

PENRITH CITY COUNCIL

MAJOR ASSESSMENT REPORT

Application number:	DA20/0164
Proposed development:	Demolition of Existing Structures, Tree Removal, Construction of Two x 5 Storey Residential Flat Buildings Containing a Total of 51 Apartments with Two Shared Basement Car Parking Levels, Landscaping & Civil Works
Property address:	16 Hope Street, PENRITH NSW 2750 18 Hope Street, PENRITH NSW 2750 20 Hope Street, PENRITH NSW 2750 22 Hope Street, PENRITH NSW 2750 24 Hope Street, PENRITH NSW 2750
Property description:	Lot 29 DP 31239 Lot 30 DP 31239 Lot 32 DP 31239 Lot 33 DP 31239 Lot 31 DP 31239
Date received:	31 March 2020
Assessing officer	Kathryn Saunders
Zoning:	SEPP WSA - Affected by Obstacle Limitation SEPP WSA - Affected by Wildlife Buffer Zone Zone R4 High Density Residential - LEP 2010
Class of building:	Class 2 , Class 7a
Recommendations:	Approve

Executive Summary

Council is in receipt of a development application which proposes the demolition of existing structures, tree and vegetation removal and the construction of 2 x 5 storey residential apartment buildings with shared ground floor podium and two levels of shared basement car parking comprising 51 apartments and 77 car parking spaces at 16-24 Hope Street, Penrith.

Under Penrith Local Environmental Plan 2010 (PLEP), the proposal is defined as a residential flat building which is a form of residential accommodation. Residential accommodation is a permitted land use with consent in the R4 High Density Residential zone under PLEP.

The subject site which comprises five residential allotments, was the subject of a previous development proposal for two residential apartment buildings under development application number DA18/0792 which was refused by the Penrith Local Planning Panel on 11 September 2019 for reasons which included:

- The extent of non-compliance with State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development and the associated Apartment Design Guide including in relation to setbacks and built form separation, landscaped area, facade design, visual privacy, public domain interface, balcony and circulation design,
- The unsatisfactory nature of written request under clause 4.6 of PLEP in relation to height, and
- Issues related to site responsiveness, car parking non-compliance with Council's Development Control Plan, and matters of public interest.

The subject application originally proposed two, six storey apartment buildings comprising of a total of 60

apartments, and was accompanied by a written request addressing clause 4.6 of PLEP, seeking to vary the height of buildings development standard. Council wrote to the applicant in correspondence dated 4 August 2020 and raised matters related to the adequacy of the development having regard to the Apartment Design Guide and issues of urban design. Technical engineering, traffic and waste matters were also raised.

The proposal has been the subject of a review by Council's external urban design expert on two occasions and the applicant has adopted the majority of the recommendations made. The proposal has been amended to reduce the number of units (from 60 to 51) and has also been reduced in height from 18.7m to approximately 16.8m through the reduction in the number of storeys from six to five. The applicant has withdrawn their written request under clause 4.6 of PLEP as the development now complies with the PLEP maximum height for the site of 18m.

A review of the amended proposal against State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development (SEPP 65) and the Apartment Design Guide (ADG) has been undertaken and the proposal is considered to be supportable as detailed within this report.

The previously raised outstanding technical matters related to traffic, waste and stormwater engineering have been resolved with no objections raised from Council's internal technical officers.

Key issues which arose as a consequence of the development assessment include:

- Select matters raised by Council's external urban design expert in relation to landscaping which remain unaddressed;
- Solar access and overshadowing impacts to properties to the south (which front Derby Street); and
- Absence of an Arboricultural Assessment of existing trees on the site and potential for the retention and protection of a mature tree at the rear.

The above matters have been addressed through the recommended conditions of consent.

The application has been notified to adjoining occupiers and land owners and was advertised and exhibited between 24 April and 8 May 2020. A total of three individual submissions in objection were received raising matters related to over development in the area, impacts of construction such as dust, odours and noise, visual impacts, impacts of the hours of construction works, over population and congestion, social impacts, solar impacts and the importance of open space. Council also received one petition containing 51 signatures in objection, which raised issues relating to devaluation of surrounding properties, noise, damage to surrounding properties, height, loss of views and sunlight and impacts of stress. The issues raised in the submissions are addressed in this report.

In accordance with the Local Planning Panels Direction - Development Applications and Applications to Modify Development Consents, Ministerial Direction dated 30 June 2020, this application is to be determined by the Penrith Local Planning Panel as the development proposal is identified as Sensitive Development to which SEPP 65 applies and as the proposed development is four or more storeys in height.

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

Site & Surrounds

The subject site is known as 16-24 Hope Street, Penrith and is legally known as Lots 29, 30, 31, 32 and 33, DP 31239. The site is rectangular in shape with a frontage to Hope Street of 79.25m and a depth of 40.120m resulting in an overall site area of 3,182m². Each lot currently contains a single storey residential dwelling and ancillary structures. The subject site falls from the rear to the front with a fall of between 1.5m to 2m across the depth of the site towards Hope Street.

This section of Hope Street is currently in a slow phase of transition from traditional detached dwellings to higher density development with a number of recent residential flat buildings having been constructed. Directly adjoining the subject site to the east (No. 12-14 Hope Street) is a five storey residential flat building containing 27 apartments and basement car parking approved under DA16/0123. To the north of the subject site along the opposite side of Hope Street (No. 25-31 Hope Street) are two six (6) storey residential flat buildings containing 61 apartments with basement car parking approved under DA15/1185.

Directly to the west of the subject site at No. 26-30 Hope Street, a Development Application for a six (6) storey residential flat building containing 45 apartments and two (2) levels of basement car parking (under DA18/0488) was refused by the Penrith Local Planning Panel on 12 June 2019. However, consent number DA20/0365 has since been issued over this site by the Penrith Local Planning Panel for a six storey residential flat building containing 38 apartments and basement car parking. Construction is yet to begin.

Further to the west at 32-36 Hope Street, a Development Application for a six (6) storey residential flat building containing forty-five (45) apartments and two (2) levels of basement car parking (under DA17/1341) was refused by the Penrith Local Planning Panel on 12 March 2019 and was the subject of an appeal with the NSW Land and Environment Court, which subsequently resulted in the approval of a 41 apartment development. Further to the west of the subject site at the intersection of Hope Street and Colless Street (No. 38-40 Hope Street) is a constructed five (5) storey residential flat building containing 24 apartments with basement car parking (approved under DA15/0683).

The site is located approximately 115m to the west of Parker Street (The Northern Road) and is 140m from the most western edge of the Nepean Hospital complex and Health and Education Precinct. The site is 1.5km walking distance to the south-west of Kingswood Railway Station and is 1.5km (as the crow flies) from Penrith Railway Station.

Hope Street is a narrow two way local road with marked parking bays on each side of the street. Hope Street is aligned east-west spanning between Parker Street to the north and Colless Street to the west. The predominant built form along Hope Street is single storey dwellings and there are four residential apartment developments with one of those directly adjacent at 12-14 Hope Street. Three sites have consents for residential flat development with construction yet to commence.

Proposal

The proposed development seeks consent for the following:

- Demolition of all existing structures and tree removal,
- The construction of two x 5 storey residential flat buildings containing a total of 51 apartments and 77 car parking spaces over two basement levels, with access from Hope Street. Each building is generally square shaped and positioned each side of a communal entry point and centrally located common open space area.

The proposal has been amended following the previous refusal by the Penrith Local Planning Panel of DA18/0792 and following the review of the current application by Council's external urban design expert. In particular, the development has been reduced in height by one storey (from 6 storeys to 5 storeys) and amendments have been made to the common open space areas, streetscape landscaping and landscaped planters and balconies.

More specifically, the proposed development will contain the following:

- A total of 51 units, being 2 x 1 bedroom units (4%), 36 x 2 bedroom units (70.5%), 12 x 3 bedroom units (23.5%), and 1 x 4 bedroom unit (2%);
- A total of 77 parking spaces (including 5 x accessible spaces) in two basement levels, comprising 64 resident spaces, 13 visitor spaces, 2 service spaces and 1 wash bay;
- The applicant is proposing 795.5sqm of communal open space (COS) which is 25% of the site area;
- The applicant is proposing 1013.1sqm of deep soil which is 31.84% of the site area (3182sqm) noting that the ADG requires 7% minimum and up to 15% for sites greater than 1500sqm).

With regard to internal amenity of the proposed design, the following is noted:

- 36 of the total of 51 units will achieve compliant solar access, representing 70.58% of units (ADG requires 70%);
- 34 of the total of 51 units will achieve cross ventilation, representing 66.6% of units (ADG requires 60%);
- The unit and balcony arrangements are generally compliant and address the objectives and controls of the ADG.

Plans that apply

- Local Environmental Plan 2010
- Development Control Plan 2014
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- State Environmental Planning Policy (Vegetation in non-rural areas) 2017
- State Environmental Planning Policy (Western Sydney Aerotropolis) 2020
- State Environmental Planning Policy No 55—Remediation of Land
- State Environmental Planning Policy No 65—Design Quality of Residential Flat Development
- Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

Planning Assessment

• Section 4.15 - Evaluation

The proposed 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 4.15(1)(a)(i) The provisions of any environmental planning instrument

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

The application has been assessed as suitable having regard to the Policy. The application was accompanied by BASIX Certificate number 947968M_03 which was amended to reflect the development for which consent is sought. The proposal is assessed as being acceptable having regard to the Policy.

State Environmental Planning Policy (Vegetation in non-rural areas) 2017

The development proposal is assessed as being satisfactory having regard to the Policy.

State Environmental Planning Policy (Western Sydney Aerotropolis) 2020

The subject site is located outside of the Western Sydney Aerotropolis precinct. However, the SEPP (Western Sydney Aerotropolis) 2020 contains a map that relates to wildlife buffer areas. This map is titled the "Wildlife Buffer Zone Map". The map shows that the subject site is within a 13 kilometre 'wildlife buffer zone' of the Badgerys Creek airport site.

The Aerotropolis SEPP commenced on 1 October 2020, after the Development Application was lodged. The SEPP contains Savings Provisions which means that the SEPP does not strictly apply to the proposed development. Nevertheless, consideration has been given to Clause 21 of the SEPP and the proposed development. The objective of Clause 21 is to regulate development on land surrounding the Badgerys Creek airport site where wildlife may present a risk to the operation of the airport (such as bird strikes). Certain types of development trigger the requirements for further consideration under Clause 21. The proposed development, being a form of residential accommodation, is not one of the types of uses that warrant additional consideration under the SEPP with regard to wildlife and the operation of the airport.

The subject site is also identified as being located within the "Obstacle Limitation Surface Map" area. Clause 24 of the SEPP relates to development that would penetrate the prescribed air space for the airport and be a 'controlled activity'. The proposed development neither penetrates the prescribed air space, nor is it a controlled activity, therefore not triggering any additional considerations under this clause.

State Environmental Planning Policy No 55—Remediation of Land

The application has been assessed against the applicable provisions of the Policy and is found to be acceptable. The application was accompanied by a Preliminary Site Investigation prepared by Banksia EnviroSciences, dated 15 April 2021, reference 18006/16-24. The investigation concludes that the site is suitable for the proposed development.

The application was also referred to Council's Environmental Health unit with no objections raised subject to standard recommended conditions which include the requirement for the preparation of a Hazardous Materials Survey to be prepared prior to works or demolition commencing. A condition of consent is also recommended to require an Unexpected Finds Protocol to be developed and implemented.

