

PENRITH CITY COUNCIL

MAJOR ASSESSMENT REPORT

Application number:	DA17/0386
Proposed development:	Demolition of Existing Structures & Construction of Six (6) Storey Residential Flat Building containing 19 Apartments & Two (2) Levels of Basement Car Parking
Property address:	15 Dent Street, JAMISONTOWN NSW 2750 17 Dent Street, JAMISONTOWN NSW 2750
Property description:	Lot SP 79056 Lot 32 DP 1283
Date received:	11 May 2017
Assessing officer	Lauren Van Etten
Zoning:	Zone R4 High Density Residential - LEP 2010
Class of building:	Class 2 , Class 7a
Recommendations:	Approve

Executive Summary

Reason for Determination by Penrith Local Planning Panel: *The development application is for a residential flat building under the Provisions of State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development*

Council is in receipt of a development application for the demolition of existing structures and the construction of a 5 storey residential flat building comprising of 19 apartments at 15 Dent Street JAMISONTOWN. The proposal is defined as a residential flat building under the Penrith Local Environmental Plan (PLEP) 2010 and is permissible within the R4 High Density Residential zone, with the consent of Council.

Key issues identified in the initial assessment of the application included the following:

- Incompatible height in relation to the character of the area
- Solar impacts to the proposed units and upon adjoining properties
- Landscaping plan details and deep soil area dimensions
- Amenity impacts in relation to the proposed common open space
- Privacy impacts in relation to the proposed upper floor windows
- Vehicular access arrangements
- Overland flow Impacts
- Waste collection room configuration

In response to the identification of these issues, the application was amended from 27 to 19 units, substantially reducing the bulk and scale and ameliorating adverse impacts. More specifically, as the height reduced from 22m to 17.6m, the height is now considered compatible with the surrounding residential flat buildings coupled with deep soil pockets which are now at least 5m wide in each corner of the development with embellished planting detail. With respect to internal amenity, the revised design also includes units with dimensions that are usable and a ground floor that allows for direct connectivity to the common open space area from the entrance. The upper floors incorporate translucent windows up to head height. Swept path diagrams were also provided to support the basement layout and one way driveway. Then issues raised are considered to have been sufficiently resolved to enable determination of the development application.

The application has been notified to adjoining properties, advertised and exhibited between 26 May 2017 to 9 June 2017 in accordance with relevant legislation. Six submissions from six individuals were received raising matters related to solar access, view loss, privacy, security and traffic impacts. These concerns are addressed within the body of this report.

An assessment under Section 4.15 (formerly Section 79C) of the *Environmental Planning and Assessment Act 1979* has been undertaken and the application is recommended for approval, subject to recommended conditions.

Site & Surrounds

The site has an area of 1001sqms and is rectangular in shape with a 27m frontage to Dent Street.

The site is relatively flat. One of the two allotments currently contains a dwelling and the other contains an attached dual occupancy. Five trees are located within the rear yard and one tree is located within the front setback, none of which are of significance.

The subject site shares its southern side boundary with a four-story residential flat building.

Development in the immediate vicinity comprises a mixture of older style single dwellings, and 3 and 4 storey residential flat buildings with basement car parking.

Dent Street is a two way local road with on-street parking. Parker Street is 250m to the west of the site and Jamison Park is 250m to the east.

Proposal

The proposal involves the following:

- Demolition of existing dwellings and ancillary structures;
- Removal of existing trees and other vegetation;
- Construction of a 5 storey residential flat building containing 19 apartments;
- Basement car parking for 23 cars (including 2 x accessible spaces); and
- Landscaping and stormwater drainage works.

Plans that apply

- Local Environmental Plan 2010 (Amendment 4)
- Development Control Plan 2014
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- State Environmental Planning Policy No 55—Remediation of Land
- State Environmental Planning Policy No 65—Design Quality of Residential Flat Development
- Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

Planning Assessment

• Section 79C - Evaluation

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

Section 79C(1)(a)(i) The provisions of any environmental planning instrument

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

This Policy ensures the implementation of the BASIX scheme that encourages sustainable residential development. It requires certain kinds of residential development to be accompanied by a list of commitments to be carried out by applicants. The proposal is subject to these requirements as it involves the construction of a residential flat building.

BASIX Certificate No. 791875M_02 was submitted with the development application and demonstrates compliance with set sustainability targets for water and energy efficiency and thermal comfort and in this respect, the proposal is compliant with the Policy.

State Environmental Planning Policy No 55—Remediation of Land

An assessment of the proposal has been undertaken against the relevant criteria within State Environmental Planning Policy No. 55 - Remediation of Land and the proposal is considered satisfactory subject to the recommended conditions of consent, including those related to unexpected finds.

A review was undertaken of the 'report to Bishi Constructions on Preliminary Environmental Screening' prepared by Environmental Investigation Services dated 28 November 2016 (Ref. E29853Krpt). This report involved reviewing the site history and other relevant records, as well as taking soil and groundwater samples from two locations on the site. The soil samples were found to comply with the established criteria, however the levels of chromium and copper in groundwater were found to exceed the criteria at one location.

The report acknowledged that there were a number of gaps with the data, namely that the EPA recommended sampling density was not met, that the land beneath the existing buildings had not been investigated, that a hazardous building materials assessment had not been undertaken, and that additional analysis of groundwater should be carried out (to address the chromium and copper results). The report concluded that the site could be made suitable for the proposed residential development should a Stage 2 Environmental Site Assessment be carried out to address these gaps.

Council's Environmental Management Team reviewed the submitted report and the current condition and use of the site and it was found that these recommendations are considered particularly onerous. Whilst only two samples were taken, the site is located within an existing, established residential area, with two dwellings present. The site history did not note any particular activities that are of concern, and the indicative soil sampling undertaken did not confirm the presence of any contaminants (other than surface asbestos fragments, as addressed below).

Whilst metals were observed in groundwater, the groundwater is not proposed to be used as a part of this development. Potential contact during the construction phase can be effectively addressed through an Unexpected Finds Protocol.

As noted above, two asbestos fragments were identified on the surface. This finding does not trigger remediation, and instead can be managed through existing SafeWork NSW protocols. An Unexpected Finds Protocol can again also be used to manage responses to asbestos during site development works

In turn, an Unexpected Finds Protocol will be required to be developed as a condition of consent, particularly referencing groundwater and asbestos, prior to development works commencing.

Having regard to the above, it is considered that the site is suitable for the proposed development subject to recommended conditions of consent specifically requiring an unexpected finds protocol referencing groundwater and asbestos prior to development works commencing.

State Environmental Planning Policy No 65—Design Quality of Residential Flat Development

As assessment has been undertaken of the application against relevant criteria within the State Environmental Planning Policy No. 65—Design Quality of Residential Apartment Development including the nine design quality principles. The application was accompanied by a written statement from the architect detailing how the design quality principles are addressed in the development and on review, the proposal is found to be satisfactory. A detailed assessment against the provisions of the accompanying Apartment Design Guide (ADG) is provided in the table below:

Assessment Against the Apartment Design Guide (ADG)			
Part	Required	Discussion	Complies
3			

3A-1	Each element in the Site Analysis Checklist should be assessed.	A Site Analysis plan was submitted with the application and identifies applicable elements as required within the Checklist. A written description of the proposal and subject site are also included in the submitted Statement of Environmental Effects and accompanying plans and reports.	Yes.
3B-1	Buildings to address street frontages.	Due to the required waste infrastructure, only one ground floor apartment is provided with frontage to the street. The entry for this unit is proposed to be via the main pedestrian walkway. The common entry and foyer is of an appropriate design and location.	Yes.
3B-2	Living areas, Private Open Space (POS) and Communal Open Space (COS) to receive compliant levels of solar access.	Refer discussion under Parts 3D and 4A.	N/A.
	Solar access to living spaces and POS of neighbours to be considered.	<p>The development will have an impact on the amount of solar access attributed to neighbouring sites, particularly to the immediate south.</p> <p>Additional over shadowing will occur to the south between 9am and 3pm affecting the units of the residential flat building to the south at 29-31 Preston Street, Jamisontown. Additional detail was sought from the applicant with regard to the extent of overshadowing. Shadow diagrams were provided showing overshadowing of the north façade of the building to the south at half hour intervals. It is clear that all units receive the minimum solar access required with the exception of one unit whose solar is compromised after 9am. (Unit number 29).</p> <p>The extent of overshadowing is not considered to be detrimental to the overall amenity of the neighbouring sites and is reasonable in its impact particularly given the high density zoning of the locality.</p> <p>Further to the above, Land and Environment Court principles have established that it is difficult to protect solar access over side boundaries, particularly in zones with greater density and the claim to that solar access, in these zones, is not as strong. It is for the above reasoning that the additional overshadowing attributed to the proposal is considered acceptable and is not considered unreasonable in this instance.</p>	Yes.
	If the proposal will significantly reduce the solar access of neighbours, building separation should be increased.	Acceptable levels of solar access is achieved between the primary daylight hours at the winter solstice. An increase in building separation is not required.	Yes.

