

# PENRITH CITY COUNCIL

## MAJOR ASSESSMENT REPORT

<b>Application number:</b>	DA18/0809
<b>Proposed development:</b>	Demolition of Existing Structures & Construction of Eight (8) x Two (2) Storey Townhouses & Basement Car Parking
<b>Property address:</b>	30 Mitchell Street, ST MARYS NSW 2760
<b>Property description:</b>	Lot 1 DP 38178
<b>Date received:</b>	15 August 2018
<b>Assessing officer</b>	Lauren Van Etten
<b>Zoning:</b>	Zone R3 Medium Density Residential - LEP 2010
<b>Class of building:</b>	Class 2 , Class 7a
<b>Recommendations:</b>	Deferred Commencement

### Executive Summary

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Council is in receipt of a development application for the demolition of the existing structures and Construction of 8 x Two Storey Town Houses & Associated Basement Car Parking, Landscaping & Civil Works at 30 Mitchell Street St Marys. Under Penrith Local Environmental Plan 2010, the proposal is defined as multi dwelling housing. The subject site is zoned R3 Medium Density Residential and the proposal is a permissible land use in the zoning with Council consent.

The application has been notified to adjoining properties and exhibited between 20 August 2018 and 14 September 2018. Council received no submissions in response.

Throughout the assessment of the proposal, minor changes were made to address the design, vehicular access, waste, drainage and landscaping. Additional information was provided regarding geotechnical issues due to the basement excavation and drainage is now proposed through 52 Mamre Rd and a deferred commencement condition is recommended for the registration of the easement.

The proposal has two minor variations to the DCP relating to frontage and length of one of the buildings. Both variations are deemed acceptable and will have minimal adverse impact on adjoining properties or the bulk and scale of the development. The DCP has recently been altered with respect to site width and the applicant would not have been aware of this change at the time of the Pre-Lodgement meeting and design.

An assessment of the proposal under Section 4.15 of the Environmental Planning and Assessment Act 1979 has been undertaken and the application is recommended for deferred commencement approval, subject to an easement being established over downstream properties, including an updated owner's consent for the drainage connection to 52 Mamre Rd.

### Site & Surrounds

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The subject site located on the southern side of Mitchell Street, is 1363.5m<sup>2</sup> in area. The site contains a dwelling and associated outbuildings which cover much of the site.

Located within an established residential area the site is situated in close proximity to transport options and St Marys City Centre. The area contains a mix of single dwellings and multi unit housing development, which is undergoing transition to medium density. The locality is a mixture of single detached dwellings, dual occupancies, single and two storey multi unit housing development of varying construction.

## Proposal

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The proposed development involves:

- Demolition of existing dwelling, structures and outbuildings;
- Removal of existing trees/vegetation;
- Construction of 7 x 3 bedroom and 1 x 4 bedroom units;
- Basement car parking with 16 resident and 2 visitor spaces;
- 1.8m boundary fencing and 1.2m internal fencing;
- Mix of face brick, tile and timber;
- Storage areas in the basement; and
- Associated drainage and landscaping works. A proposed easement will be established through 52 Mamre Rd.

## Plans that apply

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

## Planning Assessment

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### • Section 4.15 - Evaluation

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

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

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

An assessment has been undertaken of the application against relevant criteria with State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004. The application is accompanied by a list of commitments as to the manner in which the development will be carried out, and the carrying out of residential development pursuant to the recommended development consent or construction certificate will be subject to a condition requiring such commitments to be fulfilled.

#### **State Environmental Planning Policy No 55—Remediation of Land**

State Environmental Planning Policy No.55 – Remediation of Land (SEPP 55) provide aims to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment. Under Clause 7 of SEPP 55, it must be considered as to whether the land is contaminated, and if so, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out. The site has been used for residential purposes for a large number of years and the nature of the use will continue for residential purposes. In this regard there is no evidence of contamination concern being provided in the past on the subject site.