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

The Policy aims to improve the design quality of residential apartment development in New South Wales. In particular, the Policy requires consideration of the design quality of the development when evaluated in accordance with the design quality principles, and the related Apartment Design Guide (ADG).

The application is accompanied by a statement from a qualified designer, in accordance with Clause 50 (1A) and (1B) of the Regulations. This statement verifies that they have designed (or directed the design); confirms the development addresses achievement of the design quality principles; and plan no. DA05 includes how Parts 3 and 4 of the ADG have been achieved. The design has been made (or has been directed by) a Registered Architect, Peter Morson, registration number 8100.

Urban Design Review

The proposal (as submitted and prior to the final amendments) was reviewed by Council's external urban design expert. The review comments were forwarded to the applicant and the amended proposal was subsequently submitted to address the points raised. The following summarised comments were provided by Council's external urban design expert:

- Form, articulation and composition of facades demonstrate positive responses to SEPP 65 principles and the DCP's desired character,

- Landscaped areas and landscaping requires further work in relation to character and amenity,
- Common areas at ground level also require further work in terms of amenity, territory and security,
- Balconies of ground level apartments facing the street also require improved articulation to address desired character.

Council's external urban design expert suggested the following summarised matters to address the above:

(a) In relation to landscaped areas and landscaping:

- Deep soil areas that accommodate clusters of trees with overlapping canopies, rather than hedgerows as currently proposed,
- Primary trees (6m-8m to avoid power lines) to bookend and separate building forms as per the LEC's Roseth Planning Principle for compatibility,
- Primary trees to be complemented by 'secondary clusters' with canopy diameters of 4m-6m.

(b) In relation to deep soil:

- The central open space should be extended by a deep soil planter above the basement storage areas; a combined area of 12.5m x 9.5m is achievable, and could accommodate two large trees; to achieve this the cross-ramp should be moved southwards to become part of the common open space,
- The substation should be relocated to the eastern side of the ramp and ideally should sit beneath a landscaped planter,
- Fire boosters to be located adjacent to the ramp,
- Pathways to balconies to be consolidated and stairs recessed behind planters,
- Planter dimensions to be increased by reducing or eliminating unnecessary balcony areas: a minimum dimension of 2m may be sufficient for 2 bed apartments.

(c) In relation to common areas:

- Common areas to be protected by security fencing that allows views to the street,
- Ramps and pathways consolidated - in part by moving the cross-ramp southwards to sit in the secured common area,
- Lobbies to include under-crofts with sight-lines to common recreation areas, with lobby window walls moved back approximately to walls of Units 02 and 29,
- Outdoor areas to be designed as outdoor rooms; areas of lawn shaded by trees, paved dining paces with pergolas, paved siting terraces,
- Access to the common room to be reconfigured to provide level access to outdoors along east and south frontage and to include accessible wc and small kitchen.

(d) In relation to articulated terraces:

- Vary heights and alignment of planters and balustrades: currently all the same, need to step in and out, up and down,
- Increasing planter dimensions: primarily by reducing widths of balconies to 2m,
- Stepping planter levels: some high, some low, some in-between.

In summary, Council's external urban design expert stated that *"Overall the recommended changes are important and are necessary to address State and local controls. In essence, they involve adjustments to the current design rather than comprehensive redesign: no loss of yield or changes to building layouts or forms. If the recommended changes are made, I believe that this development could demonstrate exceptional quality"*. A sketch was also provided (refer accompanying documents).

Staff Response:

The architectural drawings and the landscape plans were amended to incorporate the majority of the suggested changes. The following alterations were adopted:

(a) In relation to landscaped areas and landscaping:

- Deep soil areas that accommodate clusters of trees are included although hedgerows remain. Taller Eucalyptus trees are proposed along the frontage rather than 6m-8m high varieties.
- Planting bookends provided and separates building forms and primary trees are complemented by 'secondary clusters' with canopy diameters of 4m-6m.

(b) In relation to deep soil:

- The applicant has relocated the substation to the eastern side of the ramp and a landscaped planter is

provided to the rear and western side and the fire booster set is relocated to the far western site boundary.

- Pathways to the balconies are consolidated and stairs are recessed between planters. It is noted that stairs to Units 01 and 02, and 28 and 29 are shared. For security and privacy reasons it is recommended that a condition of consent be included to require stairs for these units to be separated. Access to Units 02 and 29 are to be provided off the central entry pathways.

- Council's contract urban designer requested that planter dimensions should be increased by reducing or eliminating unnecessary balcony areas and stated that a minimum dimension of 2m may be sufficient for 2 bed apartments. The balcony areas and landscaped planters were adjusted, although it is not clear from the landscape or architectural plans, sections and details if the landscape planters along the north facing elevation are sufficiently articulated as was recommended under (d), dot point 1 and 3 above.

(c) In relation to common areas:

- Common areas are now indicated to be secured through the use of boundary planting, security fencing and gates and ramps and pathways consolidated. The applicant has relocated the cross-ramp southwards to sit in the secured common area as was requested.

- Lobbies are protected from the elements through the inclusion of under-crofts with sight-lines to common recreation areas (refer drawing DA03) and lobby glazing is set slightly back from the building edge.

- Outdoor areas are designed as 'rooms' although surface treatments in these areas and pergolas are not nominated. A condition of consent is recommended to require submission of a final common open space plan indicating paving treatments, pergolas and the like. The access to the common room was reconfigured to be accessible, with accessible WC and kitchen.

(d) In relation to articulated terraces:

- Council's external urban design expert requested that heights of the planters vary, and that the alignment of planters and balustrades vary as these were all the same. It is not understood from the plans that this element has been adopted and the alignment appears to be the same. A condition of consent has been recommended to require adoption of this aspect of the review, noting that the urban design review emphasised the importance of this aspect and its relevance to character and streetscape.

Subject to the recommended condition requiring adoption of the urban design landscape planter advice, it is assessed that the design has had adequate regard to Council's urban design review advice and is supported.

SEPP 65 and ADG Assessment

An assessment against the 'Design Quality Principles' of the SEPP is at **Table 1** below, and an assessment against the Apartment Design Guide is at **Table 2** below.

Table 1: Assessment Against Design Quality Principles	Discussion
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<p>Principle 1: Context and Neighbourhood Character</p>	<p>Good design responds and contributes to its context.</p> <p>Context is the key natural and built features of an area, their relationship and the character they create when combined. It also includes social, economic, health and environmental conditions.</p> <p>Responding to context involves identifying the desirable elements of an area's existing or future character.</p> <p>Well designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood.</p> <p>Consideration of local context is important for all sites, including sites in established areas, those undergoing change or identified for change.</p>	<p>The proposal is for a 5 storey residential flat development in a R4 High Density zone. This is an appropriate land use for the neighbourhood as it complements the other residential developments in the street and is in accordance with the future vision of the area by providing denser housing commensurate with the uplift in zoning and height.</p> <p>The siting of the proposed development has taken its cue from nearby apartment development and in compliance with the ADG (also refer comments above).</p> <p>Additional street tree planting will occur as a result of one of the recommended conditions of consent and the proposal includes side boundary landscaping to provide a green buffer to the detached dwellings to the rear.</p> <p>As is discussed elsewhere in this report, a condition is recommended in relation to the requirement for an Arboricultural Assessment report to determine whether a mature tree located within the rear of the second most eastern allotment is worthy of retention and can be retained.</p>
<p>Principle 2: Built Form and Scale</p>	<p>Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings.</p> <p>Good design also achieves an appropriate built form for a site and the building's purpose in terms of building alignments, proportions, building type, articulation and the manipulation of building elements.</p> <p>Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook</p>	<p>The development has been sited to provide compliant setbacks from all property boundaries, including 6m for lower levels and 9m for the fifth floor.</p> <p>The development is compliant with the PLEP height of buildings development standard of 18m.</p> <p>The building alignment and presentation to Hope Street is designed with deep soil planting areas fronting the street, private courtyards behind and individual entries to the street level apartments.</p>

<p>Principle 3: Density</p>	<p>Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context.</p> <p>Appropriate densities are consistent with the area's existing or projected population.</p> <p>Appropriate densities can be sustained by existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment.</p>	<p>The development proposes 51 apartments across two x 5 storey buildings and provides for compliant basement car parking and landscaped area.</p> <p>The building envelope is restricted by controls relating to height, setbacks and deep soil planting. The proposed development complies with these core controls.</p> <p>Therefore, the density of the development is acceptable for the site.</p>
<p>Principle 4: Sustainability</p>	<p>Good design combines positive environmental, social and economic outcomes.</p> <p>Good sustainable design includes use of natural cross ventilation and sunlight for the amenity and liveability of residents and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs.</p> <p>Other elements include recycling and reuse of materials and waste, use of sustainable materials and deep soil zones for groundwater recharge and vegetation.</p>	<p>The apartments are designed to have good solar access and cross ventilation.</p> <p>The proposal is accompanied by a BASIX Certificate.</p>

<p>Principle 5: Landscape</p>	<p>Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments with good amenity.</p> <p>A positive image and contextual fit of well designed developments is achieved by contributing to the landscape character of the streetscape and neighbourhood.</p> <p>Good landscape design enhances the development's environmental performance by retaining positive natural features which contribute to the local context, co-ordinating water and soil management, solar access, micro-climate, tree canopy, habitat values and preserving green networks.</p> <p>Good landscape design optimises useability, privacy and opportunities for social interaction, equitable access, respect for neighbours' amenity and provides for practical establishment and long term management.</p>	<p>The proposal has been amended to improve the landscape design of the development. The quantum of deep soil and landscaped area provided is compliant with the ADG numerical requirements.</p> <p>The landscaping within the front setback has been improved to accommodate comments from Council's external urban design expert and conditions of consent are recommended in relation to street tree planting and the design of landscaped planters.</p> <p>The ground floor communal areas contain areas of deep soil, planting on structure and provide suitable passive areas for entertaining and enjoyment including a kitchen area, barbeque and seating.</p>
<p>Principle 6: Amenity</p>	<p>Good design positively influences internal and external amenity for residents and neighbours. Achieving good amenity contributes to positive living environments and resident well being.</p> <p>Good amenity combines appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas and ease of access for all age groups and degrees of mobility.</p>	<p>The resulting amenity of the amended proposal is acceptable. The proposed apartments comply with the core ADG controls, including cross ventilation, solar access, privacy / separation, apartment sizes and storage.</p> <p>The communal room and adjoining communal open space have also been amended to respond to comments from Council's external urban design expert.</p>

Principle 7: Safety	<p>Good design optimises safety and security within the development and the public domain. It provides for quality public and private spaces that are clearly defined and fit for the intended purpose. Opportunities to maximise passive surveillance of public and communal areas promote safety.</p> <p>A positive relationship between public and private spaces is achieved through clearly defined secure access points and well lit and visible areas that are easily maintained and appropriate to the location and purpose.</p>	<p>The development has been designed with four apartments fronting Hope Street, each having an access from the living room, to a private courtyard and then to the street at ground floor.</p> <p>Deep soil planting is also located between the street boundary and each private courtyard.</p> <p>The front entry to the development is wide and direct and covered at the lobby entry for each building.</p>
Principle 8: Housing Diversity and Social Interaction	<p>Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets.</p> <p>Well designed apartment developments respond to social context by providing housing and facilities to suit the existing and future social mix.</p> <p>Good design involves practical and flexible features, including different types of communal spaces for a broad range of people and providing opportunities for social interaction among residents.</p>	<p>The proposal provides a suitable mix of 1 bedroom, 2 bedroom, 3 bedroom and 4 bedroom apartments, as well as apartments which contain 'plus study' rooms.</p>
Principle 9: Aesthetics	<p>Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure. Good design uses a variety of materials, colours and textures.</p> <p>The visual appearance of a well designed apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.</p>	<p>The proposed development will have a 4 storey street wall, with the fifth floor set back from the front building alignment and complies with the height standard and ADG setbacks.</p> <p>The materials and facade detailing also change according to these levels. The lower levels contain mostly painted and rendered walls with brick elements, including glass and masonry balustrades.</p> <p>The side elevations present as a combination of painted render and brick.</p>