3C-1	Courtyard apartments should have direct street access.	The ground floor unit with frontage to Dent Street is not provided with individual access given the need to retain 50% of the frontage as landscaped area with adequate deep soil setbacks.	Yes.
	Upper level balconies and windows are to overlook the street.	The proposal included full height glazing but it was amended to propose translucent glass up to head height on the upper floors. The amended proposal includes balconies overlooking either the street or the rear.	Yes.
	Length of solid walls should be limited along street frontages.	Walls are adequately landscaped and articulated. No large expanses of blank wall are proposed.	Yes.
	Opportunity for concealment to be minimised.	Entryways are wide, straight and located such as to reduce opportunity for crime and concealment.	Yes.
3C-2	Ramping for accessibility should be minimised.	Ramping is proposed however it is necessary given the level differences between building and natural ground level, which is raised due to the overland flow affectation.	Yes.
3D-1	Communal Open Space (COS) to have minimum area of 25% of site.	<p>The development includes a small communal open space for residents of the development (143sqm) which represents 14% of the site.</p> <p>However, the development was reviewed by the Urban Design Review Panel who noted that the proposed communal open space achieves satisfactory amenity for the development if certain recreational facilities and dimensions were incorporated. Subsequently, the design included a pergola and BBQ bench, a transparent glazed entrance door from the lobby and no facing windows on the adjoining units, as well as the relocation of the fire stair to provide direct connectivity from the lobby. Measuring approximately 4m by 6m, the open space is immediately visible and accessible from the main building lobby. The open space is backed by a landscaped zone 1.8m wide that would allow screen planting along the side boundary. The proposed open space would encourage social interaction between residents without unduly affecting amenity of any dwelling, and would ensure reasonable safety for gatherings.</p> <p>The proposed non-compliance in this instance is considered acceptable as the development provides high amenity units in an accessible and suitable location. Ground floor units are provided with generous private courtyards and the site is located in walkable proximity to a number of public open spaces.</p>	No. Justification provided.
3D-4	Boundaries should be clearly defined between public open space and private areas.	The private open space areas of the development are clearly defined by the use of landscaping and walls.	Yes.

3E-1	Deep soil is to be provided at a rate of 7% of site area with a min. dimension of 3m.	Submitted documentation indicates that 40% (39.5sqm's) of the site is provided as deep soil. Originally, the basement encroached upon the corners of the site however there is now 5m deep soil pockets, as was requested for tree growth. In addition, the pedestrian ramp at the front of the site was redesigned as a suspended structure as UDRP requested to ensure deep soil is provided along the street frontage	Yes. Condition recommended.
3F-1	Minimum required separation distances from the building to side and rear boundaries is to be achieved as follows: 1-4 storeys (side)– 6m 1-4 storeys (rear) – 9mm	A 2.5-3.5m southern side setback is proposed between the side boundaries of the site and habitable rooms and balconies. The proposal does not comply with the ADG separation distances for each level of the building in that a 6m side setback is required to be provided to habitable rooms along the southern side boundaries. The Urban Design Review Panel noted that this non-compliance is assessed to be acceptable in that a variety of design responses are incorporated into the design of the building to avoid negative acoustic and visual privacy impacts on neighbouring sites. However, Side boundary setbacks of approximately 3m for the windows would not compromise residential amenity for the development, and are unlikely to significantly compromise amenity that is enjoyed by existing neighbours given the only windows on levels 1-4 are oriented toward the street front or rear boundary. In addition, windows along the upper floors will provide translucent glass up to a height of 1.5m. The acceptable solar amenity impacts upon the property to the south are discussed within Section 3B of this table. The stepped building form, in conjunction with the basement layout, allows a substantial variety of landscape treatments along both side boundaries, and consequently provides effective green buffers between neighbouring developments. Ground level plantings would prevent direct cross-viewing between neighbouring dwellings at ground level. Windows that directly face side boundaries are confined to high-lights which also represent a design solution which is acceptable in relation to privacy.	No. Condition recommended.
3G-1	Building entries to be clearly identifiable.	The entryway is articulated with landscaping and will provide access to the mail boxes and is paved to the street front.	Yes.

3G-2	Building access ways and lift lobbies to be clearly visible from the public domain and communal spaces.	The main pedestrian entry is visible from the street and the lift lobby has direct views to the street.	Yes.
	Steps and ramps to be integrated into the overall building and landscape design.	Steps and ramps are adequately integrated into the design.	Yes.
3H-1	Carpark access should be integrated with the building's overall façade.	The car parking is adequately integrated into the façade of the building with the roller door located behind the building line.	Yes.
	Clear sight lines to be provided for drivers and pedestrians.	Adequate sight lines are provided for drivers and pedestrians at the street frontage.	Yes.
	Garbage collection, loading and servicing areas are screened.	Not provided on-site refer to appendix for further discussion.	NA
3J-1	The site is not located within 800m of a railway station and is required to comply with the car parking rates as stipulated within the Penrith DCP 2014.	Refer discussion under Penrith DCP 2014.	N/A.
3J-2	Secure undercover bicycle parking should be provided for motorbikes and scooters.	Secure bicycle parking is proposed within the basement of the building.	Yes.
3J-3	A clearly defined and visible lobby area or waiting area should be provided to lifts and stairs.	Lobby areas are clearly defined and appropriately located.	Yes.
3J-6	Positive street address and active frontages to be provided at ground floor.	A wide and direct landscaped pedestrian access pathway is provided to the communal entry and lift lobby area via the eastern side boundary.	Yes.
4A-1	Living rooms and private open spaces of at least 70% of apartments to receive 2 hours direct sunlight between 9am and 3pm mid-winter.	Submitted documentation confirms that 95% of apartments are compliant.	Yes.
4A-3	Sun shading devices are to be utilised.	Balconies are proposed to be covered by the levels over.	Yes.
4B-3	60% of apartments are naturally ventilated and overall depth of cross-through apartments 18m maximum glass-to-glass line.	Submitted documentation confirms that 65% of apartments will receive natural cross flow ventilation. Apartment depths are compliant with the maximum depth requirement of 18m.	Yes.
4C-1	Finished floor to finished ceiling levels are to be 2.7m for habitable rooms, 2.4m for non-habitable rooms.	The proposal is for 2.8m measured from finished floor to finished ceiling level.	Yes.
4D-1	Apartments are to have the following min. internal floor areas: 1 bed – 50sqm 2 bed – 70sqm 3 bed – 90sqm Addition bathroom areas increase minimum area by 5sqm.	All proposed apartment sizes comply with the ADG requirements.	Yes.
4D-2	In open plan layouts the maximum habitable room depth is 8m from a window.	All units comply with this requirement.	Yes.
4D-3	Master bedrooms to be 10sqm's and other rooms 9sqm's.	All units comply with this requirement.	Yes.
	Bedrooms to have a minimum dimension of 3m.	All units comply.	Yes.

