

# PENRITH CITY COUNCIL

## MAJOR ASSESSMENT REPORT

<b>Application number:</b>	DA17/1332
<b>Proposed development:</b>	Demolition of Existing Structures and Construction of 6 x Town Houses and Basement Car Parking
<b>Property address:</b>	18 Sydney Street, ST MARYS NSW 2760
<b>Property description:</b>	Lot 324 DP 12590
<b>Date received:</b>	19 December 2017
<b>Assessing officer</b>	Gannon Cuneo
<b>Zoning:</b>	Zone R3 Medium Density Residential - LEP 2010
<b>Class of building:</b>	Class 2 , Class 7a
<b>Recommendations:</b>	Deferred Commencement

### Executive Summary

---

Council is in receipt of a development application for the demolition of existing structures, tree removal, construction of 6 x two storey townhouses and associated landscaping, basement car parking and civil works at 18 Sydney Street, St Marys. Under *Penrith Local Environmental Plan 2010*, the proposal is defined as multi dwelling housing. The subject site is zoned R3 and the proposal is a permissible land use in the zoning with Council consent.

The application has been notified to nearby and adjoining properties and advertised between 21 December and 31 January 2017. One submission was received in response.

An assessment under Section 4.15 of the *Environmental Planning and Assessment Act 1979* has been undertaken and the application is recommended for approval by deferred commencement, subject to recommended conditions.

### Site & Surrounds

---

The subject site is located on the eastern side of Sydney Street and has a total area of 923m<sup>2</sup>, with a 15.24m frontage to Sydney Street and a depth of 60.96m. The site is a regular shape and is generally flat. The site is currently occupied by a single storey residential dwelling, detached garage and trees.

The site is not identified as a being flood or bushfire prone land, nor does it contain any heritage listed items. There are no easements or restrictions that affect the subject site.

The surrounding area is characterised by traditional low to medium density urban development comprising of mainly single and two storey dwellings. It is noted that the site is located within an area that is transitioning from low density to medium density housing development.

## Proposal

---

The proposal involves the demolition of all existing structures and tree removal. The proposed development includes the construction of 6 x two storey townhouses, associated basement parking, landscaping and drainage works.

The details of the development to be constructed will comprise of the following:

- 6 x 4 bedroom units
- Basement car parking for 12 x residents vehicles and 1 x visitor;
- Tree removal;
- Construction of a detention basin and raingarden; and
- Landscaping and civil works.

Each dwelling contains living / dining, kitchen, laundry and toilet on the ground floor. The first floor of the dwellings comprises bedrooms and a bathroom, with an ensuite to the main bedroom.

## Plans that apply

---

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

#### **Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River**

An assessment has been undertaken of the application against relevant criteria with Sydney Regional Environmental Plan No 20—Hawkesbury-Nepean River (No 2—1997) and the application is 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 2.7 Demolition requires development consent	Complies
Clause 4.3 Height of buildings	Complies - See discussion
Clause 7.1 Earthworks	Complies - See discussion

**Clause 2.3 Permissibility**

The subject site is zoned R3 Medium Density Residential and *multi dwelling housing* is a permissible land use in the zone with consent.

**Clause 4.3 Height of buildings**

In accordance with Clause 4.3 of *Penrith Local Environmental Plan 2010*, the maximum height of buildings permitted on the subject site is 8.5 metres. The maximum height of any building proposed on the subject site is 7.1 metres measured from natural ground level and therefore complies with the requirements of Clause 4.3.

**Clause 7.1 Earthworks**

The proposal involves construction of a basement car park which requires a significant level of earthworks. As such, a Geotechnical Report is required and is recommended as a condition of consent prior to the issue of a construction certificate. Conditions of consent will ensure the report is prepared to demonstrate compliance with Clause 7.1 of the LEP.

**Section 79C(1)(a)(ii) The provisions of any draft environmental planning instrument**

There are no draft Environmental Planning Instruments that apply to the proposal.

**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 - see Appendix - Development Control Plan Compliance
C3 Water Management	Complies - see Appendix - Development Control Plan Compliance
C4 Land Management	Complies
C5 Waste Management	Complies - see Appendix - Development Control Plan Compliance
C6 Landscape Design	Complies - see Appendix - Development Control Plan Compliance
C7 Culture and Heritage	N/A
C8 Public Domain	N/A
C9 Advertising and Signage	N/A
C10 Transport, Access and Parking	Complies - see Appendix - Development Control Plan Compliance
C11 Subdivision	Complies
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	Complies - see Appendix - Development Control Plan Compliance
D2.5 Residential Flat Buildings	N/A
D2.6 Non Residential Developments	N/A

## **Section 79C(1)(a)(iii) The provisions of any planning agreement**

There are no planning agreements applying to this application.