Table 2: Assessment Against the Apartment Design Guide (ADG)

Part 3	Objective	Discussion	Complies
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3A-1	Design decisions have been based on opportunities and constraints of the site conditions and their relationship to the surrounding context.	<p>A Site Analysis plan is included and has addressed the elements specified in Appendix 1 of the ADG.</p> <p>The proposal takes advantage of the site's northern orientation, provides suitable side and rear setbacks and continues the landscaped and open appearance of the rear setback of the adjoining, approved development.</p>	Yes
3B-1	Buildings types and layouts respond to the streetscape and site while optimising solar access.	<p>The building is orientated to front Hope Street.</p> <p>The 4 ground floor apartments fronting Hope Street will have a direct and private access to the street, and there are no apartments on the ground floor facing south.</p>	Yes

3B-2	Overshadowing of neighbouring properties is minimised during mid winter.	<p>The discussion below under Parts 3D and 4A demonstrates that the proposed apartments meet the design guidance of the ADG, with 36 of the proposed 51 apartments (70.5%) achieving solar compliance. The application includes detailed information about which apartments receive sunlight at what times in the applicant's 'eye of the sun study' document.</p> <p>Because of the northern orientation of the site and buildings, the shadows cast by the proposed development will not cause non-compliant shading of neighbouring properties with the exception of the rear yard on one dwelling house to the south at the winter solstice.</p> <p>A dwelling at no. 81 Derby Street will be most impacted with solar access to the rear yard reduced to between 12 midday and 2pm to around 40% of the rear yard. Greater solar access will be achieved in the summer months.</p> <p>It is expected that due to the zoning of this site that it will undergo re-development in the future, and it is not expected that a subtle redesign of the subject development will result in significantly greater solar access.</p> <p>In addition, the proposed development has compliant side and rear setbacks and is compliant in height (having been reduced from 6 to 5 storeys).</p> <p>Further, the dwelling's sitting area is located to the east of the dwelling, with this area maintaining existing levels of solar access from 11am through to 3pm. It is also noted that the rear yard is currently shaded by trees and shrubs which are proposed for removal.</p>	Yes, noting overshadowing to one property to the rear. See discussion.
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3C-1	Transition between private and public domain is achieved without compromising safety and security.	<p>The ground floor will contain four north facing apartments, one south/east and one south. All four north facing apartments will have direct frontage and access to Hope Street.</p> <p>The changes in level between the apartments and the street is managed by providing private courtyards (with a combination of hard surface and landscaping in a planter bed) with a portion of deep soil planting. Further, the apartments are set back 6m from the street.</p> <p>The front fencing along Hope Street is slat style fencing which allows some permeability.</p> <p>The main entry to each building is differentiated by a different design using a partial undercroft and separated entry ramps and each is provided with a glazed security door and full height windows.</p> <p>Upper level apartments facing Hope Street have windows orientated to the street to allow for passive surveillance.</p>	Yes
3C-2	Amenity of the public domain is retained and enhanced.	<p>Deep soil landscaping and planting on structure is proposed along the front of the development.</p> <p>The buildings are also set back 6m from the street alignment and will match the front setback of the other approved flat building developments and complies with the ADG.</p> <p>Although the proposed driveway is wider than a standard two way driveway (to enable waste truck access), planting is provided on either side of the driveway.</p> <p>Each building main entry is wide and is flanked by landscaping. Security gates and lobby doors provide access to well proportioned foyers.</p> <p>Hydrants and substations are a feature of the frontage although are landscaped and located near the vehicle entryway.</p>	Yes

3D-1	An adequate area of communal open space is provided to enhance residential amenity and to provide opportunities for landscaping.	<p>The ADG suggests a design criteria of communal open space equal to 25% of the site. The proposed development provides a total of 795.5sqm of communal open space which equates to 25% of the site area. These common spaces are in the form of an internal communal room, ground floor common open space which is directly linked to the communal room and the centrally located and landscaped common area.</p> <p>The second design criteria is that at least 50% of the principal open space achieves 2 hours of sunlight between 9am and 3pm at winter solstice. The communal open space along the eastern side boundary achieves this (refer drawing DA27B).</p> <p>The applicant proposes the majority of the common open space areas centrally between the two buildings and includes an indoor area. These centrally located areas are coupled with the internally facing lobbies.</p> <p>Other areas of landscaping along the frontage and western elevation could be used as common open space although are secondary and passive in nature. These areas are accessible to all residents and are overlooked by the apartments above.</p>	Yes
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3D-2	Communal open space is designed to allow for a range of activities, respond to site conditions and be attractive and inviting.	<p>The design guidance in the ADG makes reference to providing seating for individuals and groups, barbeque and play areas and common rooms (amongst other suggestions). It also references winter sun, summer shade and concealing services.</p> <p>The proposed development meets these objectives. The rear setback contains denser landscaping with a pathway to passive areas of common open space. Seating, a barbeque area and a common room are provided centrally for residents and this includes a kitchen and accessible WC.</p> <p>The common room is linked by lobby entry points and the main entry ramps.</p>	Yes
3D-3	Communal open space is designed to maximise safety.	<p>The communal open space areas on the ground floor are visible from the apartments in the first floor and above as well as from the lobby areas (in the case of the central area).</p> <p>Access to the rear and western setback area is only via the central area or from the western side boundary frontage.</p> <p>Lighting and security will be in place to discourage unauthorised entry.</p>	Yes

3E-1	<p>Deep soil zones provide areas on the site that allow for and support healthy plant and tree growth. The design criteria for this site is to provide deep soil zones equal to 7% of the site area and having a minimum dimension of 6m.</p>	<p>1013.1sqm of deep soil planted areas are proposed. This equates to 31.84% of the site area, which complies with the ADG design criteria.</p> <p>The deep soil zone is mostly along the rear (in sections) and front setback area. These areas will contain suitable trees and landscaping. The rear setback area has a minimum dimension of 1.92m and 5.8m. The narrow setback was supported to allow for on-site waste collection and allowed a greater rear setback for the larger portion of the eastern side of the site.</p> <p>The deep soil within the frontage of the site varies from a minimum of 3.92m, 6.731m and 9.170m (near the driveway area) and the basement steps in and out to provide consolidated pockets of landscaping.</p> <p>This was accepted as a compromise to allow for on-site waste collection and a greater street setback. Planting on structure is included to supplement deep soil within the front setback as well as an additional deep soil pocket in the central courtyard between buildings.</p>	No, however acceptable.
3F-1	<p>Adequate building separation distances are shared equitably between neighbouring sites, to achieve reasonable levels of external and internal visual privacy.</p> <p>The design criteria requires the first 4 levels to be separated from side and rear boundaries by 6m, and for any levels between 5-8 to be separated by 9m (for habitable rooms).</p>	All setbacks and internal building separation distances comply with the ADG.	Yes

3F-2	<p>Site and building design elements increase privacy without compromising access to light and air and balance outlook and views from habitable rooms and private open space.</p> <p>The ADG design guidance references:</p> <ul style="list-style-type: none"> • separating communal open space areas from private areas; • separating habitable rooms (bedrooms, living rooms) from other open gallery access spaces within the apartment; • positioning balconies in front of living rooms; • offsetting windows from adjacent developments; and • recessing balconies or using fins between adjacent balconies. 	<p>The proposal is provided with landscaping and fencing to allow for appropriate separation.</p> <p>The communal areas on the ground floor are contained within the south and central section of the development.</p> <p>The south facing apartment with a side interface with the common area is provided with a landscaped buffer to the common areas.</p> <p>Internally facing windows are not offset however are 12m apart and provided with screens.</p>	Yes
3G-1	Building entries and pedestrian access connects to and addresses the public domain.	<p>The ground floor street frontage will contain individual entries to ground floor apartments, via private courtyards and stairs flanked by landscaped planters. The front setback area is also landscaped and fenced in front of each of these courtyards.</p> <p>The main entry to each building will be identifiable. Each has an appearance and architectural treatment that is different from the private courtyards mentioned above. The entry will be via a wider ramp, flanked by planting with mail box structures and a secure gate.</p>	Yes
3G-2	Access, entries and pathways are accessible and easy to identify.	The main entry to each building is clearly identifiable from the street and level access is provided. Foyer spaces provide good visibility to the lift and lobby areas.	Yes
3H-1	Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes.	<p>The entry to the basement car park is adequately integrated into the development with access directly off Hope Street.</p> <p>The basement ramp is located just behind the front building line. Landscaping along the driveway edges and around the adjacent substation is included.</p> <p>The waste collection arrangement is located to the rear of the building within the basement.</p>	Yes

3J-1	Car parking is provided based on proximity to public transport.	<p>The car parking spaces provided exceed the minimum requirements of Council's DCP, and are located within the basement levels.</p> <p>The proposal includes 64 residential spaces, 13 visitor spaces, 2 service spaces and a car wash bay.</p>	Yes
3J-2	Parking and facilities are provided for other modes of transport.	There are 14 secure bicycle parking spaces provided within the basement levels.	Yes
3J-3	Car park design and access is safe and secure.	The lift lobby areas within the basement levels have adequate circulation space and visibility. The storage cages within the basement are accessible for residents and the bicycle racks are positioned away from vehicle circulation areas.	Yes
3J-4	Visual and environmental impacts of underground car parking are minimised.	The car parking layout is well organised and logical, with aisles clear of structure. The basement levels are located below ground.	Yes
4A-1	<p>Optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space.</p> <p>The design criteria states that:</p> <ul style="list-style-type: none"> • living rooms and private open spaces of at least 70% of apartments to receive 2 hours direct sunlight between 9am and 3pm mid-winter; and • a maximum of 15% of apartments receive no direct sunlight. 	<p>The drawings include plans showing daylight access to individual apartments, a shadow diagram, and the applicant has submitted an 'eye of the sun study'. These show that 36 of the total 51 apartments will achieve compliance with the design criteria. This equates to 70.6% which exceeds the 70% requirement.</p> <p>South facing apartments are minimised and will not receive direct sunlight. These equate to 13.7%. However, the amenity of these apartments is considered to be high and is acceptable.</p>	Yes