	Living rooms to have minimum width of 3.6m for a 1 bedroom unit and 4m for 2 & 3 bedrooms.	All units comply.	Yes.
4E-1	All units to have the following primary balcony areas: 1 bed – 8sqm (2m deep) 2 bed – 10sqm (2m deep) 3 bed – 12sqm (2.4m deep)	All units comply	Yes
4E-3	Downpipes and balcony drainage are integrated with the overall facade and building design.	A condition of consent is recommended in this regard.	Yes. Condition recommended.
	Air-conditioning units should be located on roofs, in basements, or fully integrated into the building design.	A condition of consent is recommended in this regard.	Yes. Condition recommended.
4F-1	Daylight and natural ventilation to be provided to all common circulation spaces.	Natural light is provided to the central lobby and lift core circulation spaces via windows along the northern and eastern elevation.	Yes.
4G-1	In addition to storage in kitchens, bathrooms and bedrooms, the following storage is to be provided: 1 bed – 4m ³ 2 bed – 6m ³ 3 bed – 10m ³ With 50% of the above to be provided within the units.	Adequate storage is provided within most of the unit. Recommended condition of consent will require all units to have adequate storage, specifically units 103, 201, 302, 401 and 501.	Yes.
4K-1	Flexible apartment configurations are provided to support diverse household types.	The development proposes a range of unit sizes, configurations and number of bedrooms to accommodate change over time and cater for differing households. Unit mix is proposed as follows: 2 x 1 bedroom apartments 17 x 2 bedroom apartments >10% (2 units) of apartments are proposed as adaptable units.	Yes.
4L-1	Direct street access should be provided to ground floor apartments.	The ground floor unit with frontage to Dent Street isn't provided with individual access given the need to retain 50% of the frontage as landscaped area with adequate deep soil setbacks.	Yes.

4M-1	Building facades are to be well resolved with an appropriate scale and proportion to the streetscape and human scale.	<p>The proposal was subject to a review by Council's Urban Design Review Panel and was supported subject to amendments with regard to increasing the deep soil zones and changing the built form and scale by incorporating recessive design character for levels four and five of the northern and western facades by removing the concrete window sill and replacing it with glass. In addition, minor amendments were recommended by UDRP and incorporated in relation to amenity to complement the more recessive character for levels four and five, specifically south facing windows on the upper floors have translucent glass to a height of 1.5m above FFL.</p> <p>Amended plans were received which are considered to address the matters raised by the panel.</p> <p>The scale of the building adequately addresses the street with varying ground, mid and upper level elements provided to break up bulk and provide elements of contrast. Landscaping was improved by the additional deep soil pockets along the front setback and more medium to large trees.</p>	Yes.
4O-1	Landscape design to be sustainable and enhance environmental performance.	<p>The submitted landscape plan indicates a selection of trees, shrubs and ground covers appropriate for the site.</p> <p>The Urban Design Review Panel requested several specific changes to the landscape plan all of which were incorporated into the design except for two matters, which can be amended in red pen on the stamped approved plans.</p> <p>More specifically, outside of unit 103, the planter adjacent the proposed bedroom shall measure approximately 4.5m deep in order to accommodate clusters of small trees given the proximity to the common open space.</p> <p>In addition, landscaping along the southern boundary shall include a hedge of small to medium height trees rather than the shrubs currently proposed.</p>	
4Q-2	Adaptable housing is to be provided in accordance with the relevant Council Policy.	A total of 2 adaptable units are proposed (>10%). Refer discussion under Penrith DCP 2014.	Yes.
4U-1	Adequate natural light is provided to habitable rooms.	All habitable rooms are provided with appropriate levels of natural light. Apartment depths and open floor plan arrangements allow light into kitchens, dining areas and living areas.	Yes.
4V-2	Water sensitive urban design systems to be designed by suitably qualified professional.	A MUSIC-link report has been prepared in support of the application which has been referred to Council's internal Environmental Waterways Unit with no objections raised.	Yes.

4W-1	A Waste Management Plan is to be provided.	A Waste Management Plan has been submitted.	Yes.
	Circulation design allows bins to be easily manoeuvred between storage and collection points.	The communal waste area and bulky waste area is located at ground floor level and is considered to be adequate. Refer to the appendix of this report for further discussion.	Yes.

Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

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

Local Environmental Plan 2010 (Amendment 4)

Provision	Compliance
Clause 1.2 Aims of the plan	Complies
Clause 2.3 Permissibility	Complies - See discussion
Clause 2.3 Zone objectives	Complies
Clause 4.3 Height of buildings	Complies - See discussion

Clause 2.3 Permissibility

The proposed residential flat building is permissible within the R4 High Density Residential zone under the PLEP 2010.

Clause 4.3 Height of buildings

The development application seeks approval for a maximum height of RL 45.8 or 17.2m which complies with the maximum permissible height of 18m expressed for the site under the Penrith Local Environmental Plan 2010 (PLEP 2010).

It is noted that the lift overrun on the elevation plans exceeds the height plane, however detail provided from Schindler's Lifts demonstrated that the lift overrun can be reduced in height from 2m to 500mm thus ensuring the maximum height of the building is 17.2m. A recommended condition of consent shall require the elevation plans to be amended in this regard prior to the issue of a Construction Certificate. A written request to vary the height under Clause 4.6 of the PLEP 2010 is not considered necessary in this regard.

Section 79C(1)(a)(iii) The provisions of any development control plan

Development Control Plan 2014

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

Section 79C(1)(a)(iv) The provisions of the regulations

In accordance with Section 143 of the *Environmental Planning and Assessment Regulation 2000*, an assessment of the fire protection and structural capacity of the proposed building is necessary. The application was referred to Council's Building Surveyor for assessment with no objections raised, subject to the recommended conditions.

The proposed development complies with the requirements of the Regulations.

Section 79C(1)(b) The likely impacts of the development

Context and Character

Initially the proposal incorporated 6 storeys, a 2.4m height variation and non-compliant setbacks resulting in adverse visual amenity impacts. The proposal was then substantially reduced from 27 units to 19 units with greater setbacks and compliant solar access to all units. The revised development of the site will have an impact on the character of the area as the development will involve the demolition of older style dwellings and introduce a five storey residential flat building into the streetscape. Notwithstanding the increase in density, the proposed setbacks, landscaping scheme and external materials and finishes are assessed to be sympathetic to the existing streetscape character and adjacent pattern of development and will not result in negative, unacceptable or unreasonable impacts in the locality.

Privacy Impacts

The design of the building incorporates a range of measures to assist in reducing visual and acoustic privacy impacts on neighbouring sites. The amended design includes balconies and full height windows oriented toward the street front or rear boundary, hence providing a design solution which is acceptable in

terms of mutual privacy. Windows that directly face side boundaries are confined to highlights while windows along the upper floors will provide translucent glass up to a height of 1.5m. In addition, ground level plantings would prevent direct cross-viewing between neighbouring dwellings at ground level.

In addition, a recommended condition of consent will require Australian Standard 220 – door and window locks to be installed in all dwellings. Intercom, code or card locks or similar must be installed for main entries to the building including the car park. Further, letter boxes shall not be placed on an independent block separate from the main building envelope of the development.

Solar Access

Initially the proposal was an overdevelopment with adverse solar impacts upon the proposed units and overshadowing of adjoining properties. Subsequently, the proposal was reduced in scale and detailed solar access diagrams indicate that the shadow cast from the proposed building will reduce the amount of solar access available to the windows along the northern façade of the units to the south (at 29-31 Preston Street) It is clear that all units receive the minimum solar access required with the exception of one unit whose solar is compromised. (Unit number 29).

Land and Environment Court principles have established that it is difficult to protect solar access over side boundaries, particularly in zones with greater density and the claim to that solar access, in these zones, is not as strong. It is for the above reasoning that the additional overshadowing attributed to the proposal, is considered acceptable and is not considered unreasonable in the context of the site.

