

PENRITH CITY COUNCIL

MAJOR ASSESSMENT REPORT

Application number:	DA17/1163.02
Proposed development:	Modification to Consent for Detached Dual Occupancy. Modifications Include New First Floor Balcony, Front Window and Rear Doors on Dwelling A
Property address:	11 Macadamia Court, KINGSWOOD NSW 2747
Property description:	Lot 24 DP 1194171
Date received:	7 June 2019
Assessing officer	Mahbub Alam
Zoning:	Zone R2 Low Density Residential - LEP 2010
Class of building:	Class 1a
Recommendations:	Approve

Executive Summary

Council is in receipt of a Section 4.55(1A) modification application to change the front windows and rear doors and new first floor balcony on dwelling A.

On 27 March 2018, DA17/1163 was determined and approved (under Council's delegated authority) for the construction of a detached dual occupancy at 11 Macadamia Court Kingswood. Under *Penrith Local Environmental Plan 2010 (LEP 2010)*, the proposal is defined as a *dual occupancy*. The subject site zoned R2 Low Density Residential and the proposal is a permissible land use in the zone with Council consent.

Key considerations identified for the proposed development and site include:

- *Privacy impact on adjoining properties*– The Proposed new balcony will be facing towards an existing local park and is approximately 25m away from the private open space area of the adjoining property. However, a small portion of the private open space area can be seen from the southern side of the proposed balcony. In this regard, the following special condition will be imposed to minimised the potential privacy concern.

“Prior to the issue of any Occupation Certificate appropriate privacy screening is to be installed along the rear / south elevation of the balcony area and is to extend 1.7m high from the finished floor level of the balcony”.

In accordance with Appendix F4 of the Penrith Development Control Plan 2014 – Notification and Advertising, this application was notified to nearby owners and occupiers of adjoining properties who were invited to inspect the proposal from 17 June to 01 July 2019. No submission was received.

The proposed modification is a permissible form of development with the consent of Council in this zone. An assessment under Section 4.55(1A) of the *Environmental Planning and Assessment Act 1979* has been undertaken and the application is recommended for approval.

Site & Surrounds

The site is 1260sqm in area, located on the southern side of Macadamia Avenue adjoining a large public open space area which rises to the south / southeast towards Caddens Road. Site topography has a steady rise from west to east where the site is currently under constructions.

Proposal

The Approved Development

The approved dual occupancy included the following aspects:

- Construction of two storey detached dual occupancy including parking, landscaping and associated drainage works.
- Each dwelling will comprise of four bedrooms, single garage, three bathrooms, study, living room, dining room, kitchen and laundry.
- Each dwelling is provided with an area of private open space at the rear and a boundary fence is proposed for privacy between the areas.
- The materials comprise brick veneer and and cement tile roof in grey colours.
- Separate driveways are proposed to the garages.

The Proposed Modification

Under the provisions of section 4.55(1A) of *EP&A Act 1979* the proposed modified development includes the following aspects:

- Change to the front windows and rear doors and new first floor balcony on dwelling A.

Plans that apply

- Local Environmental Plan 2010 (Amendment 4)
- Development Control Plan 2014

Planning Assessment

- **Section 4.15 - Evaluation**

The development has been assessed in accordance with the matters for consideration under Section 4.15 and 4.55(1A) of the EP&A Act, and having regard to those matters, the following issues have been identified for further consideration.

- **Section 4.55(1A) - Modifications involving minimal environmental impact**

Pursuant to Section 4.55(1A) of the Environmental Planning and Assessment Act 1979 (the Act), Council may modify a development consent provided several parameters are satisfied. These parameters are briefly discussed below.

(a) *The proposed modifications are of minimal environmental impact.*

The proposed modification seeks to change the front windows and rear doors and new first floor balcony on dwelling A. The Proposed new balcony will be facing fully towards existing local park and approximately 25m away from the private open space area of the adjoining property. However, a small portion of the private open space area can be seen from the southern side of the proposed balcony. In this regard, the following special condition will be imposed to minimise the potential privacy concern.