4A-2	<p>Daylight access is maximised where sunlight is limited.</p> <p>The design guidance makes reference to only using courtyards, skylights and high level windows as secondary light sources for habitable rooms, and using reflective and light coloured materials.</p>	<p>It is anticipated that the apartments mentioned above (Units 4, 10, 16, 25, 31, 37 and 43) will receive daylight because of the compliant setbacks from the rear boundary and the general sense of openness.</p> <p>However, it is also acknowledged that those 7 units sit behind the rear building line and have balconies facing into the rear, which may limit the amount of daylight received into parts of the space. Unit 25 has ground floor open space and is a 4 bedroom apartment with larger outdoor areas.</p>	Yes
4A-3	Design incorporates shading and glare control, particularly for warmer months.	<p>A selection of north facing apartments include vertical battens on part of the balconies which will allow for shading. The balcony floor of upper apartments will also provide shade to the balconies below.</p> <p>Parts of the communal area in the central shared zone will be shaded and other areas will be sunny.</p>	Yes
4B-1	All habitable rooms are naturally ventilated.	All habitable rooms have operable windows to allow natural breezes to flow through the spaces.	Yes
4B-2	<p>The layout and design of single aspect apartments maximises natural ventilation.</p> <p>The design guidance references limiting apartment depths relative to ceiling heights and that 8m is the maximum depth for a single aspect apartment (in an open plan scenario).</p>	The single aspect apartments are no deeper than 8m in the areas that are open plan living (combining living, dining and kitchen).	Yes
4B-3	<p>The number of apartments with natural cross ventilation is maximised to create a comfortable indoor environment for residents.</p> <p>The design criteria states that 60% of apartments are naturally ventilated and that inlet and outlet windows are approximately of the same size.</p>	The drawings include ventilation diagrams on each level that indicate which apartments achieve cross ventilation. According to these drawings, the applicant shows that 34 of the total of 51 apartments achieve cross ventilation. This equates to 66.6% which complies with the 60% design guide.	Yes
4C-1	<p>Ceiling height achieves sufficient natural ventilation and daylight access.</p> <p>The design criteria references habitable rooms achieving a finished floor to ceiling height of 2.7m.</p>	The drawings show floor to floor heights of 3.1m to achieve a floor to ceiling height of 2.7m.	Yes

4D-1	<p>The layout of rooms within an apartment is functional, well organised and provides a high standard of amenity.</p> <p>The design criteria states the following minimum internal floor areas: 1 bed – 50sqm 2 bed – 70sqm 3 bed – 90sqm</p> <p>Additional bathrooms increase minimum areas by 5sqm and all habitable rooms are to have BCA compliant windows in terms of size (glass area of not less than 10% of room size).</p>	<p>The proposed development includes 1, 2, 3 and 4 bedroom apartments, as well as apartments which are designed as a 'plus study' apartments.</p> <p>All proposed apartments are larger than the design criteria set out in the ADG.</p>	Yes
4D-2	<p>Environmental performance of the apartment is maximised.</p> <p>The design criteria references habitable room depths limited to 2.5 x ceiling height, and open plan layouts have a maximum depth of 8m from the window.</p>	<p>The proposed apartment depths comply with this requirement. Apartment depth in the open plan layout is not greater than 8m, measured from the window to the kitchen bench.</p>	Yes
4D-3	<p>Apartment layouts are designed to accommodate a variety of household activities and needs.</p> <p>The design criteria specifies:</p> <ul style="list-style-type: none"> • master bedrooms to be 10sqm and other bedrooms to be 9sqm; • bedrooms have minimum dimensions of 3m; • living rooms have minimum widths of 3.6m (for 1 bedders) and 4m (for 2/3 bedders); • cross-through apartments are at least 4m wide. 	<p>All apartments comply with this requirement.</p>	Yes
4E-1	<p>Apartments provide appropriately sized private open space and balconies to enhance residential amenity.</p> <p>The design criteria states that all apartments are to have primary balcony areas of the following size:</p> <ul style="list-style-type: none"> • 1 bed – 8sqm (2m deep); • 2 bed – 10sqm (2m deep); and • 3 bed – 12sqm (2.4m deep). <p>Ground floor apartments are to have at least 15sqm of private open space with a minimum depth of 3m.</p>	<p>All apartments either comply with, exceed or are acceptable having regard to the private open space size and area requirements.</p>	Yes

4E-2	<p>Primary private open space and balconies are appropriately located to enhance liveability for residents.</p>	<p>Balconies are located adjacent to living areas, they predominantly face north, east, or west, and have their longer side (length) facing outwards, so are suitably proportioned.</p>	Yes
4E-3	<p>Private open space and balcony design is integrated into and contributes to the overall architectural form and detail of the building.</p> <p>The design guide suggests that front fences are visually permeable, full width-full height glass balustrades are avoided, operable screens are used, air-conditioning should be located on roofs or screened if on balconies.</p>	<p>The proposed development is acceptable.</p>	Yes
4F-1	<p>Common circulation spaces achieve good amenity and properly service the number of apartments.</p> <p>The design criteria states that no more than 8 apartments can be accessed off a circulation core.</p> <p>The design guidance suggests that greater corridor widths improve amenity, daylight and natural ventilation should be provided, and primary windows should not open onto the corridor.</p>	<p>Circulation spaces and lobby areas all are provided with high amenity and glazing over the central court.</p>	Yes
4F-2	<p>Common circulation spaces promote safety and provide for social interaction between residents.</p>	<p>The proposed foyer areas are direct and provide legible access to all apartments, also having no pinch points. The generally rectangular shape of the foyer areas would also allow residents to meet and greet each other in the spaces, if desired, which are wider at the glazing and would provide areas for interaction and could accommodate a bench seat or chair.</p>	Yes
4G-1	<p>Adequate, well designed storage is provided in each apartment.</p> <p>The design criteria requires additional storage as follows:</p> <ul style="list-style-type: none"> • 1 bed – 4 cubic metres; • 2 bed – 6 cubic metres; and • 3 bed – 10m cubic metres, with 50% of that space in the apartment. 	<p>The floor plans show a designated space allocated for this storage within each apartment. Adequate storage is also provided in the basement.</p>	Yes

4G-2	Additional storage is conveniently located, accessible and nominated for individual apartments.	There are 52 storage cages located in the basement levels.	Yes
4H-1 and 4H-2	Noise transfer is minimised through the siting of buildings and building layout. Noise impacts are mitigated with apartments through layout and acoustic treatments.	Compliant building separation is proposed in accordance with the ADG objectives. Windows within apartments are generally located to open out towards the property boundaries.	Yes
4K-1 and 4K-2	A range of apartment types and sizes is provided to cater for different household types and into the future. The apartment mix is distributed to suitable locations within the building.	The development proposes a range of apartment sizes and configurations, the mix being: <ul style="list-style-type: none"> • 2 x 1 bedroom; • 36 x 2 bedroom; • 12 x 3 bedroom; and • 1 x 4 bedroom apartments. 	Yes
4L-1 and 4L-2	Street frontage activity is maximised where ground floor apartments are located. Design of ground floor apartments delivers amenity and safety for residents.	Four apartments are located on the ground floor with frontage to the street. Each will have a direct access to Hope Street via an individual path to a private courtyard. Deep soil landscaping and planters are located in front of each private courtyard and this will provide a green buffer between the living spaces and the street. The courtyards are also contained in a slat style fence.	Yes
4M-1 and 4M-2	Building facades provide visual interest along the street while respecting the character of the local area. Building functions are expressed by the facade.	The building facades were amended to address comments made by Council's planner and external urban design expert. A variety of materials and finishes are proposed, the building entry points are clearly defined, slab edges are used to frame sections of facade and lighter weight metal cladding is used for the upper levels.	Yes
4N-1, 4N-2 and 4N-3	Roof treatments are integrated into the building design and positively respond to the street. Opportunities to use roof space for residential accommodation and open space are maximised. Roof design incorporates sustainability features.	The proposed roof is generally flat with an expressed slab edge that caps the building.	Yes

<p>4O-1 and 4O-2</p> <p>4P-1, 4P-2, and 4P-3</p>	<p>Landscape design is viable and sustainable.</p> <p>Landscape design contributes to the streetscape and amenity.</p> <p>Planting on structures contributes to the quality and amenity of communal and public open spaces.</p>	<p>The proposal was amended to respond to comments from Council's external urban design expert. Specifically, the landscape design was altered to provide more planting and higher amenity communal areas.</p> <p>Deep soil landscaping in the front setback is also proposed and a variety of areas in the building contain landscaping on structure, including the central terrace and raised planters flanking the north facing courtyards.</p>	<p>Yes</p>
<p>4Q-1, 4Q-2 and 4Q-3</p>	<p>Universal design features are included in apartment design to promote flexible housing for all community members.</p> <p>The design guidance makes references to a 'silver level' in the Livable Housing Guideline and seven core design features.</p>	<p>It is considered that the proposed development achieves these principles as the following is included in the proposed development:</p> <ul style="list-style-type: none"> • A safe, continuous and step free path of travel from the street entrance to the apartment entrance; • Internal doors and corridors facilitate comfortable and unimpeded movement between spaces; • An accessible toilet is provided on the ground level that provides easy access. This is located next to the communal room. 	<p>Yes</p>
<p>4U-1, 4U-2 and 4U-3</p>	<p>Development incorporates passive environmental design.</p> <p>Development incorporates passive solar design to optimise heat storage in winter and reduce heat transfer in summer.</p>	<p>Adequate natural daylight, sunlight and ventilation is provided to apartments as per the design criteria of the ADG.</p> <p>Shading is provided by balcony overhangs, shade devices and planting.</p>	<p>Yes</p>
<p>4V-1, 4V-2, and 4V-3</p>	<p>Potable water is minimised. Urban stormwater is treated on site before being discharged to receiving waters. Flood management systems are integrated into site design.</p>	<p>The stormwater/civil drawings were amended to address initial concerns raised by Council's Waterways and Engineering Units. The amended and additional information submitted has satisfied the technical requirements of Council.</p>	<p>Yes</p>

4W-1 and 4W-2	<p>Waste storage facilities are designed to minimise impacts on the streetscape, building entry and amenity of residents.</p> <p>Domestic waste is minimised by providing safe and convenient source separation and recycling.</p>	<p>The proposed development includes provision for on-site waste collection by Council's waste trucks. The driveway to Hope Street is wider so as to allow the waste truck to use the driveway along the western side boundary. The waste access driveway is separated from the resident/visitor vehicle driveway.</p> <p>Council's Waste Officer raises no objection to the proposed arrangement for waste collection.</p> <p>In addition, the building includes waste chutes on all upper floors, a bulky waste room in the basement and waste infrastructure in the basement.</p>	Yes
4X-1, 4X-2 and 4X-3	<p>Building design detail provides protection from weathering.</p> <p>Systems and access enable ease of maintenance.</p> <p>Material selection reduces ongoing maintenance costs.</p>	<p>The design and materials selected are acceptable.</p>	Yes

Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

An assessment has been undertaken of the proposal against relevant criteria within Sydney Regional Environmental Plan No. 20—Hawkesbury-Nepean River (No. 2—1997). This Policy aims *“to protect the environment of the Hawkesbury-Nepean River system by ensuring that the impacts of future land uses are considered in a regional context”*. The Policy requires Council to assess development applications with regard to general and specific considerations, policies and strategies.

The proposal is not found to be contrary to these general and specific aims, planning considerations, planning policies and recommended strategies of the plan. The site is not located within a scenic corridor of local or regional significance and it is considered that the proposed development will not significantly impact on the environment of the Hawkesbury-Nepean River either in a local or regional context.

Local Environmental Plan 2010

Provision	Compliance
Clause 1.2 Aims of the plan	Complies
Clause 2.3 Permissibility	Complies
Clause 2.3 Zone objectives	Complies
Clause 2.7 Demolition requires development consent	Complies
Clause 4.1A Minimum lot sizes for dual occupancies, multi dwelling housing and residential flat buildings	Complies
Clause 4.3 Height of buildings	Complies - See discussion
Clause 4.4 Floor Space Ratio	N/A
Clause 4.6 Exceptions to development standards	N/A
Clause 7.1 Earthworks	Complies
Clause 7.4 Sustainable development	Complies
Clause 7.6 Salinity	Complies
Clause 7.7 Servicing	Complies

Clause 4.3 Height of buildings

An 18m height of building development standard applies to the subject lots under PLEP 2010. The application originally proposed two x 6 storey apartment buildings containing a combined total of 60 apartments with two levels of shared basement car parking containing 97 vehicles and a shared ground floor podium. The original application proposed a maximum height of 18.7m and was accompanied by a written request to vary the height of building development standard under PLEP Clause 4.6.