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

The proposed development complies with the requirements of the Regulations.

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

### Stormwater

The proposal involves the construction of a stormwater system which includes on site detention and treatment before being discharged to Council's stormwater system. The subject site is generally flat is unable to drain to the street without providing a raised building platform at the rear of the site. Council requires all development to drain to an approved stormwater system without using a mechanical pump out system. Council's Engineer has reviewed the proposed method of stormwater disposal and raises no objection.

The proposal also involves implementation of Water Sensitive Urban Design (WSUD) measures which has been reviewed by Council's Waterways Officer. The proposed WSUD includes construction of a bioretention basin which is located within the on site detention system. Council's Waterways Officer has reviewed the WSUD measures and has provided support for the proposal.

### BASIX

The application is accompanied by a multi dwelling BASIX certificate which confirms that the proposed development will meet the NSW governments requirements for sustainability through implementation of particular sustainability commitments set out in the certificate. Conditions of consent will be included in the consent which require the development to comply with these measures.

### Tree Removal

The proposal involves the removal of a number of mature trees from the site due to the location and design of the basement. The trees being removed are required as a result of the earthworks proposed. The proposal includes planting of a range of substantial trees to replace those being removed and conditions of consent will ensure compliance with the landscape plan is achieved.

### Traffic

The proposed development is not expected to impose a major increase in traffic to Sydney Street. The number of vehicle trips can be accommodated within the existing road network and adequate parking and maneuverability has provided on site for the development. As such, traffic generated as a result of the development is unlikely to impose a significant impact on the area.

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

The site is suitable for the following reasons:

- The site is zoned to permit the proposed use;
- The use is compatible with surrounding/adjoining land uses;
- The grade of the site is suitable for the design proposed; and
- The site is able to drain to Council's satisfaction.

## **Section 79C(1)(d) Any Submissions**

### **Community Consultation**

In accordance with Appendix F4 of Penrith Development Control Plan 2014 the application was notified to nearby and adjoining residents and advertised for 14 days between 21 December 2017 and 31 January 2018. One submission was received in response which raised concern regarding an existing tree stump on the subject site which is causing damage to the driveway of an adjoining property. Conditions of consent have been included which require removal of the stump and replacement of the fencing as a result of the development.

### **Referrals**

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

<b>Referral Body</b>	<b>Comments Received</b>
Building Surveyor	No objections - subject to conditions
Development Engineer	Not supported, however conditions provided
Environmental - Waterways	No objections - subject to conditions
Waste Services	No objections - subject to conditions
Traffic Engineer	Not supported, however conditions provided

### **Development Engineer**

Council's Senior Development Engineer has reviewed the proposal and is not satisfied that the proposed development has provided sufficient information to allow for the issue of an operational consent. The main concerns raised in response to the proposal are as follows:

#### **Stormwater**

- The cover over the OSD tank shows a concrete roof but the area is labeled 'lawn' above the OSD tank. This is not consistent with the landscape plan and will not sustain turf. A condition of the deferred commencement consent requires an amended OSD system that will provide a suitable landscaped outcome in the front setback.

#### **Earthworks**

- The application should be supported by a geotechnical report prepared by a suitably qualified person for the basement car parking area and should include, but not limited to, ground water movement, salinity and contamination. This has not been provided and will be required prior to the issue of a Construction Certificate for the development.

### **Traffic Engineer**

Council's Senior Traffic Engineer has reviewed the proposal and is not satisfied that that the development provides suitable driveway access and alignment. As such the following is raised as a concern:

#### **Driveway and Crossover**

- The proposed location and width of the driveway and crossover does not meet Council's requirements. This is as a result of the minimum distance required from service poles and pits. As such, a deferred commencement condition is recommended which requires relocation of the power pole to provide a suitable driveway and crossover width.

## **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 plans apply to the site:

- Section 94 - District Open Space Facilities
- Section 94 - Cultural Facilities
- Section 94 - Penrith City Local Open Space

The following Section 94 calculations apply to the proposed development.

