777 and refer to Council's website for a copy of the Temporary Road Reserve Occupancy Application Form.

- 33 **Prior to the issue of a Construction Certificate** the Certifying Authority shall ensure that a geotechnical investigation and testing shall be undertaken on the permeability of the proposed basins. The permeability of the basins shall be designed to ensure that a permanent water level is maintained in all weather events to sustain the growth of the macrophyte zone.

The test results of the geotechnical investigations shall be submitted to Penrith City Council for approval prior to the issue of a Construction Certificate. If the geotechnical testing indicates the basin flood is not within acceptable permeability limits then a geotechnical designed liner is to be constructed. Details of the liner are to be submitted to Penrith City Council prior to the issue of a Construction Certificate.

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

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

35 **Works shall not commence until the following has occurred:**

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

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

36 All earthworks shall be undertaken in accordance with AS 3798 and Penrith City Council's Design Guidelines for Engineering Works for Subdivisions and Developments and Engineering Construction Specification for Civil Works.

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

37 **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.

38 **Prior to the handover of the basins to Penrith City Council**, 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 Penrith City Council is not the Principal Certifying Authority.

39 **Prior to the handover of the basins to Penrith City Council**, a 6 x 5 m splay corner at the southern west corner of 2 Cerdon Place Jordan Springs is to be dedicated as public road to Penrith City Council on a plan of subdivision registered with Land Registry Services (LRS) NSW. The dedication of public road and subsequent registration shall be at no cost to Penrith City Council.

40 Prior to the issue of a Subdivision Certificate the following compliance documentation shall be submitted to

the Principal Certifying Authority. A copy of the following documentation shall be provided to Council where Council is not the Principal Certifying Authority:

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

41 The stormwater management system shall continue to be operated and maintained by the applicant in accordance with the final operation and maintenance plan until such time as the development is delivered to Penrith City Council. 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.

42 Prior to the handover of the stormwater treatment infrastructure, Council requires that all requirements outlined in section 2.7 of Council's WSUD Technical Guidelines (Version 3) are met, including (but not

limited to) the following:

- (a) The WSUD assets / measures are constructed and operate in accordance with the approved design specifications / parameters and any other specific design agreements previously entered into with Council
- (b) The performance of the WSUD measure(s) has been validated, which must include the provision of a Performance Validation Report supporting the performance of the WSUD measure
- (c) Where applicable, the build-up of sediment has resulted in no more than a 10% reduction of operational volume
- (d) Asset inspections for defects has been completed and, if any defects are found, rectified to the satisfaction of Council
- (e) The WSUD infrastructure is to the satisfaction of Council, structurally and geotechnically sound (this will require the submission of documents demonstrating that such infrastructure has been certified by suitably qualified persons)
- (f) Design drawings have been supplied in a format acceptable to Council
- (g) Works as Executed (WAE) drawings have been supplied for all infrastructure in a format and level of accuracy acceptable to Council
- (h) Other relevant digital files have been provided (e.g. design drawings, surveys, bathymetry, models etc)
- (i) Landscape designs have been supplied, particularly those detailing the distribution of functional vegetation, i.e. vegetation that plays a role in water quality improvement (clearance certificates from the landscape architect will need to be supplied)
- (j) The condition of the infrastructure and associated with the land complies with the approved design specification.
- (k) Vegetation densities in the wetlands and surrounding vegetated areas (i.e. batters) should have a coverage of >95% as per approved design, and be >95% weed free. Additionally, prior to handover, the vegetation in the systems shall also have reached its design condition (i.e. height and density). This is to be certified by a suitably qualified ecologist / horticulturalist with 5 years relevant experience.
- (l) Comprehensive operation and maintenance manuals (including indicative costs) have been provided.

(m) Inspection and maintenance forms provided

(n) Vegetation establishment period successfully complete (3 years unless otherwise approved by Council)

(o) Copies of all required permits (both construction and operational) have been submitted.

(p) A detailed report on the Water Quality and Wetland Monitoring Program undertaken during the 3-year establishment and maintenance period, shall be submitted to and approved by Council's Development Services Manager. The report shall demonstrate the wetlands have been constructed and are in a condition consistent with the design intent.

Prior to the handover of the wetlands, the following is to occur:

(a) A Horticulturalist or ecologist that has relevant tertiary qualifications and technical knowledge with a minimum of five (5) years demonstrated experience, is to certify that the planting within the wetlands and associated vegetated areas, is of the same quality in type and quantity as per the construction certificate approved landscape plans, that any plants lost have been replaced, the area is >95% free of weeds, rubbish, and that any areas of scour or disrepair have been restored.

43 Handover of the assets to Council will not occur until Council is satisfied that they are constructed in with the approved plans, conditions of approval and all certification requirements have been complied with:

(a) The wetlands are required to remain 'on maintenance' for a minimum period of three (3) years or as otherwise approved and a performance-based inspection has been undertaken with Council. **Note:** This period may be extended in the case the wetlands have not satisfactorily established to an acceptable and agreed performance standard.

(b) The on-maintenance period for all vegetated systems can be considered as on-maintenance once 90% of dwellings are substantially completed within the development sub-catchment associated with the relevant treatment measure and after the wetlands have been constructed and planted with vegetation.

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

(d) During the establishment and maintenance period, regular maintenance must be undertaken on the stormwater treatment measures by suitably qualified contractors (i.e. horticulturists / ecologists) in accordance with an approved maintenance schedule. During the 3-year maintenance period, the developer is to submit to Council's Asset Management Department, a quarterly report outlining all maintenance activities undertaken on the Stormwater treatment measures. This is to be prepared by a suitably qualified engineer, ecologist / horticulturalist with 5 years relevant experience.

44 **Prior to the issue of a Construction Certificate**, the following is to occur:

(a) The Proponent is to provide clarification regarding the adequacy of a 300mm maintenance pipe, to the satisfaction of Council's Development Services Manager. Noting that Council's preference is that a minimum pipe size of 375mm be provided.

(b) Energy dissipators at the end of pipes are to be provided to suitably reduce flow velocities, to the satisfaction of Council's Development Services Manager.

45 **Prior to the issue of any Construction Certificate**, the Certifying Authority shall ensure that engineering plans include the following:

(a) Grades and transitions and manoeuvrability to comply with AS2890 for a 12.5m access vehicle.

(b) Maximum ramp grades 1:6.5 (15.4%) and maximum cross fall of 3%.

(c) A minimum of 4m wide access track and ramps should be provided to all basins.

(d) The access ramps shall be of concrete minimum 225 thick, 2 Layers F82 mesh, 32MPA concrete on a 150mm compacted DGB base and 50mm bedding sand.

(e) The pavement design for the access tracks shall be designed for a Heavy Rigid 25T GVM vehicle.

46 The developer is to undertake a dilapidation report for all surrounding Council owned infrastructure and the haulage route that confirms that no damage occurs due to the excavations associated with the development. If Council is not the Certifier for the development then the dilapidation report shall be submitted to Council **prior to the issue of any Construction Certificate or Subdivision Works Certificate** and then updated and submitted prior to the issue of any Occupation Certificate confirming no damage has occurred.

## Landscaping

47 No trees are to be removed, ring barked, cut, topped or lopped or willfully destroyed (other than those permitted by this consent) without the prior consent of Penrith City Council and in accordance with Part C, C2 Vegetation section of Penrith Development Control Plan 2014.

## SIGNATURE

Name:	Lucy Goldstein
Signature:	

For the Development Services Manager