The application has since been amended and now proposes two x 5 storey buildings containing a total of 51 apartments each with a maximum height of approximately 17.41m, which complies with the 18m LEP development standard. The applicant has confirmed that a written request to vary the height of building development standard is no longer required.

Section 4.15(1)(a)(ii) The provisions of any draft environmental planning instrument

Draft Environment State Environmental Planning Policy

The Draft Environment SEPP was exhibited from 31 October 2017 to 31 January 2018. This consolidated SEPP proposes to simplify the planning rules for a number of water catchments, waterways, urban bush land, and Willandra Lakes World Heritage Property.

Changes proposed include consolidating a total of seven existing SEPPs being:

- *State Environmental Planning Policy No. 19 – Bushland in Urban Areas*
- *State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011*
- *State Environmental Planning Policy No. 50 – Canal Estate Development*
- *Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment*
- *Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (No.2 - 1997)*
- *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005*
- *Willandra Lakes Regional Environmental Plan No. 1 – World Heritage Property*

It is noted that the proposed changes to State Environmental Planning Policy No. 19 – Bushland in Urban Areas (SEPP 19) are not considered to impact the proposed development. In addition, the amendments to Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (No. 2 – 1997) do not impact the proposed development. In this regard, the proposal is not inconsistent with the provisions of this draft Instrument.

Draft Remediation of Land SEPP

The Department of Planning and Environment announced a Draft Remediation of Land SEPP, which will repeal and replace the current State Environmental Planning Policy No. 55 - Remediation of Land.

The proposed new land remediation SEPP will:

- Provide a state-wide planning framework for the remediation of land,
- Maintain the objectives and reinforce those aspects of the existing framework that have worked well,
- Require planning authorities to consider the potential for land to be contaminated when determining development applications and rezoning land,
- Clearly list the remediation works that require development consent, and
- Introduce certification and operational requirements for remediation works that can be undertaken without development consent.

It is also proposed that it will transfer the requirements to consider contamination when rezoning land to a direction under Section 9.1 of the Environmental Planning and Assessment Act 1979.

While the proposed SEPP will retain the key operational framework of SEPP 55, it will adopt a more modern approach to the management of contaminated land. Noting the above, the draft SEPP will not alter or affect the findings in respect to contamination of the site.

SEPP Design and Place

In February 2021, the Department of Planning, Industry and Environment (DPIE) exhibited an Explanation of Intended Effect (EIE) for a new State Environmental Planning Policy, called the 'Design and Place SEPP'. The exhibition period for the EIE was to 31 March 2021. The proposed new SEPP seeks to integrate and align good design and place considerations into planning policy. It will apply to subdivision of new residential estates and residential flat buildings. Its focus is to start with Connecting with Country as a foundation for place-based design, and to then create five guiding principles:

- 1) Design places with beauty and character;
- 2) Design inviting public spaces;
- 3) Design productive and connected places;
- 4) Design sustainable and greener places; and
- 5) Design resilient and diverse places.

The EIE refers to how the COVID-19 pandemic has changed how people live and work, such as the community's need for public space, recreation and destinations that are walkable from their homes, and areas in their homes from which to work from.

The proposed SEPP will replace SEPP 65 - Design Quality of Residential Apartment Development, and SEPP (Building Sustainability Index: BASIX) 2004. The new SEPP will be accompanied by two (revised and new) guidance documents; a revised Apartment Design Guide (ADG) and a new Urban Design Guide (UDG). Some of the changes indicated in the Draft EIE are as follows:

- Clarifying that the design criteria are mandatory;
- Simplifying the method for calculating solar access, and increasing the range of hours a development may achieve solar access;
- Requiring ceiling fans for habitable rooms with 2.7m ceiling heights;
- Increasing natural cross-ventilation requirements to 70% of units;
- Increasing the number of units suitable for a growing ageing population and families with children through livable housing targets;
- 20% of 2 (or more) bedroom units are to be 'family units' providing a minimum 12sqm bedroom size for all bedrooms (this is relating to flexible and varying layouts);
- Decreasing the amount of storage to be provided within the units from 50% to one-third;
- Decoupling criteria for communal open space and common rooms to provide flexibility in the provision of both, based on the size of the development and households, such as removing the 25% of site area control with a unit mix / occupancy metric; and
- Requiring natural light and ventilation to common circulation spaces.

Section 6.4 of the EIE states that there will be savings provisions and it is expected that the SEPP will be made by the end of 2021. Therefore, the current proposal before the Panel is to be considered under the current State planning controls (BASIX and SEPP 65). However, having regard to the future draft SEPP, the proposed development is still considered to result in an acceptable design outcome, subject to the recommended conditions. Many of the apartments exceed the relevant internal design criteria in the ADG, solar access and cross-ventilation is fully compliant, the amount of communal open space exceeds the ADG minimum and suitable landscaping is provided in the setback areas.

Draft Penrith LEP Amendments

The development application is not impacted by Council's Planning Proposals which have been the subject of public exhibition.

Section 4.15(1)(a)(iii) The provisions of any development control plan

Development Control Plan 2014

Provision	Compliance
DCP Principles	Complies
C1 Site Planning and Design Principles	Complies
C2 Vegetation Management	Complies
C3 Water Management	Complies
C4 Land Management	Complies
C5 Waste Management	Complies
C6 Landscape Design	Complies
C7 Culture and Heritage	N/A
C8 Public Domain	Complies
C9 Advertising and Signage	N/A
C10 Transport, Access and Parking	Complies
C11 Subdivision	N/A
C12 Noise and Vibration	Complies
C13 Infrastructure and Services	Complies
D2.1 Single Dwellings	N/A
D2.2. Dual Occupancies	N/A
D2.3 Secondary Dwellings	N/A
D2.4 Multi Dwelling Housing	N/A
D2.5 Residential Flat Buildings	Complies
D2.6 Non Residential Developments	N/A

Section 4.15(1)(a)(iiia) The provisions of any planning agreement

There are no planning agreements in place applying to the site or development application.

Section 4.15(1)(a)(iv) The provisions of the regulations

The proposed development is supportable having regard to the applicable matters for consideration under the Environmental Planning and Assessment Regulation 2000, subject to the recommended conditions of consent.

Section 4.15(1)(b)The likely impacts of the development

Impacts Related to Redevelopment of Site for Higher Density Development

The demolition of existing dwellings and the construction of two residential flat buildings in the location will result in impacts on streetscape and will result in some overshadowing and view impacts. The site is zoned to permit the development which is compliant with the maximum permissible height expressed for

the site under PLEP. The design of the development includes measures to protect the privacy of adjacent low density sites in that setbacks comply with the building separation requirements of the ADG (refer discussion under SEPP 65) and dwelling balconies largely face the street or to the rear.

Solar impacts resulting from the development affect properties to the south and in particular the rear open space and rear elevation of a dwelling at no. 11 Derby Street. The rear yard of this allotment will have no direct solar access between 9am and approximately 12 midday at the winter solstice and then will have limited solar access from 12 midday to 2pm and then again after approximately 3pm.

It is not considered that further reducing the height of the development or other design alterations will provide greater solar access to this dwelling without sterilising the development potential of the subject site beyond that which would be feasible, and in this respect, the impacts are reasonable. The design of the development (having the common open space centrally located) does allow for some solar access to be maintained in the winter months to no. 11 Derby Street.

With respect to views and privacy, ground level fencing and landscaping will assist in blocking direct views to neighbouring developments and upper level views will be distant and not downward owing to the built form separation.

Access, Traffic and Parking

The application is accompanied by a Traffic and Parking Assessment. This report assesses the development in terms of the existing and proposed traffic conditions, traffic generation, access arrangements, roads, car parking and public transport accessibility.

Hope Street is a local, unclassified road which is primarily used to provide vehicular and pedestrian access to property frontages. Kerb side parking is generally permitted on both sides of the road and the legal speed limit is 50km per hour. Hope Street connects to Parker Street to the east and Colless Street to the west.

The proposal includes 77 car parking spaces, being 64 resident spaces (3 of which are accessible), 13 visitor spaces (including 2 accessible spaces), 1 car wash bay as well as 2 additional service car parking spaces. The Penrith DCP requires 64 residential car spaces, 10.2 spaces for visitors, 1 car wash bay and 2 service bays. The proposal fully complies with the DCP controls for car parking numbers.

Council's Traffic Engineer has reviewed the proposal and stated that the existing road network can accommodate the expected increase in traffic as a result of the proposed development. Council's Traffic Engineer has also reviewed the driveway and basement design and has confirmed that these areas are acceptable and conditions have been recommended.

Accessibility

The proposal includes 3 accessible car parking spaces for residents and 2 accessible car parking spaces for visitors. All common areas of the development are accessible and an Access Report was submitted to support the development proposal. It is noted that the access report has not been updated to reflect the amended design and unit numbers. Notwithstanding, a condition of consent is recommended to require compliance with the applicable recommendations of the report.

Demolition and Tree / Vegetation Removal

The proposal includes the demolition of all of the buildings on the site. This includes the five single detached dwellings and their outbuildings (sheds, garages and a pool). Standard conditions of consent are recommended in relation to the control of noise, dust and mud and in relation to unexpected finds.

Conditions of consent are recommended in relation to reviewing trees on the site which may be able to be retained post development and in relation to the provision of street trees. The landscape plans propose a mix of trees, shrubs and ground covers as replacement plantings and are acceptable.

Construction Impacts

Impacts in the form of noise, truck movements and traffic will occur during the construction phase of the development. It is noted that these will be temporary and can be managed through the recommended conditions of consent.

Section 4.15(1)(c) The suitability of the site for the development

The site is assessed to be suitable for the proposed development. The landscaping and common areas are adequate to offset the impacts of the development in the selected location. The site can be drained and serviced sufficiently and the use is complementary to other approved uses in the site's context. The environmental impact of the development have been assessed as acceptable having regard to the applicable planning instruments, guides and policies and in this respect the application is supportable.

Section 4.15(1)(d) Any Submissions

Community Consultation

The application was publicly exhibited and notified to surrounding landowners and occupiers in accordance with Council's Community Consultation Policy. This included notification letters and a notice in the local newspaper. Three submissions and one petition have been received. Matters raised in the submissions are addressed in the table below.

Submission Comment:	Response:
Impacts of over development. Penrith becoming like Parramatta. Too many high rise developments. Over population.	The land is zoned R4 High Density Residential, which allows the type of residential flat development being proposed. It is acknowledged that the area is changing from traditional single dwellings to higher density living. The location of the site near the Nepean Hospital precinct, two train stations and the Penrith commercial centre, makes it suitable for increased residential density. The development is assessed as largely compliant with the applicable controls for the R4 High Density Residential area.
Traffic, parking and congestion.	Council's Traffic Engineer has reviewed the proposal and has not raised objections, noting that the local road network is sufficient to accommodate the additional dwellings. The Traffic Report submitted with the application is acceptable and the proposed number of car parking spaces complies with Council's DCP rates.