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

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

## Local Environmental Plan 2010 (Amendment 4)

Provision	Compliance
Clause 2.3 Permissibility	Complies - See discussion
Clause 2.3 Zone objectives	Complies - See discussion
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 - See discussion
Clause 4.3 Height of buildings	Complies - See discussion
Clause 7.1 Earthworks	Complies - See discussion
Clause 7.4 Sustainable development	Complies
Clause 7.7 Servicing	Complies

### Clause 2.3 Permissibility

The subject site is zoned R3 Medium Density Residential under the provisions of Penrith Local Environmental Plan 2010. The proposal is defined as multi-dwelling housing and is a permissible land use in the R3 zone subject to Council consent.

### Clause 2.3 Zone objectives

The development is consistent with the objectives of the zone, specifically:

- To enhance the essential character and identity of established residential areas.
- To ensure that a high level of residential amenity is achieved and maintained.
- To ensure that development reflects the desired future character and dwelling densities of the area.

### Clause 4.1A Minimum lot sizes for dual occupancies, multi dwelling housing and residential flat buildings

Under Clause 4.1A, within the R3 Medium Density Residential zone, a lot is to have a minimum area of 800m<sup>2</sup> for multi dwelling development. The subject site complies with this requirement with an area of 1363.5m<sup>2</sup>.

### Clause 4.3 Height of buildings

The Height of Buildings Map indicates that the height of a building on the subject site is not to exceed 8.5m. The proposal complies with this requirement with the development.

### Clause 7.1 Earthworks

The impact of earthworks for the basement has been considered with the proposal. A geotechnical report prepared by an appropriately qualified professional which addresses the extent of earthworks was provided and the measures to be utilized to ensure there is no impact on adjoining properties. It is also noted that should approval be forthcoming that any condition requiring the provision of a dilapidation report is to be submitted prior to the issue of any Construction Certificate in relation to mitigating any damage to adjoining properties during excavation works.

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

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

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

### Development Control Plan 2014

Provision	Compliance
C1 Site Planning and Design Principles	Complies
C2 Vegetation Management	Complies
C3 Water Management	Complies
C4 Land Management	Complies
C5 Waste Management	Complies
C6 Landscape Design	Complies
C7 Culture and Heritage	N/A
C8 Public Domain	Complies
C9 Advertising and Signage	Complies
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	Complies - see Appendix - Development Control Plan Compliance
D2.5 Residential Flat Buildings	N/A
D2.6 Non Residential Developments	N/A

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

There are no planning agreements applying to this application.

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

### *Fire safety*

In accordance with Section 143 of the Environmental Planning and Assessment Regulation 2000, an assessment of the fire protection and structural capacity of the proposed building is necessary. The application has been referred to Council's Building Surveyors for assessment and subject to conditions complies with the requirements of the Regulations.

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

### ***Neighbourhood Character / Residential Amenity***

The development is consistent with the character of the surrounding locality in terms of its street presentation and the landscaped area. The development is of a compatible bulk and scale to the surrounding locality. The setbacks, private open space and landscaping ensure that the impact on adjoining properties is acceptable.

### ***Waste Management***

The dimensions and design requirements of the waste area are in accordance with Council's policy. As such, the application has demonstrated that the development can generally be serviced efficiently and effectively by Council's standard waste service. Appropriate conditions of consent are recommended regarding waste..

### ***Stormwater Management***

The application was accompanied by a satisfactory concept stormwater plan or WSUD strategy which has

demonstrated the proposal will not detrimentally impact upon adjoining properties or the local catchment in regards to water movement, storage and drainage. A deferred commencement condition has been provided to address this issue. The 88b instrument amended to benefit the subject lots. It has also been confirmed that while the easement has been created, no drainage infrastructure exists within the easement and as such physical works will need to be undertaken within the downstream properties. The application is recommended to be approved as a deferred commencement to allow for the drainage easement to be registered with LPI.