Traffic and Parking

Swept paths were required to demonstrate manoeuvring around the single width driveway within the revised basement design and were subsequently provided and deemed satisfactory by Council's Traffic Engineer. As a result of the proposal, it is expected that there will be an increase in the volume of traffic entering and leaving the site. The development is unlikely to impact negatively on or to the detriment of the local road network. Standard conditions of consent are recommended with regard to construction traffic as well as compliance with relevant Australian Standards related to car parking design and exit sight lines.

Flooding Impacts

Council's best available flood mapping information indicates that the 1% AEP local overland flow flood level in the vicinity of the property is 28.7m AHD. Initially the application had not demonstrated that the development proposal is consistent with Council's Development Control Plan for flood liable land. Floor levels along with the crest in the driveway/ramp were then adjusted with adequate freeboard to the 1% AEP overland flows. Council's Development Engineers raised no objections to the proposal in this regard.

Noise and Construction Impacts

Construction at the site will have a temporary affect on the amenity of the area due to the noise of works, equipment and machinery. Standard conditions of consent are recommended with regard to hours of construction, noise and dust suppression and erosion and sediment control. Conditions of consent are also recommended with regard to asbestos removal and compliance with the Building Code of Australia during construction.

Social & Socio-Economic Impacts

The development is unlikely to result in any unacceptable negative social impacts in the area. Initially the proposal was an overdevelopment with adverse impacts upon the amenity of the intended occupants due to constrained unit dimensions and poor design in terms of CPTED and direct connectivity to the common open space. The proposal was then amended particularly in relation to all amenity requests from the Urban Design Review panel and is considered satisfactory and also compliant with Penrith DCP 2014 in relation to safety and security. The development of the site will facilitate the provision of new housing with the LGA in accordance with the aims of the PLEP 2010.

Section 79C(1)(c)The suitability of the site for the development

The site is assessed to be suitable for the following reasons:

- The site is zoned to permit the proposed use.
- The use is compatible with surrounding and adjoining land uses.
- The design is compatible with the character of the local area.
- The site is able to drain to Council's satisfaction.

Section 79C(1)(d) Any Submissions

Community Consultation

In accordance with the requirements of the Penrith Development Control Plan 2014, the proposed development was notified to adjoining and nearby properties and advertised and exhibited between 26 May 2017 to 9 June 2017 in accordance with relevant legislation. Six submissions from six individuals were received raising matters related to solar access, view loss, privacy, security and traffic impacts.

The following issues were raised in the submission received and have formed part of the assessment.

Comments Issues Raised

Height Impacts The revised design has reduced from a six storey to a five storey development, complying with the maximum height of 18m applicable under Clause 4.3 of the PLEP 2010. The revised proposal provides a design that is compatible with the character within the surrounding area and has acceptable impacts upon adjoining properties in terms of overshadowing and overlooking (see privacy section for further details). Further, the siting of the building, its quality of design and proposed landscaping will assist in reducing perceived bulk and scale.

In addition, detail provided from Schindler's Lifts demonstrated that the lift overrun can be reduced in height from 2m to 500mm. A recommended condition of consent shall require the elevation plans to be amended in this regard.

Noise Impacts Regarding operational noise, the proposed setbacks, window and door orientation and landscaping ensure that adverse acoustic impacts are mitigated. The common area on the roof that was initially proposed as part of the development has been removed from the plans.

Solar Access Submitted solar access diagrams indicate that the shadow cast from the proposed building will reduce the amount of solar access available to the windows along the northern façade of the units to the south (at 29-31 Preston Street). It is clear that all units receive the minimum solar access required with the exception of one unit whose solar is compromised (unit number 29).

Land and Environment Court principles have established that it is difficult to protect solar access over side boundaries, particularly in zones with greater density and the claim to that solar access, in these zones, is not as strong. It is for the above reasoning that the additional overshadowing attributed to the proposal, is considered acceptable and is not considered unreasonable in the context of the site.

Privacy and Security The design of the building incorporates a range of measures to assist in reducing visual and acoustic privacy impacts on neighbouring sites.

The amended design includes balconies and full height windows oriented toward the street front or rear boundary, hence providing a design solution which is acceptable in terms of mutual privacy. Windows that directly face side boundaries are confined to highlights which also represents an acceptable design solution in relation to privacy. In addition, windows along the upper floors will provide translucent glass up to a height of 1.5m. Ground level plantings would prevent direct cross-viewing between neighbouring dwellings at ground level.

Traffic and Parking As a result of the proposal, it is expected that there will be an increase in the volume of traffic entering and leaving the site. The development proposes an appropriate car parking rate and is unlikely to impact negatively on or to the detriment of the local road network.

Standard conditions of consent are recommended with regard to construction traffic as well as compliance with relevant Australian Standards related to car parking design and exit sight lines.

Construction Impacts Construction at the site will have a temporary effect on the amenity of the area due to the noise of works, equipment and machinery. Standard conditions of consent are recommended with regard to hours of construction, noise and dust suppression and erosion and sediment control. Conditions of consent are also recommended with regard to compliance with the Building Code of Australia during construction.

In addition, a Geotechnical investigation, report and strategy has been conducted to ensure stability of the Council infrastructure and surrounding developments and the recommendations of this report will be included as a condition of consent. A recommended condition of consent will also ensure a dilapidation report is undertaken for all surrounding buildings and Council owned infrastructure that confirms that no damage occurs due to the excavations associated with the development. If Council is not the Certifying Authority the dilapidation report shall be submitted to Council prior to Construction Certificate and then updated and submitted prior to any Occupation Certificate confirming no damage has occurred.

Airflow to Adjoining Properties The development of the site will have an impact on the built form of the area in that the approval of the development will include the demolition of older style dwellings and will introduce a residential flat building into the streetscape. Notwithstanding the increase in density, the proposed setbacks, landscaping scheme and proposed design, materials and finishes are considered to be sympathetic to the existing streetscape character, will retain and improve the existing green corridor at the rear of the site and will not result in negative unacceptable or unreasonable impacts in the locality, particularly given the recent R4 High Density Residential up-zoning of the site.

Referrals

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

Referral Body	Comments Received
Building Surveyor	No objections - subject to conditions
Development Engineer	No objections - subject to conditions
Environmental - Environmental management	No objections - subject to conditions
Environmental - Waterways	No objections - subject to conditions
Waste Services	No objections - subject to conditions
Traffic Engineer	No objection subject to conditions
Community Safety Officer	No objections - subject to conditions
Tree Management Officer	No objections - subject to conditions

Environmental - Waterways

The MUSIC model screen shot indicates that 10 * 460mm Psorb storm filters and 2 enviropods will be used as well as a 10kL rainwater tank. However, no details are shown on the drainage plans.

Nonetheless, given the MUSIC link report submitted in support of the application indicates the proposed treatment measures result in sufficient treatment to comply with Council's WSUD policy requirements, a recommended condition of consent can require the plans to be amended prior to the issue of a Construction Certificate.

Section 79C(1)(e)The public interest

The proposed development will not generate any significant issues of public interest.

Section 94 - Developer Contributions Plans

The following Section 94 Contribution Plans apply to the site:

- Cultural Facilities Development Contributions Plan (2003)
- Penrith City District Open Space Facilities Development Contributions Plan (2007)
- Penrith City Local Open Space Development Contributions Plan (1993)

The following Section 94 calculations apply to the proposed development.

Calculation for Residential Flat Building x 15 Apartments					
<i>Open Space</i>					
No. of units	x	Rate	-	Credit for existing dwelling/s	Contribution rate
19	x	2	-	9.3	28.7
<i>City Wide</i>					
No. of units	x	Rate	-	Credit for existing dwelling/s	Contribution rate
19	x	2.4	-	9	36.6
AMOUNT					
S.94 Contribution Plan		Contribution Rate x Calculation Rate			Total
District Open Space		28.7 x \$1,913			\$54,903
Local Open Space		28.7 x \$692.00			\$19,861
Cultural Facilities		36.6 X \$162.00			\$5,929
		NET TOTAL			\$80,693

Conclusion

In assessing this application against the relevant environmental planning policies, in particular the State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development, State Environmental Planning Policy (Affordable Rental Housing) 2009, the Penrith Local Environmental Plan 2010 and the Penrith Development Control Plan 2014, the proposal is considered to satisfy the primary aims, objectives and provisions of these policies.