<p>The reduction in open spaces in the area, noting impacts of COVID lockdowns.</p> <p>Impact of reduced yard areas for playing being detrimental to the suburb well being.</p> <p>Social impacts will result.</p>	<p>It is agreed that traditional 'open spaces' being the large rear yards of traditional dwellings provide greater living space and opportunity for private recreation and that these will not be provided as a result of the development. However, the site is zoned for higher density living and the communal open spaces provided are considered adequate when supplemented by local public open space.</p> <p>The proposed development includes compliant setbacks, with deep soil landscaping in the front, rear and side in order to provide some visually soft buffers to the site's edges and common open space and balconies are of a compliant size.</p> <p>There are not expected to be any ongoing social impacts resulting from the development, noting the high amenity unity layouts and compliant design.</p> <p>It is understood that the redevelopment of the site will cause stress to those persons who have raised objection, although it is noted that the area was re-zoned to R4 High Density Residential under PLEP 2010 and that community consultation was undertaken at that time.</p>
<p>Disturbance during construction, basement excavation and other construction processes - noise, dirt, odours, impacts to health.</p> <p>Damage to private property will occur.</p>	<p>The excavation and construction stages of a development do cause disturbance while those processes are occurring. Council applies standard conditions of consent and regulations to mitigate these impacts. In addition, the excavation and construction phases are limited in time and will come to an end.</p> <p>Concerned residents can contact Council's Development Compliance Unit in relation to hours of construction, noise and dust. The Compliance Unit is able to investigate and take action if warranted.</p> <p>The development site notice is required to contain the contact details of the building firm and the Principal Certifying Authority, who is the first point of contact, and in most cases would be better positioned to act quickly on receiving concerns.</p> <p>Issues related to property damage can also be reported to the police.</p>

<p>Loss of sunlight will result.</p>	<p>Some loss of sunlight to properties on the southern side of a development site will often be expected. Both NSW state (through SEPP 65) and local Council controls (Penrith DCP) try to limit this impact by restricting the duration and amount of overshadowing permitted by a re-development.</p> <p>While the proposal will cast additional overshadowing to back yards of dwellings adjoining the site to the rear, it is considered that the shadows cast have been reduced as far as is reasonable considering the zoning of the land and through the reduction in the height of the development (from 6 to 5 storeys).</p> <p>It should also be noted that the adjoining properties to the rear (fronting Derby Street) are also located in the R4 High Density Residential zone and therefore there might be some expectation that these dwelling lots may develop in the future.</p>
<p>Overlooking from apartments will occur.</p>	<p>It is expected that there will be a change to the sense of overlooking experienced by the dwellings to the south and west of the site. This is because existing single dwellings will be replaced with a multi-storey residential flat development.</p> <p>However, the proposed building is fully compliant with the Apartment Design Guide with regard to setbacks (building separation).</p> <p>The lower floors of the buildings will be set back 6m from the site boundaries, and the upper fifth floor will be set back by 9m. In addition, the proposal was amended to include more dense vegetation and tree planting in the setbacks and it is expected that when established, this will act as a visual green buffer between properties.</p>
<p>Height non-compliance should not be supported.</p>	<p>The design of the development has been amended to reduce the overall height from 6 storeys to 5 storeys. The development is now compliant with the applicable height under PLEP of 18m.</p>

Referrals

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

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

Section 4.15(1)(e)The public interest

The proposal is considered to be in the public interest as it will provide an increased supply of housing in the area, with apartments having a good level of amenity, and the resulting development being of a suitable bulk and scale with landscaped edges.

Section 94 - Developer Contributions Plans

The following Section 7.11 development contributions plans apply to the proposal:

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

The following Section 7.11 calculations apply to the proposed development.

Residential Apartment Development					
<i>Local and District Open Space</i>					
No. of units	x	Rate	-	Credit for existing dwelling/s	Contribution rate
51	x	2	-	$3.1 \times 5 = 15.5$	86.5
<i>Cultural Facilities</i>					
No. of units	x	Rate	-	Credit for existing dwelling/s	Contribution rate
51	x	2.4	-	$3 \times 5 = 15$	107.4
AMOUNT					
S.7.11 Contributions Plan	Contribution Rate x Calculation Rate				Total
District Open Space Facilities	107.4 x \$194.00				\$20,836.00
Local Open Space	86.5 x \$739.00				\$63,924.00
Cultural Facilities	86.5 x \$2,043.00				\$176,720.00
	NET TOTAL				\$261,480.00

Conditions requiring payment of the applicable development contributions are recommended.

Conclusion

The proposed development has been amended to have regard to issues raised by Council in its initial review and having regard to the matters raised by Council's external urban design expert and has been reduced in overall density from 60 units to 51 units and has been reduced in height from 6 storeys to 5 storeys.

The proposal under the amended development application has now addressed and resolved issues relating to the previously refused scheme for the site and it is considered that the proposed development is a well thought out design that provides appropriate setbacks, landscaped edges, good quality communal areas and ADG compliant apartments, and subject to the recommended conditions, should be supported.

In addition, the proposed development provides for appropriate on-site waste collection, the bulk and height of the proposal has been reduced, the number of apartments has been reduced and a mix of communal open spaces is provided at ground floor.

The proposed development is acceptable on planning and design grounds, subject to the recommended conditions. Other internal units of Council have raised no objection to the amended design, subject to conditions. The Development Application is therefore recommended for approval.

Recommendation

1. That DA20/0164 for the demolition of structures, tree removal, construction of two x 5 storey residential flat buildings containing 51 apartments and two levels of shared basement parking, landscaping and civil works at 16-24 Hope Street, Penrith, be approved, subject to the following conditions; and
2. That those making submissions are notified of the determination.

CONDITIONS

General

1 [A001 - Approved plans table](#)

The development must be implemented substantially in accordance with the following supporting documents and plans submitted with the application (except as may be amended by the conditions of this consent):

- Traffic and Parking Assessment Report, prepared by Stanbury Traffic Planning, Reference 19-201-2, dated April 2021;
- Construction Waste Management Plan, prepared by Peter Morson, and Operational Waste Management Plan, Reference 18006 16-24 Hope Street_Waste management - Waste Section document;
- Preliminary Assessment Report, prepared by Banksia EnviroSciences, dated 15 April 2021;
- Access Report, prepared by Vista Access Architects, revision B, dated 18-03-2020, reference no. 18148;
- BASIX Certificate No. 947968M_03; and
- The following drawings:

Drawing Title	Drawing No.	Revision Number	Prepared By	Dated
Cover Plan	DA01	D	Morson Group	15/06/2021
3D Views	DA02	D	Morson Group	15/06/2021
3D Views	DA03	D	Morson Group	15/06/2021
Statement of Design	DA04	B	Morson Group	01/04/2021
SEPP 65 and Design Criteria	DA05	B	Morson Group	01/04/2021
Site Analysis	DA06	B	Morson Group	01/04/2021
Site Plan	DA07	B	Morson Group	01/04/2021
Site Analysis Streetscape	DA08	B	Morson Group	01/04/2021
Demolition Plan	DA09	B	Morson Group	01/04/2021
Basement 2	DA10	B	Morson Group	01/04/2021
Basement 1	DA11	B	Morson Group	01/04/2021
Ground Floor Plan	DA12	D	Morson Group	15/06/2021
Level 1	DA13	B	Morson Group	01/04/2021
Level 2	DA14	B	Morson Group	01/04/2021
Level 3	DA15	B	Morson Group	01/04/2021
Level 4	DA16	B	Morson Group	01/04/2021
Roof Plan	DA17	C	Morson Group	25/08/2021
North Elevation	DA19	D	Morson Group	15/06/2021
East Elevation	DA20	C	Morson Group	15/06/2021
West Elevation	DA21	C	Morson Group	15/06/2021
South Elevation	DA22	B	Morson Group	01/04/2021
Central Elevations	DA23	C	Morson Group	15/06/2021
North-South Section 1	DA24	D	Morson Group	15/06/2021
North-South Section 2	DA25	D	Morson Group	15/06/2021
East-West Section	DA26	C	Morson Group	07/05/2021
Detailed Section 2	DA26D	B	Morson Group	16/06/2021
Solar Access Study	DA27	B	Morson Group	01/04/2021
Solar COS	DA27B	B	Morson Group	01/04/2021
Window Schedule & Adaptable Units	DA28	C	Morson Group	25/08/2021
Daylight Access	DA29	A	Morson Group	17/03/2020
Daylight Access	DA30	A	Morson Group	17/03/2020
Material Schedule	DA31	B	Morson Group	01/04/2021

Section 1-50	DA32	B	Morson Group	15/06/2021
Nathers	DA33	A	Morson Group	25/08/2021
Stormwater Plans				
Cover Sheet Plan	000	C	ACE Civil	27/07/2018
Stormwater Concept Plan Basement Level 2 Sheet 1 of 2	101	E	ACE Civil	16/07/2021
Stormwater Concept Plan Basement Level 2 Sheet 2 of 2	102	D	ACE Civil	18/03/2021
Stormwater Concept Plan Basement Level 1	103	E	ACE Civil	16/07/2021
Stormwater Concept Plan Level 1	104	E	ACE Civil	16/07/2021
On-Site Detention Calculations Sheets Sheet 1 of 2	105	F	ACE Civil	16/07/2021
On-Site Detention Details and Calculation Sheet 2 of 2	105.1	E	ACE Civil	16/07/2021
Misc. Details Sheet	106	C	ACE Civil	18/03/2021
Landscape Plans				
Landscape Plan	L-01/2	D	RFA Landscape Architects	14/07/2021
Landscape Plan	L-02/2	D	RFA Landscape Architects	14/07/2021

2 [A001a Special \(Design and Landscaping Amendments\)](#)

Prior to the issue of any Construction Certificate for the development, amended landscape and architectural plans are to be submitted to and approved by the Manager of Development Services at Penrith City Council.

The amended plans are to incorporate the following:

- (a) For security and privacy reasons, separated and recessed, individual access is to be provided to apartments 02 and 29 off the central entry pathways.
- (b) The landscape planters and deep soil areas along the frontage of the site are to be amended to reflect Council's urban design advice and attached mark-up prepared by Brett Newbold dated 21 May 2021, to the satisfaction of Council.
- (c) A final ground floor outdoor common open space plan indicating fencing, paving treatments, pergolas and landscape treatments and levels is to be provided.
- (d) Any trees identified and approved for retention in the Council approved Arboricultural Report (as required by Condition 3), be retained and protected and the location of any such tree(s) be noted on plans.
- (e) An increased variety of ground cover species that are suitable to the local area that assist in retaining soil moisture, optimal growth and green appearance.

3 [A001b Special \(Arborist Report\)](#)

Prior to the issue of any Construction Certificate for the development, an Arboricultural Impact Assessment is to be submitted to and approved by the Manager of Development Services at Penrith City Council. The report is to provide an assessment of trees located on and adjacent to the site and is to identify any trees which may be retained and protected throughout the re-development of the site.

4 [A001c Special \(Additional Operational Parking Requirement\)](#)

The development shall provide 64 resident car parking spaces including 5 accessible spaces plus 11 visitor spaces, 2 service vehicle spaces and 1 carwash space. On basement level 2, the 2 parking spaces at the blind end of the aisle shall be designated for motor-cycle parking only and shall not be used for car parking.

5 [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.}

6 [A014 - LOT CONSOLIDATION](#)

All five lots that make up the subject development site, being Lots 29, 30, 31, 32 and 33 in Deposited Plan 31239, are to be consolidated as one lot. Written evidence that the request to consolidate the lots has been lodged with NSW Land Registry Services is to be submitted to the certifying authority before the Construction Certificate for the development can be issued by the certifier.

A copy of the registered plan of consolidation from NSW Land Registry Services is to be submitted to the Principal Certifying Authority (PCA) and Penrith City Council, if Council is not the PCA, prior to the issue of the Occupation Certificate for the development.