### ***Traffic, Access and Parking***

Swept paths are provided showing tight manoeuvring, with minimal clearances. Multiple vehicle movements are required to exit the site in a forward direction. The local road network can cater for the small number of additional vehicle trips generated by this development. Concerns were raised from Council's Traffic Engineers however additional information was provided which confirmed that the proposed layout is acceptable subject to conditions that appropriate signage be provided to manage traffic entering and exiting the basement.

### ***WSUD***

It is proposed the development will comply with the WSUD Policy by using a 10 m<sup>2</sup> raingarden combined with 1 x Enviropod and 8 x 2KL rainwater tanks and associated reuse in accordance with BASIX requirements. Conditions are recommended regarding an Operation and Maintenance manual and access for maintenance.

### ***Noise impact***

Noise produced by the demolition and construction phase has the potential to impact nearby sensitive receivers, particularly given the required basement construction. Construction noise impacts will be controlled through development consent conditions to ensure that any noise impacts can be adequately managed.

Once constructed, it is not anticipated that the ongoing use of the townhouses will produce significant noise. However, plant and equipment may impact neighbouring properties and residents of the development. In turn, a condition requiring additional information regarding the noise produced by the plant and equipment has been recommended.

### ***Air pollution/odour***

Potential impacts to local air quality during the construction phase can be appropriately managed through conditions of consent. It is not anticipated that the ongoing occupation of the townhouses will result in significant air quality or odour impacts.

### ***Waste***

A Waste Management Plan has been provided with the application. This addresses the demolition and construction phases. Conditions are recommended regarding the on-going waste arrangements once completed.

### ***Water management***

A Sediment and Erosion Control plan has been included in the documentation provided.

### ***Trees***

There are no trees on the site. Neighbouring trees may be impacted by the proposal. The arborist report details methods and recommends protection measures for the neighbouring trees and the recommendations must be implemented. Conditions are recommended in this regard.

### ***Land contamination***

To address SEPP 55, the applicant has submitted a Preliminary Site Investigation prepared by Australian Geotechnical Pty Ltd dated 10 August 2018 (Ref. AG-247\_1). This report generally followed the methodology required by the guidelines, though there was some historical information that was not obtained by the consultant (WorkCover and Council planning certificate). Through the site inspection undertaken and their review of the information available, the consultant has concluded that the *'actual or potential contamination sources were identified as low'*. It was found that the site may have been impacted by leaking vehicles and the importation of fill, however the likelihood of any impact was low or negligible. It was concluded that the site could be made suitable subject to a number of recommendations, including

undertaking a search of WorkCover and Council records to address data gaps, undertaking a HAZMAT report, investigating the soil footprints of existing buildings once demolition has occurred and carrying out waste classification prior to removal of soils.

On reviewing these recommendations, Council's Environmental Management Officer carried out a review of Council records to supplement the report, and could not locate any activities of concern. Further, it is considered that the WorkCover search is not required given the known historic residential use. HAZMAT assessments are required prior to demolition, and waste classification is required prior to waste disposal. When considering the requirement for additional assessment, it is considered that, given the site history, this can be adequately addressed through an Unexpected Finds Protocol. In turn, this will be required to be prepared through the development consent.

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

The site is suitable for the following reasons:

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

## **Section 4.15(1)(d) Any Submissions**

### **Community Consultation**

In accordance with Clause 4.4 of Appendix F4 of Penrith Development Control Plan 2014, the proposed development was notified to nearby and adjoining residents.

Council notified residences in the area and the exhibition period was between 20 August 2018 and 14 September 2018. Council received no submissions in response.