In its current form, the proposal will have an acceptable impact on the surrounding character of the area. The proposed design is considered to be site responsive and is not contrary to the public interest. The application is therefore worthy of support, subject to recommended conditions.

Recommendation

That DA17/0386 for demolition of existing structures and the construction of a 5 storey residential flat building with basement car parking at 15 Dent Street, Jamisontown be approved subject to the attached conditions.

CONDITIONS

General

1 A001

The development must be implemented substantially in accordance with the plans listed below:

Architectural Plans prepared by Alan Johnson Architect			
Plan No.	Description	Revision	Date
A101	Parking 2	14	14/05/18
A102	Parking 1	14	14/05/18
A201	Level 1 (Ground)	17	22/05/18
A202	Level 2	15	21/05/18
A203	Level 3	15	21/05/18
A204	Level 4	14	21/05/18
A205	Level 5	14	21/05/18
A206	Roof	13	14/05/18
A301	East Elevation	12	14/05/18
A302	South Elevation	12	14/05/18
A303	West Elevation	13	14/05/18
A304	North Elevation	12	14/05/18
A401	Section 1	12	14/05/18
A402	Section 2	12	14/05/18
A403	Section 3 & 4	2	14/05/18
A410	Ramp Section	7	14/05/18
A411	Wall Details	7	14/05/18
A601	Adaptable Units - Type 1	6	14/05/18
A602	Adaptable Units - Type 2	6	14/05/18
A701	Level 1 (Ground) Windows	1	22/05/18
A702	Level 2 (Ground) Windows	1	16/05/18
A703	Level 3 - Windows	1	16/05/18
A704	Level 4 - Windows	1	16/05/18
A705	Level 5- Windows	1	16/05/18
A801	BASIX Sheet	1	04/07/18
Landscape Plans prepared by Peterson Design Studio			
LA00 to LA03	Landscape Plan	B	09/05/18
Stormwater Plans prepared by MAJ Consulting Civil and Structural Engineers			
SW01	Level 2 Basement Plan & Details	C	28/11/17
SW02	Level 1 Basement Plan & Details	C	28/11/17
SW03	Ground Floor Plan & Details	D	13/12/17
Additional Reports and Plans			
Report No.	Prepared by/Title/Description	Revision	Date
	Waste Management Plan prepared by Bhabishan Tancev		24/11/16
	Waste Management Plan prepared by Elephants Foot	-	10/04/18
	Erosion & Sediment Control Plan	A	28/11/17

as stamped approved by Council, the application form, BASIX Certificate No. 791875M_02 and any supporting information received with the application, except as may be amended in red on the approved plans and reports by the following conditions.

2 [A002 Special \(Amendments\)](#)

Storage shall be provided within Units 103, 201, 301, 401 and 501. Details in this regard shall be shown on the Construction Certificate.

3 [A002A Special](#)

Prior to the issue of a Construction Certificate, the elevation plans shall be amended to ensure the lift overrun is reduced in height to protrude no more than 500mm above the building in accordance with the concept plan drawn by Alan Johnson, referenced SK.01.24.6.18.

4 [A002B Special](#)

A final materials and finishes schedule is to be submitted to Council prior to the issue of a Construction Certificate documentation including screening detail covering the protruding basement.

5 [A003 Special](#)

Privacy screening shall be provided to the balconies of the ground floor units up to head height. Details in this regard shall be provided to Council prior to the issue of a Construction Certificate.

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

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

7 [A038 - LIGHTING LOCATIONS](#)

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 land uses. 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).

8 [A039 - Graffiti](#)

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

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

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

10 [A Special](#)

The recommendations and necessary works outlined in the Geotechnical investigation prepared by JK Geotechnics dated 2 November 2016 shall be implemented for the development. The geotechnical investigation, report and strategy shall comply with the recommendations contained in the technical direction GTD 2012/001 prepared by the Road and Maritime Services as amended.

11 [A Special \(2.1m fencing\)](#)

Prior to the issue of an Occupation Certificate, 2.1m high fencing shall be erected along the northern, southern and western boundaries. Such fencing and any retaining walls required shall be constructed entirely at the expense of the persons having the benefit of this consent. Colorbond fencing and timber retaining walls are not permitted.

The external face of any walls or fences visible from adjacent private or public areas is to be installed and finished to an equal or higher standard and quality than those visible to the occupants of the approved development.

12 [A Special \(Adaptable Apartments\)](#)

A minimum of two (2) apartments shall be constructed as adaptable apartments to meet the requirements for persons with a disability in accordance with the stamped approved plans. The adaptable units shall each be allocated an accessible car parking space compliant with AS 2890.6. **The Construction Certificate must be accompanied by certification** from a person suitably qualified by the Association of Consultants in Access Australia confirming that the adaptable dwellings are capable of being modified, when required by the occupant, to comply with the Australian Housing Standard (AS 4299-2009). A compliance Certificate in this regard shall be provided **prior to the issue of an Occupation Certificate**.

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

Prior to the erection of any crane or any temporary construction structure at a height greater than the roof of the subject development, written notice shall be provided to Council at least 21 days prior to the erection, indicating at least the following:

- Name of responsible company and relevant contact details.
- Dimensions (height, length, etc.)
- Position and orientation of boom/jib and counter boom/jib
- Length of time that such a crane or structure will be erected on site.

Any crane or any temporary construction structure erected at a height greater than the roof of the subject development shall comply with the following:

- Be equipped with medium intensity steady red lighting positioned at the highest point and both ends of the boom/jib and counter boom/jib, such that the lighting will provide an indication of the height of the crane and the radius of the crane boom/jib. Such lighting, is to be on and displayed at all times of the day and night, should be positioned so that when displayed it is visible from all directions.
- When a crane is unattended for an extended period of time ensure the crane's boom is retracted and lowered as far as possible.
- Any encroachment of the crane or its components beyond the boundaries of the subject site shall be the minimum amount required to facilitate construction and access all parts of the construction site.

14 [A Special \(Design Verification CC\)](#)

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 Schedule 1 of State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development.

15 [A Special \(Design Verification OC\)](#)

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 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 Schedule 1 of State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development.

16 [A Special \(External Plant\)](#)

All mechanical ventilation equipment, ducts, air conditioner services and the like shall be shown on the Construction Certificate documentation as being contained within the building. Gutters and down pipes shall be integrated into the architecture of the building. Any plant or unsightly structures installed on the rooftop must be screened from view.

17 [A Special \(Obscure glazing\)](#)

Balcony glazing is to be tinted (neutral colour) or otherwise obscure to assist in maintaining privacy. In addition, colorbond is not an appropriate façade for balconies. Details of the glazing and alternative external finishes are to be shown on the plans submitted for the Construction Certificate.

18 [A Special \(Unexpected Finds\)](#)

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.

19 [A Special BLANK](#)

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

Lighting

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

Basement 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 must be well-lit, with consistent lighting to prevent shadowing or glare.
- Car park surfaces including walls and ceilings are to be light coloured with details included with the Construction Certificate application.

Building Security & Access Control

- Intercom, code or card locks or similar must be installed for all entries to the buildings including the car parks.
- Australian Standard 220 – door and window locks must be installed in all dwellings.
- CCTV is to be provided to cover communal public space areas. Cameras must be of sufficient standard to be useful for police in the event of criminal investigations. Lighting should be provided to support cameras at night (alternatively infra-red cameras are recommended). Signage must be displayed to indicate that CCTV cameras are in use.
- Letter boxes are to be provided in accordance with that shown on the plans.