<b>Calculation for multi unit housing</b>					
<i>Open Space</i>					
No. of units	x	Rate	-	Credit for existing dwellings	Contribution rate
6	x	2.0	-	3.1	8.9
<i>City wide</i>					
No. of units	x	Rate	-	Credit for existing dwelling/s	Contribution rate
6	x	2.4	-	3	11.4
<b>AMOUNT</b>					
<b>S.94 Contribution Plan</b>		<b>Contribution Rate x Calculation rate</b>			<b>Total</b>
District Open Space		8.9 x \$1,942.00			\$17,284.00
Local Open Space		8.9 x \$702.00			\$6,248.00
Cultural facilities		11.4 x \$164.00			\$1,870.00
		<b>NET TOTAL</b>			<b>\$25,402.00</b>

## Conclusion

In assessing this application against the current relevant instruments being Environmental Planning and Assessment Act 1979, Sydney Regional Environmental Plan No.20 – Hawkesbury/Nepean River, Penrith Local Environmental Plan 2010 and Penrith DCP 2014, with appropriate conditions, the proposal satisfies the requirements.

With the recommended conditions of consent, it is considered unlikely to have a negative impact on the surrounding properties and environment, the site is suitable for the development proposed and is considered to complement the existing surrounding developments.

## Recommendation

1. That DA17/1332 for the demolition of existing structures, tree removal and construction of 6 x two storey townhouses over one level of basement parking at 18 Sydney Street, St Marys be approved subject to the attached conditions.

# CONDITIONS

## General

### 1 A001

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

Plan:	Reference:	Rev	Author:	Dated:
Site Analysis Plan	76-17 A102	A	Cad Draft P/L	21/05/18
Site Roof Plan	76-17 A103	A	Cad Draft P/L	21/05/18
Basement Plan	76-17 A104	A	Cad Draft P/L	21/05/18
Ground Floor Plan	76-17 A105	A	Cad Draft P/L	21/05/18
First Floor Plan	76-17 A106	A	Cad Draft P/L	21/05/18
Elevations	76-17 A107	A	Cad Draft P/L	21/05/18
Elevations 2	76-17 A108	A	Cad Draft P/L	21/05/18
Sections	76-17 A109	A	Cad Draft P/L	21/05/18
Sections	76-17 A110	A	Cad Draft P/L	21/05/18
Unit 4 Adaptable	76-17 A111	A	Cad Draft P/L	21/05/18
External Finishes and Materials	76-17 A112	A	Cad Draft P/L	21/05/18
Landscape Concept Plan	76-17 A115	A	Cad Draft P/L	21/05/18
Landscape Details	76-17 A116	A	Cad Draft P/L	21/05/18
Site Management Plan	76-17 A118	A	Cad Draft P/L	21/05/18
Waste Infrastructure	76-17 A120	A	Cad Draft P/L	21/05/18
Stormwater General Notes	SWD 1711 - 1/4	A	BMB Engineers	01/06/18
Site Stormwater Drainage Plan	SWD 1711 - 1/4	A	BMB Engineers	01/06/18
Stormwater Drainage Plan - Basement	SWD 1711 - 2/4	A	BMB Engineers	01/06/18
Stormwater Drainage Details	SWD 1711 - 3/4	A	BMB Engineers	01/06/18

### 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 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).

### 5 A039 - Graffiti

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

### 6 A046 - Obtain Construction Certificate before commencement of works

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

## Demolition

### 7 B001 - Demolition of existing structures

The existing structures on the subject site are to be demolished as part of the approved work.

### 8 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**.

### 9 B003 - ASBESTOS

**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.

### 10 B004 - Dust

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

### 11 B005 - Mud/Soil

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

## Environmental Matters

### 12 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.

13 **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 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: An appropriately qualified person is "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.

14 **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.

15 **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.

16 **D Special BLANK**

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

17 **D Special BLANK**

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

- The Waste Collection Area and Bulky Households Goods Area 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 wall height of the screening surrounding the Waste Collection Area and Bulky Goods Bay to not exceed 1.4m above natural ground level.
- Service path leading to the Bulky Goods Bay to be 1.2m wide, concrete and remain parallel to the contours at all points.
- All dimensions provided for the Waste Collection Area (3.6m x 2.2m) and Bulky Goods Bay (2.0m x 1.2m) are internal dimensions exclusive of screening joints/slat widths.
- If the Waste Collection Area implements swing doors a latch is to be provided to enable each door to be fixed in an open position during collection. A Sliding screen may be proposed to eliminate the use of multiple single door openings.

## 18 D Special BLANK

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

- 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.

## BCA Issues

### 19 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.

### 20 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.

## Utility Services

### 21 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](http://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**.

## 22 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.

## 23 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.

## 24 G Special (BLANK)

**Prior to the issue of a Construction Certificate**, written approval shall be obtained from Sydney Water and submitted to the certifying authority for the relocation of the existing Sydney Water infrastructure on the site.