### **Referrals**

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

<b>Referral Body</b>	<b>Comments Received</b>
Building Surveyor	No objections - subject to conditions
Development Engineer	No objections - subject to conditions
Environmental - Environmental management	No objections - subject to conditions
Environmental - Waterways	No objections - subject to conditions
Waste Services	Not supported
Traffic Engineer	No objection subject to conditions
Tree Management Officer	No objections - subject to conditions

### **Waste Services**

Council's Waste Officer required amendments to the configuration of the waste storage area in order to comply with the relevant guidelines. The proposal was amended, however further reconfigurations are required and were recommended as a condition of consent as part of the deferred commencement. Further, an accessible path of travel is required from all units to the waste storage area as the current access path crosses an active basement ramp which is unacceptable as it does not permit direct, level, unobstructed access. The plans will be amended to provide suitable access as part of the deferred commencement.

## **Section 4.15(1)(e) The public interest**

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

## **Section 94 - Developer Contributions Plans**

The following Section 94 plans apply to the site:

- Section 94 - District Open Space Facilities
- Section 94 - Cultural Facilities
- Section 94 - Penrith City Local Open Space
- Section 94 - Kingswood Neighbourhood Centre

The following Section 94 calculations apply to the proposed development.

## Calculation for the Construction of 8 Townhouses

### Open Space

No. of units	x	Rate	-	Credit for existing dwelling/s	Contribution rate
8	x	2.0	-	3.1	12.9

### City Wide

No. of units	x	Rate	-	Credit for existing dwelling/s	Contribution rate
8	x	2.4	-	3	16.2

### AMOUNT

S.94 Contribution Plans	Contribution Rate x Calculation Rate	Total
District Open Space	12.9 x \$ 1,966	\$25,361
Local Open Space	12.9 x \$ 711	\$9,172
Cultural Facilities	16.2 x \$169	\$2,738
	NET TOTAL	\$37,271

## Conclusion

In assessing this application against the relevant environmental planning policies, being Penrith Local Environmental Plan 2010 and Penrith Development Control Plan 2014, the proposal satisfies the aims, objectives and provisions of these policies. The site is suitable for the proposed development, the proposal is in the public interest, and there is unlikely to be negative impacts arising from the proposed development. Therefore, the application is worthy of support, subject to recommended conditions.

## Recommendation

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1. That DA18/0809 for demolition of the existing structures and Construction of 8 x Two Storey Town Houses & Associated Basement Car Parking, Landscaping & Civil Works at 30 Mitchell Street St Marys, be approved subject to the following conditions:



## General

### 1 A001

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

Plan	Issue	Prepared by	Dated
H1 Floor Plans	H	Design Corp	30/10/18
H2 Elevations and Sections	H	Design Corp	30/10/18
H5 Basix Commitments	H	Design Corp	30/10/18
H6 Materials & Finishes	H	Design Corp	30/10/18
Landscape Plan/ Drawing No. LP-00/Project No. JALA-18-024	B	Jala Designs	24/10/18
Stormwater Concept Plans Project No. 180894, Drawing No's 000-106	B	Australian Consulting Engineers	25/10/2018

Documents:

- BASIX Certificate No. 949362M\_02, dated 30/10/18
- Access Report prepared by Vista Access Architects, Issue A, Reference No. 18146, dated 06-08-2018
- Arboricultural Impact Assessment prepared by Redgum Horticultural, References No. 3932, dated 2-08-2018.
- Geotechnical Investigation Report prepared by Geotechnical Consultants Australia, Reference G1887-1, dated 11-08-2018.
- Preliminary Site Investigation prepared by Australian Geotechnical, Reference AG-274-1 dated 10-08-2018.
- Waste Management Plan prepared by Designcorp, dated 09-08-2018.

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

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

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

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

### 4 A038 - LIGHTING LOCATIONS

**Prior to the issue of an Occupation Certificate**, a lighting system shall be installed for the development to provide uniform lighting across common areas and driveways. Exterior lighting shall be located and directed in such a manner so as not to create a nuisance to surrounding landuses. The lighting shall be the minimum level of illumination necessary for safe operation. The lighting shall be in accordance with AS 4282 "Control of the obtrusive effects of outdoor lighting" (1997).