Graffiti/Vandalism

- Graffiti resistant coatings must be used to external surfaces where possible, including signage, furniture, retaining walls etc.
- Procedures must be in place to ensure the prompt removal and/or repair of graffiti or vandalism to the buildings, fencing, and common areas. This includes reporting incidents to police and/or relevant authorities.

Landscaping

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

Fencing

- Fence design 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. Front fences should preferably be no higher than 1.2 metres. Where a higher fence is proposed, it shall be constructed of open materials (e.g. spaced pickets, wrought iron etc).

Demolition

20 [B002 - AS FOR DEMOLITION AND DISPOSAL TO APPROVED LANDFILL SITE](#)

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

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

21 B003 - ASBESTOS

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

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

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

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

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

22 B004 - Dust

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

23 B005 - Mud/Soil

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

24 B006 - Hours of work

Demolition 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 demolition work is permitted on Sundays and Public Holidays.

In the event that the demolition relates to works inside the building and do not involve external walls or the roof, and do not involve the use of equipment that emits noise then the demolition works are not restricted to the hours stated above.

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

Environmental Matters

25 D001 - Implement approved sediment& erosion control measures

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

(Note: To obtain a copy of the publication, you should contact Landcom on (02) 98418600).

Certification that the erosion and sediment control measures have been installed in accordance with the approved erosion and sediment control plan (s) for the development and "Managing Urban Stormwater: Soils and Construction 2004" shall be obtained and issued a minimum 2 days before any other site works are to commence, including earthworks and clearing of the site.

The approved sediment and erosion control measures are to be installed **prior to and maintained throughout the construction phase of the development until the landscaping, driveway and on-site parking areas have been completed for the development.** These measures shall ensure that mud and soil from vehicular movements to and from the site does not occur during the construction of the development.

26 D005 – No filling without prior approval (may need to add D006)

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.

27 **D006 - No filling without prior approval (Use always, except for bulk earthworks/ major fill operations)**

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

28 **D007 - Cut and fill of land requiring Validation Certificate –limited to footprint**

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

29 **D008 - Filling compaction**

Where a building is to take place on any land that is to be filled, such filling is to be compacted in accordance with AS3798-1996. Certification is to be submitted to the Principal Certifying Authority by a Geotechnical Engineer verifying that the work has been undertaken prior to the commencement of the construction of any building.

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

30 **D009 - Covering of waste storage area**

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.

31 **D010 – Appropriate disposal of excavated or other waste**

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

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

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

32 **D014 - Plant and equipment noise**

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

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

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

- state the legal property description of the fill material source site,
- be prepared by an appropriately qualified person (as defined in Penrith 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.

An appropriately qualified person/s (as defined in the Penrith City Council Contaminated Land Development Control Plan) shall:

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

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

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

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

34 **D Special BLANK**

Vehicle wash bays are to be installed and connected to sewer in accordance with Sydney Water's requirements. The Section Certificate issued by Sydney Water for the discharge of vehicle bay wastewater from the premises shall be submitted by the Principal Certifying Authority before the wash bay can be installed.

35 **D Special BLANK**

Wastewater from the washing of vehicles is not to enter the stormwater drainage system. All wastewater generated from use of the vehicle wash bays are to be directed to sewer.

36 **D Special BLANK**

Bin washing is not to occur on the property.

37 **D Special BLANK**

The following details shall be shown on the Construction Certificate plans:

- All on-site waste collection infrastructure, doors and access points (Waste Chute Room, Waste Collection Room, Bulky Household Waste Collection Room, Hoist and Loading bay) 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.
- The Bulky Households Waste Room to replace the roller door with 1.8m wide, outwards opening dual doors.

38 **D Special BLANK**

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

- Detailed specifications and supporting architectural plans of the two carousel systems and the custom bin hopper servicing ground floor units.
 - 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.

39 **D Special BLANK**

Prior to the issue of an Occupation Certificate (to facilitate waste collection), a "Loading Zone" restriction is to be implemented . The "Loading Zone" restriction shall apply to at least 22.5 m of the eastern boundary of the site to allow for the parking and loading of waste collection vehicles.

This is to be approved by Council's Local Traffic Committee prior to implementation and installed at no cost to Council.

BCA Issues

40 **E009 - Annual fire safety-essential fire safety (Class 2-9 buildings)**

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

- (a) deal with each essential fire safety measure in the building premises, and
- (b) be given:

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

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

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

41 [E01A - BCA compliance for Class 2-9](#)

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

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

(b) formulating an alternative solution which:

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

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

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

Health Matters and OSSM installations

42 [F006 - Water tank & nuisance](#)

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

Utility Services

43 [G002 - Section 73 \(not for](#)

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

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

44 [G004 - Integral Energy](#)

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

In the event that a pad mounted substation is required to service the development, Penrith City Council must 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. An application to modify the development under Section 96 of the Environmental planning and Assessment Act 1979 may be required with regard to amendments to the landscape, building or waste services design to accommodate a substation.

Confirmation is to be provided to Penrith City Council that a blast wall or similar structure is not required.

45 [G006 -](#)

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

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

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

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

46 [G Special \(Hyd Booster\)](#)

Prior to the issue of a Construction Certificate, Penrith City Council must be consulted over the proposed location of any hydrant booster. Details must be provided to Penrith City Council to confirm the location, material and design dimensions of any heat shield required.

Construction

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

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

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

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

Signage but no more than 2 signs stating the above details 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.

48 [H002 - All forms of construction](#)

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.

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

The rainwater tank(s) is to be:

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

Additionally, the following are to be provided:

- A back flow prevention device shall be provided at the water meter in accordance with Sydney Water requirements.
- In the event of a power failure, a back up supply of mains water shall be provided to at least one toilet in the dwelling.
- The rainwater tank(s) and associated piping is to be labelled 'Rainwater - Not for Drinking' in accordance with Sydney Water requirements.
- The rainwater tank and pipework is to be painted in colours matching the external finishes of the dwelling and is to be of non-reflective finish.
- The overflow for the rainwater tank is to be connected into the existing stormwater disposal system on the site.

Before a rainwater tank(s) can be used, a certificate or suitable document is to be submitted to the Principal Certifying Authority stating that the rainwater tank has been installed in accordance with:

- the Manufacturer's Specifications, and
- Sydney Water and NSW Health requirements.

This certificate or documentation is to be provided by the licensed plumber who installed the rainwater tank on the property, and is to be submitted prior to the issue of an Occupation Certificate.

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

The catchment area (for the rainwater tank) includes the parts of the roof of the dwelling(s) from which water is collected and includes gutters. To ensure a safe supply of water:

- roof catchment areas must be kept clear of overhanging vegetation,
- gutters must have sufficient fall to downpipes to prevent pooling of water,
- overflow, discharge from bleed off pipes from roof mounted appliances such as airconditioners, hot water services and solar heaters must not discharge into the rainwater catchment area,
- for roofs containing lead based, tar based or asbestos material the tank supply must not be connected to drinking, bathing and gardening tap water outlets,
- appropriate measures must be installed to prevent foreign materials from contaminating the water which enters the rainwater tank.

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

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

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

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

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

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

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

Other construction works carried out inside a building/tenancy and 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.

Roads Act Requirements

54 [I Special BLANK](#)

A signal system is required instead of the convex mirrors at the ramps. Details shall be shown in this regard on the Construction Certificate plans.

Engineering

55 [K101 - Works at no cost to Council](#)

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

56 [K201 - Infrastructure Bond](#)

An Infrastructure Restoration Bond is to be lodged with Penrith City Council for development involving works around Penrith City Council's Public Infrastructure Assets. The bond is to be lodged with Penrith City Council prior to 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.