“Prior to the issue of any Occupation Certificate appropriate privacy screening is to be installed along the rear / south elevation of the balcony area and is to extend 1.8m high from the finished floor level of the balcony”.

Therefore, it is considered that the proposed modification is unlikely to alter any environmental, social and economic impacts of the original development.

(b) *The modified development is substantially the same development as was previously approved.*

The submitted Section 4.55(1A) does not alter the nature of the development. The development will remain same as originally approved. It is therefore considered that the proposed modification is substantially the same development for which the consent was originally granted.

(c) *The application has been notified where required.*

In accordance with Appendix F4 Notification and Advertising of Penrith Development Control Plan 2014 (DCP 2014), the application was notified to adjoining and nearby properties for 14 days.

(d) *Any submissions received from the notification process have been considered.*

No submission was received in response

- *Subsections (1), (2) and (5) do not apply to such a modification.*

Noted

- *Subsection (3) - In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 4.15 (1) as are of relevance to the development the subject of the application.*

Noted

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

Local Environmental Plan 2010 (Amendment 4)

Provision	Compliance
Clause 1.2 Aims of the plan	Complies

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	N/A
C3 Water Management	N/A
C4 Land Management	N/A
C5 Waste Management	N/A
C6 Landscape Design	N/A
C7 Culture and Heritage	N/A
C8 Public Domain	N/A
C9 Advertising and Signage	N/A
C10 Transport, Access and Parking	N/A
C11 Subdivision	N/A
C12 Noise and Vibration	N/A
C13 Infrastructure and Services	N/A

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

The modifications as proposed are minor in nature and will result in essentially the same development as originally approved on the site. The proposed modifications are not expected to generate any additional amenity impacts in comparison to the original approval.

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

In view of the above assessment, it is considered that the site is suitable for the proposed modifications subject to conditions.

Section 79C(1)(d) Any Submissions

Community Consultation

In accordance with Section Appendix F4 (Notification and Advertising) of *DCP 2014*, the proposed development was notified to nearby and adjoining properties. No submission was received in response.

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

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

The development as modified is consistent with the objectives of the *EP&A Act 1979* in so far as it promotes the co-ordinated and orderly, and economic use and development of the land. The above assessment noted that the proposal complies with the aims and objectives and numerical standards of the relevant statutory and non-statutory controls. As a result, Council is satisfied that the development as modified is consistent with the public interest subject to conditions.

Conclusion

The proposed modification to the development consent has been assessed against the relevant heads of consideration contained in Section 4.55(1A) of the *Environmental Planning and Assessment Act 1979* and has been found to be satisfactory. Each of the relevant criteria under Section 4.55(1A) of the Act has been satisfied. The development as modified would achieve minimal environmental impact and be substantially the same development as originally approved. The proposed modification to the development consent is therefore acceptable.

Recommendation

That DA17/1163.02 be approved subject to the following amendment to Council's Notice of Determination for DA17/1163:

- Amendment of Consent Condition No.1 to reflect the stamped plans.

CONDITIONS

General

1 A001

The development must be implemented substantially in accordance with the following plans stamped approved by Council, the application form, and any supporting information received with the application, except as may be amended in red on the attached plans and by the following conditions.