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

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

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

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

9 [A047 - Mail Box Structures and Fencing](#)

Prior to the issue of a construction certificate, a plan indicating the selected materials for all ground floor and podium fencing and the design and details of security gates and mailbox structures is to be provided to the Manager of Development Services at Penrith City Council for review and approval.

This condition is imposed to ensure that fencing and mailbox structures are appropriately located, are suitably integrated into the architectural and landscape design of the development and that these elements are of suitable high quality, to ensure that the streetscape presentation is enhanced.

10 [A048 - Design and Building Practitioners - Particulars for Regulated Designs Order 2021](#)

Prior to the issue of a Construction Certificate, evidence of compliance with the Design and Building Practitioners - Particulars for Regulated Designs Order 2021 is to be provided to the satisfaction of the Certifying Authority, for any excavation, shoring and anchoring works that traverse a property boundary. This includes evidence of a registered easement over a neighbouring property granting the right to install such works as required.

11 [A Special \(Accessibility\)](#)

A minimum of 5 apartments shall be constructed as adaptable apartments to meet the requirements for persons with a disability and in accordance with the stamped approved plans. The adaptable units shall each be allocated an accessible car parking space compliant with AS 2890.6 and shall be evenly distributed throughout the building and not be concentrated in any one area or level.

The Construction Certificate application must be accompanied by certification from a person suitably qualified and experience professional, confirming that the adaptable dwellings are capable of being modified, when required by the occupant, to comply with the Australian Housing Standard (AS 4299-2009). The WC provided within the common area at ground floor is to be accessible.

A Compliance Certificate in relation to the above, shall be provided prior to the issue of an Occupation Certificate.

12 [A Special \(Air conditioning and screening of plant machinery and utilities\)](#)

Any air conditioning units installed on individual apartment balconies are to be set back from the outer edge of the balcony and are not to be mounted on the wall above the balustrade level. All roof mounted plant, ducting or services infrastructure shall be setback so as to be screened from view. No approval is granted for the installation of ducting, conduit, stormwater drainage, plant machinery or services infrastructure on the external facades of the building.

13 **A Special (Crane and Hospital Proximity - Helipad)**

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

- Name of responsible company and relevant contact details.
- Dimensions (height, length, etc.)
- Length of time that such a crane or structure will be erected on site.
- The management plan and measures that will ensure that the crane or structure will be of least possible impact on flight operations for Ambulance NSW.

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

- Be equipped with medium intensity steady red lighting positioned at the highest point and at each end of the boom/jib and counter boom/jib, such that the lighting will provide an indication of the height of the crane and the radius of the crane boom/jib. Such lighting, which should be displayed at all times of the day and night, should be positioned so that when displayed it is visible from all directions.

14 **A Special (Regs 98E - Shoring and adequacy of adjoining property)**

For the purposes of Section 4.17(11) of the Act, it is a prescribed condition of this development consent that if the development involves an excavation that extends below the level of the base of the footings of a building, structure or work (including any structure or work within a road or rail corridor) on adjoining land, the person having the benefit of this development consent must, at the person's own expense:

- (a) protect and support the building, structure or work from possible damage from the excavation, and
- (b) where necessary, underpin the building, structure or work to prevent any such damage.

Further to the above and **prior to the commencement of any excavation works**, a dilapidation report is to be prepared and submitted to Council. The report is to record and detail the existing state of surrounding assets and structures including those located on adjacent private property.

15 **A Special Cladding**

The external walls of the building including attachments must comply with the relevant requirements of the National Construction Code (NCC). Prior to the issue of a Construction Certificate and Occupation Certificate the Certifying Authority and Principal Certifying Authority must:

- (a) Be satisfied that suitable evidence is provided to demonstrate that the products and systems proposed for use or used in the construction of external walls including finishes and cladding such as synthetic or aluminium composite panels comply with the relevant requirements of the NCC; and
- (b) Ensure that the documentation relied upon in the approval processes include an appropriate level of detail to demonstrate compliance with the NCC as proposed and as built.

16 [A Special CPTED Requirements](#)

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

(a) Lighting

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

(b) Basement Car Parking

- A security system must be installed on any pedestrian and vehicle entry/exit points to the car park, including the lift and stairwell, to minimise opportunities for unauthorised access.
- All areas of the car park must be well-lit, with consistent lighting to prevent shadowing or glare.
- Car park surfaces including walls and ceilings are to be light coloured with details included with the **Construction Certificate** application.
- Storage facilities/cages must be sturdy, vandal resistant and well secured.

(c) Building Security & Access Control

- Intercom, code or card locks or similar must be installed for all entries to the buildings.
- Australian Standard 220 door and window locks must be installed in all dwellings.
- Access to common areas must be restricted to residents and their visitors.
- CCTV is to be provided to cover communal public space areas, in particular the basement car park entry/exit. Cameras must be of sufficient standard to be useful for police in the event of criminal investigations. Lighting must be provided to support cameras at night (alternatively infra-red cameras are recommended). Signage must be displayed to indicate that CCTV cameras are in use.
- Letterboxes must be positioned to be opened from within a secure space only (i.e. residential lobby area).

(d) Graffiti/Vandalism

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

(e) Landscaping

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

Demolition

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

All demolition works are to be conducted in accordance with the provisions of AS 2601-2001 "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**.

18 B003 - ASBESTOS

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

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

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

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

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

19 B004 - Dust

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

20 B005 - Mud/Soil

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

21 B006 - Hours of work

Demolition works 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 demolition work is permitted on Sundays and Public Holidays.

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

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

22 B Special

Prior to the commencement of demolition works, a Hazardous Materials Survey is to be conducted on the existing structures to be demolished by an appropriately qualified consultant(s). The Hazardous Materials Survey is to be prepared in accordance with:

- AS 2601-2001 "The Demolition of Structures", and
- Preliminary Site Investigation prepared by Banksia EnviroSciences (dated 15 April 2021, ref. 18006/16-24).

The associated investigations are to be carried out to assess the location, extent and condition of hazardous building materials including, but not limited to, the following:

- Asbestos;
- Synthetic mineral fibres (SMF);
- Polychlorinated biphenyls (PCBs);
- Lead-containing paint;
- Ozone depleting substances;
- Lead dust in ceiling cavities.

The survey is to provide recommendations for the removal of the hazardous materials, including the preparation of safe work method statements and risk assessments to appropriately address health and safety issues. SafeWork NSW requirements apply to demolition work and compliance with those requirements, including the SafeWork NSW Code of Practice Demolition Work (August 2019), is required.

All demolition works are to be conducted in accordance with the recommendations made in the approved Hazardous Materials Survey.

Heritage/Archaeological relics

23 C003 - Uncovering relics

If any archaeological relics are uncovered during the course of the construction and excavation work, no further activities shall be undertaken until further directed by Penrith City Council or the NSW Heritage Office/Department of Planning, Industry and Environment.

The applicant is advised that depending on the possible significance of relics or items of Aboriginal cultural heritage, an archaeological assessment and applicable permits issued under the Heritage Act 1977 may be required before any work can be recommenced.

Environmental Matters

24 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.

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

25 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 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 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.

26 D009 - Covering of waste storage area

All waste materials stored on-site during works 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.

27 **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.

28 **D014 - Plant and equipment noise**

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

29 **D020 - Vehicle wash bay**

All vehicle washing and steam cleaning shall be conducted in a wash bay approved, installed and connected to the sewer in accordance with Sydney Water's requirements.

Details of the vehicle wash bay including the Section 73 Certificate issued by Sydney Water for the discharge of trade waste from the site shall be submitted to the Principal Certifying Authority before the wash bay can be installed.

At no time is wastewater generated from the vehicle wash bay to be directed into the stormwater drainage system.

30 **D026 - Liquid wastes**

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

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

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

31 **D Special BLANK**

Prior to the issue of the Construction Certificate, a Construction Noise and Vibration Impact Management Plan is to be prepared and submitted to Council for approval. This assessment is to consider (at minimum) the details of the construction program, construction methods, equipment and vehicles in association with the (then) NSW Department of Environment and Climate Change's "Interim Construction Noise Guideline" 2009.

The recommendations of the approved Management Plan are to be implemented and adhered to during the construction phase of the development.

32 **D Special BLANK**

No wastewater resulting from, or associated with, the excavation and construction phase of the development, is permitted to enter Council's stormwater system. All wastewater from the site is to be removed by a licensed transporter and disposed of at an EPA licensed waste facility. All receipts and supporting documentation must be retained in order to verify lawful disposal of wastewater and are to be made available to Penrith City Council on request.

Should approval be obtained from Sydney Water for the discharge of any wastewater from the excavation and construction phase of the development, to the sewer, evidence and details of this approval are to be submitted to both Council and the Certifying Authority prior to the commencement of works.

33 D Special BLANK

An Unexpected Finds Protocol (the Protocol) is to be developed by an appropriately qualified environmental consultant. **Prior to the issue of a Construction Certificate**, the Protocol is to be submitted to Council and approved. If Council is not the certifying authority for the development, the Protocol is required to be provided to Penrith City Council for approval.

The Protocol is to address, at minimum, the management of any contamination found on the site during the excavation/construction phase of the development, including at minimum, contaminated soils, groundwater, buried building materials, asbestos, odour and staining.

The above Protocol is to be complied with at all times during the excavation and construction phase of the development.

34 D Special BLANK

The following waste management requirements must be satisfied:

(a) All waste collection infrastructure, doors and access points are to be locked/accessed through an Abloy Key System. System specifications are outlined in Section 3.5.5 of the 'Residential Flat Building Waste Management Guideline' document.

(b) Waste areas are to be provided with a centralised mixing valve and hose cock and the floor area is to be provided with drainage. All floor wastes are to connect to the sewer.

(c) The chute inlets on each residential level are to be located within cupboards (maximum depth of 150mm) and incorporate dual doors and appropriate ventilation.

(d) All on-site waste collection areas are to be provided with:

- automatic lighting and mechanical ventilation to applicable building code requirements,
- 180-degree outwards opening doors,
- unobstructed internal height clearances of 2600mm free from external services and utilities.

35 D Special BLANK

Prior to the issue of an Occupation Certificate, those acting on the consent are to enter into a written agreement with Penrith City Council for the utilisation of Council's waste collection service. This is to include Council being provided with indemnity against claims for loss and damage.

BCA Issues

36 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).

Utility Services

37 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 any Occupation Certificate for the development.

38 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.

39 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

40 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 is to be erected:

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

All construction signage is to be removed when the Occupation Certificate has been issued for the development.

41 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 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.

42 H006 - Implement waste management plan

The approved waste management plan must be implemented on-site and adhered to throughout all stages of the development including demolition, with supporting documentation / receipts retained in order to verify the recycling and disposal of materials in accordance with the approved plan.

43 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.

44 H041 - Hours of work (other devt)

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

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

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

45 **K101 - Works at no cost to Council**

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

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

47 **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 application, including payment of application and inspection fees together with any applicable bonds, 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) Road opening for utilities (service lead in works and under grounding of existing services)
- (b) Road occupancy or road closures
- (c) The placement of hoardings, structures, containers, waster skips, signs, etc in the road reserve
- (d) Temporary construction access
- (e) Temporary ground anchors (for basement construction)
- (f) the removal of redundant driveways and kerb crossovers, and the required reinstatement of kerb along the frontage of the site.

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

All works associated with the Roads Act approval must be completed prior to the issue of any Occupation Certificate.

Advisory notes:

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.