57 [K202 - S138 Roads Act – Works and Structures - Minor Works in the public road DRIVEWAYS ROAD OPENINGS](#)

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) Road opening for utilities and stormwater (including stormwater connection to Penrith City Council roads and other Penrith City Council owned drainage)
- c) Road occupancy or road closures
- d) The placement of hoardings, structures, containers, waste skips, signs etc. in the road reserve
- e) 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

58 [K209 - Stormwater Concept Plan](#)

The stormwater management system shall be provided generally in accordance with the concept plan/s lodged for development approval prepared by MAJ Consulting Civil and Structural Engineers, Project Number 20160085, Drawing Numbers SW01 Rev C 25/11/2017, SW02 Rev C 28/11/17, and SW03 Rev D 13/12/17.

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.

- The concept plans shall be amended to reflect the inclusion of the commitments made in relation to the supporting MUSIC link report and Modelling which included the installation of 10 * 460mm PSORB Storm filter Cartridges.
 - A detailed operation and maintenance manual shall be prepared and submitted to Council for approval.

Prior to the issue of a Construction Certificate the Certifying Authority shall ensure that the stormwater management system has been designed in accordance with Council's Stormwater Drainage for Building Developments and Water Sensitive Urban Design Policy.

59 [K211 - Stormwater Discharge – Basement Car parks](#)

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 AS3500.3 (or as amended) (Plumbing and Drainage – Stormwater Drainage).

60 [K214 - Flooding – Floor levels](#)

Prior to the issue of any Construction Certificate, the Certifying Authority shall ensure that all habitable floor levels are in accordance with the stamped approved plans with a minimum floor level of RL 29.20m AHD (standard flood level + 0.5m freeboard).

61 **K217 - Flooding – Flood Compatible Materials**

Prior to the issue of any Construction Certificate, the Certifying Authority shall ensure that the structure/s below RL 29.20m AHD (standard flood level + 0.5m freeboard) have been detailed with flood compatible building components in accordance with the publication 'Reducing the Vulnerability of Buildings to Flood Damage' produced by the Hawkesbury-Nepean Floodplain Management Steering Committee.

62 **K218 - Flooding – Structural Adequacy**

Prior to the issue of any Construction Certificate, the Certifying Authority shall ensure that the structure/s can withstand the forces of floodwater including debris and buoyancy up to the 1% Annual Exceedance Probability Event in accordance with the requirements of the Building Code of Australia (BCA).

63 **K219 - Flooding - Flood Proofing**

Prior to the issue of any Construction Certificate, the Certifying Authority shall ensure that all electrical services associated with the proposed building works are adequately flood proofed in accordance with Penrith City Council's Development Control Plan relating to flood liable land. Flood sensitive equipment (including electric motors and switches) shall also be located above RL 29.20 m AHD (standard flood level + 0.5m freeboard).

64 **K221 - Overland Flow - General**

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

- a) All habitable floor levels are a minimum of 500mm above the top water level of the 1% Annual Exceedance Probability RL 28.70m AHD overland flow path.
- d) The velocity x depth product does not exceed 0.4.
- e) The proposed development will not concentrate, dam or divert overland flows onto adjoining properties.
- g) The crest in the access ramp to the basement car park is a minimum of RL 29.00 m AHD.
- h) That all new fencing within the overland flowpath is open style to allow the free passage of overland flows.
- i) All proposed penetrations and access points into the basement carpark area minimum of 0.3m above the top water level adopted for the flooding.

Details prepared by a qualified person, demonstrating compliance with these requirements, shall form part of any Construction Certificate issued.

65 **K222 - Access, Car Parking and Manoeuvring – General**

Prior to the issue of any Construction Certificate, the Certifying Authority shall ensure that vehicular access, circulation, manoeuvring, pedestrian and parking areas associated with the subject development are in accordance with AS 2890.1, AS2890.2, AS2890.6 and Penrith City Council's Development Control Plan.

66 **K224 - Construction Traffic Management Plan**

Prior to the issue of a Construction Certificate, the Certifying Authority shall ensure that a Construction Traffic Management Plan (CTMP) has been submitted to and approved by Penrith City Council. Approval of the CTMP may require endorsement from the Local Traffic Committee. The CTMP shall include, but not limited to the following: vehicle routes, number of construction vehicles, hours of operation, access arrangements, pedestrian management, turning templates for narrow streets and intersections and parking management for workers. The CTMP shall be certified by an appropriately accredited person and/or Roads and Traffic Authority Traffic Controller for patrons. The CTMP shall be certified by an appropriately accredited person and/or Roads and Traffic Authority Traffic Controller. The CTMP shall ensure that adequate parking is provided for the development and not severely impacted by the construction of this development.

The TMP shall be supported by a traffic control plan, designed in accordance with the requirements of the Roads and Traffic Authority's Manual, Traffic Control at Work Sites Version 2, and the current Australian Standards, Manual of Uniform Traffic Control Devices Part 3, 'Traffic Control Devices for Works on Roads'.

The traffic control plan must be prepared by a suitably qualified and RTA accredited Work Site Traffic Controller.

67 **K226 - Basement Geotechnical Testing/ Dilapidation Report**

The development shall undertake a dilapidation report for all surrounding buildings and Council owned infrastructure that confirms that no damage occurs due to the excavations associated with the development. If Council is not the Certifying Authority the dilapidation report shall be submitted to Council prior to Construction Certificate and then updated and submitted prior to any Occupation Certificate confirming no damage has occurred.

68 **K301 - Sediment & Erosion Control**

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.

69 **K302 - Traffic Control Plan**

Prior to commencement of any works associated with the development, a Traffic Control Plan, including details for pedestrian management, shall be prepared in accordance with AS1742.3 "Traffic Control Devices for Works on Roads" and the Roads and Maritime Services' publication "Traffic Control at Worksites" and certified by an appropriately accredited Roads and Maritime Services Traffic Controller.

Traffic control measures shall be implemented during the construction phase of the development in accordance with the certified plan. A copy of the plan shall be available on site at all times.

Note:

- a) A copy of the Traffic Control Plan shall accompany the Notice of Commencement to Penrith City Council.
- b) Traffic control measures may require road occupancy / road closure approvals issued under Section 138 of the Roads Act by Penrith City Council prior to CC.

70 **K401 - Flooding – Surveyor Verification of floor levels**

A certificate by a registered surveyor verifying that all habitable floor levels are at or above RL 29.20 m AHD (standard flood level + 0.5m freeboard) shall be submitted upon completion of the building to that level. No further construction of the building is to be carried out until approval to proceed is issued by the Principal Certifying Authority.

71 **K502 - Works as executed – General and Compliance Documentation**

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.

72 **K504 - Restriction as to User and Positive Covenant**

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.

73 **K504 - Stormwater Compliance**

Prior to the issue of any Occupation Certificate, the Principal Certifying Authority shall ensure that the:

- a) Stormwater management systems (including on-site detention and water sensitive urban design)
 - b) Overland flowpath works
 - c) Flood control works
- 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 been undertaken have been satisfactorily completed.

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

74 K - Waterways - Stormwater Management system operation and maintenance

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

Landscaping

75 L001 - General

All landscape works are to be constructed in accordance with the amended approved landscape plans required to be submitted as part of this consent and Appendix F5, Section 2.9 Landscape Technical Specifications of the Penrith Development Control Plan 2014.

Landscaping shall be maintained:

- in accordance with the amended approved plans required by this consent, 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.

76 L002 - Landscape construction

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

77 L003 - Report requirement

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 an appropriately 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. The report is to be prepared by an appropriately qualified and experienced landscape professional.

78 L005 - Planting of plant

All plant material associated with the construction of approved landscaping is to be planted in accordance with Appendix F5, Section 2.9, Landscape Technical Specifications of the Penrith Development Control Plan 2014.

79 L006 - Aust Standard

All landscape works are to meet industry best practice and the following relevant Australian Standards:

- AS 4419 Soils for Landscaping and Garden Use,
- AS 4454 Composts, Soil Conditioners and Mulches, and
- AS 4373 Pruning of Amenity Trees.