Drawing Title	Drawing Reference	Prepared by	Dated
Site plan	Job No: MRZ-17-190 (Page No: 2, Issue B)	MRZ Design & Building Consultant	10.01.18
Ground Floor Plan	Job No: MRZ-17-190 (Page No: 4, Issue B)	MRZ Design & Building Consultant	10.01.18
First Floor Plan	Job No: MRZ-17-190 (Page No: 5, Issue B)	MRZ Design & Building Consultant	10.01.18
Roof Plan	Job No: MRZ-17-190 (Page No: 6, Issue B)	MRZ Design & Building Consultant	10.01.18
Front/North Elevation and Right/West Elevation	Job No: MRZ-17-190 (Page No: 7, Issue B)	MRZ Design & Building Consultant	10.01.18
Rear/South Elevation and Left/East Elevation	Job No: MRZ-17-190 (Page No: 8, Issue B)	MRZ Design & Building Consultant	10.01.18
Right/West Elevation and Left/East Elevation Section	Job No: MRZ-17-190 (Page No: 9, Issue B)	MRZ Design & Building Consultant	10.01.18
Site Management Plan	Job No: MRZ-17-190 (Page No: 10, Issue B)	MRZ Design & Building Consultant	10.01.18
Site Analysis Plan	Job No: MRZ-17-190 (Page No: 11, Issue B)	MRZ Design & Building Consultant	10.01.18
Landscape Plan	Job No: MRZ-17-190 (Page No: 12, Issue B)	MRZ Design & Building Consultant	10.01.18
Shadow projections 21 st June 9Am, 12PM and 3PM	Job No: MRZ-17-190 (Page No: 13, Issue B)	MRZ Design & Building Consultant	10.01.18
Schedule of Finishes	-	-	-
Waste Management Plan	-	MRZ Design & Building Consultant	13.11.17
BASIX Certificate	876656M	-	06 November 2017
Stormwater Drainage Plan and Details	17NL308 (Rev A)	Loka Consulting Engineering	Nov 17
As amended 08 August 2019 under Section 4.55 (1A) of the Environmental Planning Assessment Act 1979 (as amended) by the following plans:			
Site Plan	Job No: MRZ-17-190 (Page No: 2, Issue E)	MRZ Design & Building Consultant	31.05.19
Ground Floor Plan	Job No: MRZ-17-190 (Page No: 4, Issue E)	MRZ Design & Building Consultant	31.05.19
First Floor Plan	Job No: MRZ-17-190 (Page No: 5, Issue E)	MRZ Design & Building Consultant	31.05.19
Roof Plan	Job No: MRZ-17-190 (Page No: 6, Issue E)	MRZ Design & Building Consultant	31.05.19
Front/North Elevation and Right/West Elevation	Job No: MRZ-17-190 (Page No: 7, Issue E)	MRZ Design & Building Consultant	31.05.19

Rear/South Elevation and Left/East Elevation	Job No: MRZ-17-190 (Page No: 8, Issue E)	MRZ Design & Building Consultant	31.05.19
Right/West Elevation 2 and Left/East Elevation	Job No: MRZ-17-190 (Page No: 9, Issue E)	MRZ Design & Building Consultant	31.05.19
Section	Job No: MRZ-17-190 (Page No: 10, Issue E)	MRZ Design & Building Consultant	31.05.19
Site Management Plan	Job No: MRZ-17-190 (Page No: 11, Issue E)	MRZ Design & Building Consultant	31.05.19
Landscape Plan	Job No: MRZ-17-190 (Page No: 13, Issue E)	MRZ Design & Building Consultant	31.05.19
BASIX Certificate	876656M_02	-	31.05.19

1A. Prior to the issue of **any Occupation Certificate** appropriate privacy screening is to be installed along the rear / south elevation of the balcony area and is to extend 1.7m high from the finished floor level of the balcony as marked in red on to the stamped plans.

As amended 08 August 2019 under Section 4.55 (1A) of the Environmental Planning Assessment Act 1979 (as amended).

2 **A008 - Works to BCA requirements (Always apply to building works)**

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

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

3 **A019 - OCCUPATION CERTIFICATE (ALWAYS APPLY)**

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

4 **A039 - Graffiti**

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

5 **A046 - Obtain Construction Certificate before commencement of works**

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

Environmental Matters

6 **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.

7 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.

8 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.

BCA Issues

9 E001 - BCA compliance

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

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

(b) formulating an alternative solution which:

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

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

Health Matters and OSSM installations

10 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

11 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.

12 G004 - Integral Energy

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

In the event that a pad mounted substation is necessary to service the development, Penrith City Council shall be consulted over the proposed location of the substation before the Construction Certificate for the development is issued as the location of the substation may impact on other services and building, driveway or landscape design already approved by Council.

13 **G006 -**

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

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

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

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

Construction

14 **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.

15 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.