## 25 G Special (BLANK)

**Prior to the issue of any Occupation Certificate**, written confirmation from Endeavour Energy shall be submitted to the certifying authority that states that all works associated with the relocation of the power pole have been completed to their satisfaction.

# Construction

## 26 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.

## 27 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.

## 28 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.

## 29 H033 – Clothes line

**Prior to the issue of an Occupation Certificate**, clothes drying facilities are to be installed in a location screened from public view.

## 30 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

### 31 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.

### 32 [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.

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

All works shall be carried out in accordance with the Roads Act approval, the development consent, including the stamped approved plans, and Penrith City Council's specifications, guidelines and best engineering practice.

- Contact Penrith City Council's City Works Department on (02) 4732 7777 or visit Penrith City Council's website for more information.
- Where Penrith City Council is the Certifying Authority for the development, the Roads Act approval for the above works may be issued concurrently with the Construction Certificate.
- Separate approvals may also be required from the Roads and Maritime Services for classified roads.
- All works associated with the Roads Act approval must be completed prior to the issue of any Occupation Certificate or Subdivision Certificate as applicable.
- On completion of any awning over the road reserve, a certificate from a practising structural engineer certifying the structural adequacy of the awning is to be submitted to Council before Council will inspect the works and issue its final approval under the Roads Act

### 34 [K209 - Stormwater Concept Plan](#)

The stormwater management system shall be provided generally in accordance with the MUSIC modeling and associated concept plans lodged for development approval, prepared by BMB Engineers (Reference SWD1711, Sheets 1 to 4, Revision A, Dated 1 June 2018) **as amended in red**.

Engineering plans and supporting calculations for the stormwater management systems are to be prepared by a suitably qualified person and shall accompany the application for a Construction Certificate.

**Prior to the issue of 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.

### 35 [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).

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

**Prior to the issue of a Construction Certificate**, the Certifying Authority shall ensure that a geotechnical investigation, report and strategy has been conducted to ensure stability of the Council infrastructure and surrounding developments.

The geotechnical investigation, report and strategy shall comply with the recommendations contained in the technical direction GTD 2012/001 prepared by the Road and Maritime Services as amended. A dilapidation report shall be undertaken for all surrounding buildings and Council owned infrastructure to ensure that no damage occurs as a result of the excavations associated with the development. If Council is not the Certifying Authority, the dilapidation report shall be submitted to Council prior to the Construction Certificate being issued and then updated and submitted prior to any Occupation Certificate confirming no damage has occurred.

37 **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.

38 **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.

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

39 **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.

40 **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.

41 **K503 - Stormwater Compliance**

**Prior to the issue of an Occupation Certificate** the Principal Certifying Authority shall ensure that the stormwater management systems (including on-site detention and water sensitive urban design):

- Have been satisfactorily completed in accordance with the approved Construction Certificate and the requirements of this consent.
- Have met the design intent with regard to any construction variations to the approved design.
- Any remedial works required to 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.

42 [K503 - Works as executed – General and Compliance Documentation](#)

**Prior to the issue of a 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 and / or Subdivision (Strata) Certificate where Penrith City Council is not the Principal Certifying Authority.

43 [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 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.

44 [K601 - Stormwater Management system operation and maintenance](#)

The stormwater management systems shall continue to be operated and maintained in perpetuity for the life of the development in accordance with the final operation and maintenance management plan.

Regular inspection records are required to be maintained and made available to Penrith City Council on request. All necessary improvements are required to be made immediately upon awareness of any deficiencies in the stormwater management systems.

45 [K Special \(BLANK\)](#)

**Prior to the issue of an Occupation Certificate**, all car spaces are to be sealed, line-marked and dedicated for the parking of vehicles only and not to be used for storage of materials/waste materials, etc.

46 [K Special \(BLANK\)](#)

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

## Landscaping

47 [L001 - General](#)

All landscape works shall be constructed in accordance with the stamped approved Landscape Plan and Chapter C6 of Penrith Development Control Plan 2014.

Landscaping shall be maintained:

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

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

48 [L003 - Report requirement](#)

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 a qualified landscape professional.

An Occupation Certificate should not be issued until such time as a satisfactory Implementation Report has been received. If Penrith City Council is not the Principal Certifying Authority, a copy of the satisfactory Implementation Report is to be submitted to Council together with the Occupation Certificate for the development.

49 [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.

50 **L Special (BLANK)**

The existing tree stump on the northern boundary is to be removed as part of the approved works. All boundary retaining walls and fencing required to be repaired or replaced as a result of the development are to be constructed at the full cost of the developer. All retaining walls are to be of masonry construction.