48 **K203 - S138 Roads Act – Works and structures - Roadworks requiring approval of civil drawings. CIVIL CONSTRUCTION IN THE ROAD RESERVE**

Prior to the issue of any Construction Certificate, the Certifying Authority shall ensure that a Section 138 Roads Act application, including payment of application and inspection fees, has been lodged with, and approved by Penrith City Council (being the Roads Authority under the Roads Act), for driveway, footpath, landscaping, kerb inlet pit and stormwater works in the Hope Street road reserve fronting the development.

As part of this Section 138 Roads Act approval, the application is required to demonstrate that the proposed driveway layback will achieve a minimum 1m clearance to both the existing and proposed kerb inlet pits in close proximity to this layback. This approval shall include any works that may be required to achieve this outcome.

Engineering plans are to be prepared in accordance with the development consent, Penrith City Council's Design Guidelines for Engineering Works for Subdivisions and Developments, Engineering Construction Specification for Civil Works, Austroads Guidelines and best engineering practice.

Contact Penrith City Council's Development Engineering Department on 4732 7777 to obtain a formal fee proposal prior to lodgement and visit Penrith City Council's website for more information.

Note:

- Where Penrith City Council is the Certifying Authority for the development, the Roads Act approval for the above works may be issued concurrently with the Construction Certificate.
- All works associated with the Roads Act approval must be completed prior to the issue of any Occupation Certificate.

49 **K210 - Stormwater Management**

The stormwater management system shall be consistent with plans lodged for development approval, prepared by Ace Civil Stormwater Services Pty Ltd, project number 180919, dated 16/07/2021.

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

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

50 **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, AS 2890.2, AS 2890.6 and Penrith Development Control Plan.

51 **K224 - Construction Traffic Management Plan**

Prior to the commencement of any works on-site (including demolition works) or prior to the issue of any Construction Certificate, whichever occurs first, a Construction Traffic Management Plan (CTMP) shall be submitted to Council's City Assets Department for endorsement. The CTMP shall be prepared by a suitably qualified consultant with appropriate training and certification from Transport for NSW (TfNSW). The CTMP shall include details of any required road closures, work zones, loading zones and the like. Approval of the CTMP may require approval of the Local Traffic Committee. Please contact Council's Asset Management Department on 4732 7777 and refer to Council's website for a copy of the Temporary Road Reserve Occupancy Application Form.

52 [K225 - Performance Bond](#)

Prior to the issue of a Roads Act Approval, a Performance Bond is to be lodged with Penrith City Council for driveway, footpath, landscaping, kerb inlet pit and stormwater works in the Hope Street road reserve fronting the development.

The value of the bond shall be determined in accordance with Penrith City Council's adopted Fees and Charges.

Note:

- Contact Penrith City Council's Development Engineering Department on 4732 7777 for further information relating to bond requirements.

53 [K226 - Basement Geotechnical Testing/ Dilapidation Report](#)

Prior to the issue of a Construction Certificate, a geotechnical investigation report and strategy shall be submitted to the Certifying Authority 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.

54 [K228 - Dilapidation Report](#)

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

55 [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.

56 [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.

57 [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 authority regulations and standards.

58 [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 Section 138 Roads Act approval have been inspected and signed-off by Penrith City Council.

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

Prior to the issue of an Occupation Certificate, works-as-executed drawings, final operation and maintenance management plans and any other compliance documentation shall be submitted to the Principal Certifying Authority in accordance with Penrith City Council's Engineering Construction Specification for Civil Works, WSUD Technical Guidelines and Stormwater Drainage for Building Developments policy.

An original set of works-as-executed drawings and copies of the final operation and maintenance management plans and compliance documentation shall also be submitted to Penrith City Council with notification of the issue of the Occupation Certificate where Penrith City Council is not the Principal Certifying Authority.

60 [K504 - Stormwater Compliance](#)

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

- a) Stormwater management systems (including on-site detention and water sensitive urban design)
- b) Basement pump out systems

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

Details of the approved and constructed systems shall be provided as part of the works-as-executed drawings.

61 [K505 - Restriction as to User and Positive Covenant](#)

Prior to the issue of any Occupation Certificate, a restriction as to user and positive covenant relating to the:

- a) Stormwater management systems (including on-site detention and water sensitive urban design)
- b) Basement pump out systems

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 and Drainage for Building Developments policy.

62 [K509 - Linemarking & Signage](#)

Prior to the issue of any Occupation Certificate and installation of regulatory / advisory linemarking and signage, plans are to be lodged with Penrith City Council and approved by the Local Traffic Committee.

Note:

- Contact Penrith City Council's Engineering Services Department on 4732 7777 for further information on this process.
- Allow eight (8) weeks for approval by the Local Traffic Committee.
- Applicable fees are indicated in Council's adopted Fees and Charges Schedule.

63 [K515 - Maintenance Bond](#)

Prior to the issue of any Occupation Certificate, a Maintenance Bond is to be lodged with Penrith City Council for driveway, footpath, landscaping, kerb inlet pit and stormwater works in the Hope Street road reserve fronting the development.

The value of the bond shall be determined in accordance with Penrith City Council's adopted Fees and Charges Schedule.

Note:

- Contact Penrith City Council's Engineering Services Department on 4732 7777 for further information relating to bond requirements.

64 [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.

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

Prior to the issue of a Construction Certificate, a signage and line marking plan for proposed on-street parking changes (on the northern and southern side of Hope Street), to be instated as Marked Parking Bays as per the "Park In Marked Bays Only" scheme currently in place on Hope Street, must be submitted to Council for endorsement via the Local Traffic Committee.

The plan will be subject to consultation with affected residents as part of the Local Traffic Committee process. Due to the timing of Local Traffic Committee meetings, the reporting period prior, and the need for the Committee's recommendations to be endorsed at Council's Ordinary Meeting, a time frame of approximately 10 weeks is required from the time an accepted signage and line marking plan is received by Council for assessment.

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

Prior to the issue of a Construction Certificate, a Traffic Management Plan is to be prepared and is to be submitted to Council for approval. The Plan shall include all details of the installation and management of the proposed traffic control signal system proposed for installation in relation to waste service vehicle access to the basement. The Plan shall include, but not limited to, the provision of:

- The product and its specifications (including signage and signal lantern dimensions and clearances, with any associated details of loop detectors, signal output controllers and the like).
- Details of swipe card/security/activation/trigger/trip/manual activation mechanisms/intercom use and/or positional sensors and their operation (whether in-ground or surface-mounted for vehicle detection).
- Signal programming details with regard to "revert to" and "dwell" for green and red signals (for ingressing and egressing vehicles).
- Nominated system wait times and pre-set clearance timing.
- Instructions on use of the system to be given to waste vehicle drivers.
- Installation and maintenance details from the installer (including a copy of the user operation manual, or the like).
- Contingencies in the event of a system failure.

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

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

68 [K Special \(Enter and Leave in Forward Direction\)](#)

All vehicles are to enter and exit in a forward direction.

Landscaping

69 [L001 - General](#)

All landscape works are to be constructed in accordance with the stamped approved plans noted at Condition 1 and in accordance with Chapter C6 of the Penrith Development Control Plan. Landscaping shall thereafter be maintained in accordance with the approved plans, 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. Any such replacement planting must occur within 6 months of the former vegetation dying or being removed, or within the next relevant seasonal cycle.

70 [L002 - Landscape construction](#)

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

71 [L003 - Report requirement](#)

The following series of reports relating to landscaping are to be submitted to the Certifying Authority at the appropriate time periods as listed below. These reports shall be prepared by a suitably qualified and experienced landscape professional.

i. [Implementation Report](#)

On completion of the landscape works associated with the development and prior to the issue of any Occupation Certificate for the development, an Implementation Report must be submitted attesting to the satisfactory completion of the landscaping works for the development.

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

ii. [Maintenance Report](#)

On the first anniversary of the date of the Occupation Certificate issued for the development, a Landscape Maintenance Report is to be submitted to Penrith City Council certifying that the landscape works are still in accordance with the development consent and the plant material is alive and thriving.

72 [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.

73 [L007 - Tree protection measures—no TMP with DA](#)

All trees that are required to be retained as part of the development are to be protected in accordance with the minimum tree protection standards prescribed in Chapter C6 of the Penrith Development Control Plan.

74 [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.

75 [L013 - Street Trees](#)

Prior to the issue of any Occupation Certificate, street trees are to be planted at a rate of one tree per existing lot (or to the satisfaction of the Manager of Development Services). Prior to the planting of street trees, approval of the selected plant species, location and pot size of the street trees is to be approved by Penrith City Council (as the relevant Roads Authority). In this regard, please contact Council's Development Services Department on 4732 7991.

Development Contributions

76 [N001a - Section 7.11 Contributions \(Cultural Facilities\)](#)

This condition is imposed in accordance with Penrith City Council's Section 7.11 Contributions Plan for Cultural Facilities. Based on the current rates detailed in the accompanying schedule attached to this Notice, \$176,720.00 is to be paid to Council prior to the issue of any Construction Certificate 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 7.11 Contributions Plan. The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule.

Council should be contacted prior to payment to ascertain the rate for the current quarterly period. The Section 7.11 invoice accompanying this consent should accompany the contribution payment. The Section 7.11 Contributions Plan for Cultural Facilities may be inspected at Council's Civic Centre, 601 High Street, Penrith and is also available on Council's website.

Note: The timing of contributions payable may be otherwise affected in accordance with Planning Circular PS 20-003 dated 3 July 2020 and the associated NSW Government Ministerial Direction - Infrastructure Contributions.

77 **N001b - Section 7.11 contribution (District Open Space)**

This condition is imposed in accordance with Penrith City Council's Section 7.11 Contributions Plan for District Open Space Facilities. Based on the current rates detailed in the accompanying schedule attached to this Notice, \$20,836.00 is to be paid to Council prior to the issue of any Construction Certificate 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 7.11 Contributions Plan. The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule.

Council should be contacted prior to payment to ascertain the rate for the current quarterly period. The Section 7.11 invoice accompanying this consent should accompany the contribution payment. The Section 7.11 Contributions Plan for District Open Space Facilities may be inspected at Council's Civic Centre, 601 High Street, Penrith and is also available on Council's website.

Note: The timing of contributions payable may be otherwise affected in accordance with Planning Circular PS 20-003 dated 3 July 2020 and the associated NSW Government Ministerial Direction - Infrastructure Contributions.

78 **N001c - Section 7.11 contribution (Local Open Space)**

This condition is imposed in accordance with Penrith City Council's Section 7.11 Contributions Plan for Local Open Space. Based on the current rates detailed in the accompanying schedule attached to this Notice, \$63,924.00 is to be paid to Council prior to the issue of any Construction Certificate 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 7.11 Contributions Plan. The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule.

Council should be contacted prior to payment to ascertain the rate for the current quarterly period. The Section 7.11 invoice accompanying this consent should accompany the contribution payment. The Section 7.11 Contributions Plan for Local Open Space may be inspected at Council's Civic Centre, 601 High Street, Penrith and is also available on Council's website.

Note: The timing of contributions payable may be otherwise affected in accordance with Planning Circular PS 20-003 dated 3 July 2020 and the associated NSW Government Ministerial Direction - Infrastructure Contributions.

Payment of Fees

79 **P002 - Fees associated with Council land (Applies to all works & add K019)**

Prior to the commencement of any works on site, all fees associated with Penrith City Council-owned land and infrastructure shall be paid to Council. These fees include Road Opening fees and Infrastructure Restoration fees.

Certification

80 **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 Certifier 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 Certifier shall submit to Council an "Appointment of Principal Certifier" notice in accordance with Section 6.6 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 6.6 of the Environmental Planning and Assessment Act 1979.

81 **Q05F - Occupation Certificate**

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