16 H022 - Survey

The building shall be set out by a registered surveyor. A Survey Certificate shall be undertaken and submitted to the Principal Certifying Authority when the building is constructed to ground floor slab level.

17 **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 the Occupation Certificate.

18 **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.

19 **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.

20 **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.

21 [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.

Engineering

22 [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.

23 [K201 - Infrastructure Bond](#)

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

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

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

24 [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, waster 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) All works associated with the Roads Act approval must be completed prior to the issue of any Occupation Certificate or Subdivision Certificate as applicable.

25 **K209 - Stormwater Discharge – Minor Development**

Stormwater drainage from the site shall be discharged to the street drainage system.

The proposed development and stormwater drainage system shall be designed to ensure no adverse impact on adjoining properties by the diversion, damming or concentration of stormwater flows.

The proposed method of stormwater discharge shall be detailed in the Construction Certificate issued by the Certifying Authority.

26 **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 and Penrith City Council's Development Control Plan.

27 **K301 - Sediment & Erosion Control**

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

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

28 **K405 - Turf to Verge**

Upon completion of all works in the road reserve, all verge areas fronting and within the development are to be turfed. The turf shall extend from the back of kerb to the property boundary, with the exception of concrete footpaths, service lids or other infrastructure which is not to be turfed over. Turf laid up to concrete footpaths, service lids or other infrastructure shall finish flush with the edge.

29 **K406 - Underground Services**

All existing (aerial) and proposed services for the development, including those across the frontage of the development are to be located or relocated underground in accordance with the relevant authorities regulations and standards.

30 **K501 - Penrith City Council clearance – Roads Act/ Local Government Act**

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

Landscaping

31 **L001 - General**

All landscape works are to be constructed in accordance with the stamped approved plan and Penrith Council's Development Control Plan.

Landscaping shall be maintained:

- in accordance with the approved plan, and
- in a healthy state, and in perpetuity by the existing or future owners and occupiers of the property.

If any of the vegetation comprising that landscaping dies or is removed, it is to be replaced with vegetation of the same species and, to the greatest extent practicable, the same maturity as the vegetation which died or was removed.

32 **L002 - Landscape construction**

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

33 **L005 - Planting of plant**

All plant material associated with the construction of approved landscaping is to be planted in accordance with the Tree Planting Specification prescribed in Penrith Council's Development Control Plan.

34 **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.

35 [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.

Development Contributions

36 [N001 - Section 94 contribution \(apply separate condition for each Contribution Plan\)](#)

This condition is imposed in accordance with Penrith City Council's Section 94 Contributions Plan(s) for **Cultural Facilities**. Based on the current rates detailed in the accompanying schedule attached to this Notice, **\$480.00** 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 S94 invoice accompanying this consent should accompany the contribution payment.

The Section 94 Contributions Plan for Cultural Facilities may be inspected at Council's Civic Centre, 601 High Street, Penrith.

37 [N001 - Section 94 contribution \(apply separate condition for each Contribution Plan\)](#)

This condition is imposed in accordance with Penrith City Council's Section 94 Contributions Plan(s) for **District Open Space**. Based on the current rates detailed in the accompanying schedule attached to this Notice, **\$5,908.00** 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 S94 invoice accompanying this consent should accompany the contribution payment.

The Section 94 Contributions Plan for District Open space may be inspected at Council's Civic Centre, 601 High Street, Penrith.

38 [N001 - Section 94 contribution \(apply separate condition for each Contribution Plan\)](#)

This condition is imposed in accordance with Penrith City Council's Section 94 Contributions Plan(s) for **Local Open Space**. Based on the current rates detailed in the accompanying schedule attached to this Notice, **\$2,136.00** 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 S94 invoice accompanying this consent should accompany the contribution payment.

The Section 94 Contributions Plan for Local Open Space may be inspected at Council's Civic Centre, 601 High Street, Penrith

Payment of Fees

39 [P001 - Costs](#)

All roadworks, dedications and drainage works are to be carried out at the applicant's cost.

Certification

40 **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.

41 **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.

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.