51 **L Special (BLANK)**

**Prior to the issue of a Construction Certificate,**

- Landscape plans shall be amended to provide 1 x tree within a planter box capable of reaching a height of 6 metres at maturity as marked on the stamped approved landscape plan; and
- The certifying authority shall ensure that satisfactory arrangements have been made for planting and drainage along boundaries, over the basement and associated structures. Planter boxes are to be of a volume that provides suitable area for the approved tree species to thrive.

## Development Contributions

52 **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, **\$1,870.00** 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.

53 **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, **\$17,284.00** 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.

54 **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, **\$6,248.00** 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.

## Certification

55 **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.

56 **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.

57 **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 development.

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.

## **Schedule 1 (Deferred Commencement)**

58 **S Special (Deferred commencement condition)**

**Prior to the issue of an Operational Consent, the following details shall be submitted to Penrith City Council for approval:**

- A. Plans shall be submitted for approval demonstrating a compliant driveway crossover in accordance with Council's Vehicle Crossover Specifications and Guidelines to the satisfaction of Penrith City Council.
- B. Evidence shall be submitted to Council demonstrating arrangements have been entered into with Endeavour Energy for the relocation of the existing power pole to enable compliance with the required setbacks from the driveway crossover as proposed by the above amended crossover details.

# Appendix - Development Control Plan Compliance

## Development Control Plan 2014

### Part C - City-wide Controls

#### C2 Vegetation Management

The development proposes to remove a number of trees within the development footprint and retain a number of substantial trees along the rear boundary outside of the building footprint. The proposal includes the planting of a number of trees that are able to achieve a suitable height at maturity. Conditions of consent are recommended to ensure the trees are maintained in a suitable manner for the life of the development.

#### C3 Water Management

The proposed development has suitably addressed Council's requirements relating to stormwater management and Water Sensitive Urban Design. The development drains to the street and has provided rainwater tanks in accordance with the BASIX certificate, with overflow leading to the on-site detention area which will release the water into Council's drainage system. The site is not subject to flooding.

#### C5 Waste Management

Adequate waste management infrastructure has been provided on site, with bin storage and bulky goods storage areas within the front setback and suitably separated from the front boundary by a landscaped strip. The waste management infrastructure has been reviewed by Council's Waste Management officer who raises no objection to the proposed development.

#### C6 Landscape Design

A landscape plan has been prepared for the development which proposes a variety of plantings including small to medium shrubs and trees. Suitable plantings are included to screen the waste storage area located at the front of the site.

#### C10 Transport, Access and Parking

The proposal has been assessed in accordance with the controls outlined in Chapter C10 of the DCP. The proposal provides adequate parking for the development, with adequate parking spaces provided for each dwelling and one visitor space which is in accordance with DCP requirements. Access is via Sydney Street which is suitable for the proposed development.

### D2 Residential Development

The proposed development has been assessed against the development controls relating to Multi dwelling housing outlined in Chapter D2 of Penrith Development Control Plan (DCP) 2014. The DCP did not envisage basement parking designs for multi unit housing development, therefore a merit assessment has been undertaken against the proposed development. As such, the proposed development generally complies with the controls outlined in Chapter D2 with regard to building separation, built form, dwelling orientation and streetscape.

The assessment process required amended plans be submitted to Council which addressed key concerns with the development, particularly relating to spatial arrangement, building separation, basement access and parking. As a result, the development will consist of three buildings connected by a common walkway along the southern boundary.

In order to achieve the required drainage for the site, the finished floor level of the dwellings on the site is 820mm above natural ground level. Council's DCP outlines that finished floor levels of dwellings should not be greater than 800mm above natural ground level and where they are required, suitable privacy measures are to be in place to control any opportunities for overlooking or impacts on acoustic or visual privacy. As such, the applicant has demonstrated that windows and living areas are situated to minimise any potential impacts on adjoining properties.

It should be noted that the site is relatively flat and that cut and fill would be required in any instance in order for any form of development to achieve a suitable drainage solution. In addition, the site adjoining the southern boundary proposes a similar finished floor level to achieve suitable drainage requirements. As such, retaining walls are required to provide a suitable built form which are also above the maximum permitted of 500mm (600mm proposed). Planter boxes and substantial plantings are required to soften the appearance of the built form on the site.

Based on the information contained in this report and with the recommended conditions of consent, it is anticipated that the development achieves the objectives and controls for multi dwelling housing outlined in Chapter D2 of the DCP.