80 L008 - Tree Preservation Order

No trees are to be removed, ringbarked, cut, topped or lopped or wilfully destroyed (other than those within the proposed building footprint or as shown on the approved plans) without the prior consent of Penrith City Council and in accordance with Council's Tree Preservation Order and Policy.

81 L Special (Replacement of trees)

Prior to the issue of an Occupation Certificate, two (2) *Lophostemon confertus* Brushbox trees must be planted in on the verge area at the front of the property.

82 L Special (Tree protection - Australian Standards)

Trees must be retained and protected in accordance with Australian Standards, Protection of trees on development sites, AS 4970 -2009.

83 L Special (Tree protection)

Trees must be retained and protected in accordance with the recommendations within the Arboricultural Assessment Report, prepared by Tree and Landscape Consultants, dated 10th December 2016.

Development Contributions

84 N001 - Section 94 contribution (Cultural Facilities Plan)

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, \$5,929.00 is to be paid to Penrith City 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 Section 94 invoice accompanying this consent should accompany the contribution payment. The Cultural Facilities Development Contributions Plan may be inspected at Council's Civic Centre, 601 High Street, Penrith and is also available on Council's website.

85 N001 - Section 94 contribution (District Open Space)

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, \$54,903.00 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 Section 94 invoice accompanying this consent should accompany the contribution payment. The Penrith City District Open Space Facilities Development Contributions Plan may be inspected at Council's Civic Centre, 601 High Street, Penrith and is also available on Council's website.

86 N001 - Section 94 contribution (Local Open Space)

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, \$19,861.00 is to be paid to Penrith City 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 Section 94 invoice accompanying this consent should accompany the contribution payment. The Penrith City Local Open Space Development Contributions Plan may be inspected at Council's Civic Centre, 601 High Street, Penrith and is also available on Council's website.

Certification

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

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

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

88 Q05F - Occupation Certificate for Class10

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

Appendix - Development Control Plan Compliance

Development Control Plan 2014

Part C - City-wide Controls

C5 Waste Management

Clause 5.1 Waste Management Plans

A Waste Management Plan has been submitted with the application and is considered acceptable.

Clause 5.2.1 Siting and Design of Waste Bin Storage Areas for Residential Development

The proposal is considered to satisfy the controls of this clause, in that the waste bin area as amended, is sufficient in area to accommodate the proposed number of bins and all waste streams are accommodated. The communal waste and bulky waste area are provided with adequate manoeuvring area and are appropriately screened with landscaping. An access path to the bin areas is also provided. Initially dual chute system was not located within the development however this was subsequently provided within amended plans.

The subject application proposes on street collection as the depth of the site means there is limited opportunity for a heavy rigid vehicle to enter the site and manoeuvre within the basement without impacting on landscaped areas, deep soil zones, setbacks and car parking spaces.

This alternative proposal was proposed and endorsed via a meeting held in relation to the application during the assessment process in mid 2017.

However, given the small scale of the development, the site is too constrained to provide on-site collection without adversely affecting the proposed design and the feasibility of the development. Further, as on-street collection is utilised by the surrounding residential flat buildings, the proposed solution is similar to the established on-street system within the street. As the surrounding developments are strata titled, redevelopment is not considered within the foreseeable future. Therefore, the proposed development incorporates a waste management plan which is similar in scale and form to the established waste collection arrangements within Dent Street and is thus considered to be an exception to the DCP controls.

On street collection is proposed in front of the building and signage restricting the use of this bay is required to be endorsed by Council's Local Traffic Committee. The proposal will thus result in the loss of two on street car parking spaces.

It is noted that other medium density developments on Dent Street also have collect and return services rather than onsite collection. While it is acknowledged that this area has a high on-street demand for parking, the site is also generally compliant with the controls for residential flat buildings.

Additionally, the configuration of the waste storage room was not originally in accordance with Council's DCP, however amended information was requested and subsequently provided in this regard. No objections were raised from Council's Waste Officer in relation to the proposal.

C10 Transport, Access and Parking

Parking, Access and Driveways

The DCP requires that proposals for basement car parking be accompanied by a geotechnical report prepared by an appropriately qualified professional. A geotechnical report, was submitted and a recommended condition of consent will ensure that the recommendations of that report are applied throughout detailed design and construction.

An assessment of the car parking rates is provided below:

C10 Transport, Access and Parking - Compliance Table		
Rate/Required	Discussion	Complies

<ul style="list-style-type: none"> • 1 bed Units x 2 = 1 per unit 2 x spaces required • 2 bed Units x 13 = 1 per unit 17 x spaces required <p>A total of 19 resident spaces are required (inclusive of 2 x accessible spaces).</p>	Amended plans indicate 19 residential car parking spaces are proposed.	Yes.
1 service space is required per 40 units.	No service spaces are required.	Yes.
Visitor parking to be provided at a rate of 1 space for each 5 dwellings. A total of 3.8spaces are required.	3 visitor car parking spaces are proposed.	Does not Comply. See Discussion.
3 bicycle spaces are recommended by the 'Planning Guidelines for Walking and Cycling' document.	Four bicycle parking spaces are provided within the basement.	Yes.

Visitor Parking Rates

Originally the proposal complied with the minimum parking requirements. However, the deep soil pockets requested by Urban Design Review Panel required the loss of a visitor parking spot. It is noted that these deep soil pockets were substantially above and beyond the minimum requirements and yet were deemed necessary given the proximity to existing residential flat buildings and the need for adequate landscape buffers in between. The arrangement of car parking across the basement levels is considered to be appropriate. In addition, the traffic report noted that there at a reasonable number of vacant car spaces on a weekday on Dent Street and therefore the visitor parking can be accommodated within the street.

D2 Residential Development

2.5.2 Preferred Configuration for Residential Flat Buildings

The DCP stipulates that new residential flat building development incorporate traditional configurations of cottage development in that patterns of buildings and private gardens are adopted and traditional features are employed to soften the development.

The proposed residential flat building, although contemporary in design, is considered to comply with the objectives of this clause. The proposed front and side setbacks are comparable with existing setbacks in the vicinity. The stepped balconies and colour variation will soften the bulk of the building and the ground floor street front unit is flanked by landscaping.

2.5.6 The Development Site

Under the DCP a 20m minimum lot frontage is required for residential flat buildings in the R4 High Density Residential zone. The proposal complies with this requirement as the site has a frontage of 26 metres to Dent Street.

2.5.4 Urban Form

The proposal complies with the objectives and controls of this clause in that each façade is articulated. Varying architectural elements are provided to the elevations. Although contemporary in style, the development is traditional in orientation with frontage to Dent Street.

2.5.6 Front and Rear Setbacks

The DCP states that the minimum rear setback is 4m for any single storey component and 6m for any element above ground floor. The proposal is for a 6m rear setback to all levels.

2.5.8 Visual and Acoustic Privacy

The proposal demonstrates a range of measures to assist in protecting and providing visual and acoustic privacy including highlight windows, semi-solid balconies and translucent glazing. Windows and balcony areas are oriented toward the street front or toward the rear of the site.

2.5.9 Solar Planning

Refer to discussion regarding solar access under State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development.

2.5.18 Fences and Retaining Walls

The DCP requires that fences shall be no taller than 1.8m generally and walls of solid construction and taller than 1.2m shall be of see through construction. However, given the flood levels required the finished floor level is up to 1m above natural ground level. That being said, the privacy impacts upon adjoining properties is considered negligible given the residential flat building to the south is separated by a driveway and to the north there is dense planting providing a reasonable landscaped buffer. Nonetheless, in this circumstance a 2.1m fence is considered appropriate to preserve privacy, particularly to the rear which faces units courtyards. Therefore, a condition of consent is recommended to ensure that fencing is appropriate in this regard and that screening is provided to the balconies on the ground floor.

2.5.20 Accessibility and Adaptability

The design of the building has been assessed to comply with the key provisions of this Clause. It is noted that >10% of units are designed as adaptable in accordance with this DCP requirement.