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

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

### 6 A Special (BLANK)

#### (a) Waste Storage Bay

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

- Communal Waste Storage area large internal dimensions: 3.2m wide by 2.4m long The structure needs to be rotated 90 degrees to provide these dimensions;
- The bulky waste bay is to be screened from the road and residents with all remaining sides to remain open and unobstructed; and
- The bulky waste bay minimum internal width shall be 1.8m.

7 [A Special \(BLANK\)](#)

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

- The developer is to enter into a formal agreement with Penrith City Council for the utilisation of Councils Waste Collection Service. This is to include Council being provided with indemnity against claims for loss and damage.
- Note: By entering into an agreement with Council for Waste Collection, the development will be required to operate in full compliance with Penrith City Councils Waste Collection and Processing Contracts for Standard Waste Collection. The provision of Councils waste collection service will not commence until formalisation of the agreement.

8 [A Special Condition \(BLANK\)](#)

**Prior to the issue of a Construction Certificate** a draft Operation and Maintenance plan must be provided to the satisfaction of Penrith City Council for all proposed stormwater treatment measures, including details on how access will be achieved for the ongoing maintenance and future renewal of the proposed bioretention basin. The manual must include details on the cleaning/maintenance requirements of the proposed treatment measures as well as detail on how this will be managed (nominate who will be responsible). Evidence of Council's satisfaction is to be provided to the Certifying Authority.

## Demolition

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

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

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

10 [B003 - ASBESTOS](#)

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

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

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

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

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

11 [B004 - Dust](#)

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

12 [B005 - Mud/Soil](#)

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

### 13 **B006 - Hours of work**

Demolition works will be restricted to the following hours in accordance with the NSW Environment Protection Authority Noise Control Guidelines:

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

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

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

## **Environmental Matters**

### 14 **D001 - Implement approved sediment& erosion control measures**

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

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

### 15 **D005 – No filling without prior approval (may need to add D006)**

No fill material is to be imported to the site without the prior approval of Penrith City Council in accordance with Sydney Regional Environmental Plan No.20 (Hawkesbury- Nepean River) (No.2-1997). No recycling of material for use as fill material shall be carried out on the site without the prior approval of Council.

### 16 **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 2014) 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 2014 defines an appropriately qualified person as "a person who, in the opinion of Council, has a demonstrated experience, or access to experience in hydrology, environmental chemistry, soil science, eco-toxicology, sampling and analytical procedures, risk evaluation and remediation technologies. In addition, the person will be required to have appropriate professional indemnity and public risk insurance."}.

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.

### 17 **D009 - Covering of waste storage area**

All waste materials stored on-site are to be contained within a designated area such as a waste bay or bin to ensure that no waste materials are allowed to enter the stormwater system or neighbouring properties. The designated waste storage areas shall provide at least two waste bays / bins so as to allow for the separation of wastes, and are to be fully enclosed when the site is unattended.

18 **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.

19 **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.

**Prior to the issue of the Construction Certificate**, further details on the type and location of all mechanical plant and equipment associated with the development is to be provided to Council for consideration and approval. Suitable data and information on the noise impacts associated with this plant and equipment is also to be supplied to demonstrate compliance with the noise criteria.

**Prior to the issue of the Occupation Certificate**, a Compliance Certificate is to be submitted to and approved by Council. The Certificate is to outline that all plant and equipment have been installed to comply with the above information and the established noise criteria. Should the Compliance Certificate identify any non-compliance issues, the Certificate is to provide suitable recommendations for mitigation of those issues. Any mitigation works are to be undertaken within thirty (30) days from the date of notice from Council, unless otherwise specified.

20 **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 premises to an appropriate waste facility.

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

21 **D027 - SW lines not to be Touched**

The stormwater drainage system shall not be altered or new lines directed into the system without the prior approval of Penrith City Council.

22 **D Special BLANK**

An Unexpected Finds Protocol is to be prepared by an appropriately qualified environmental consultant. **Prior to any works commencing on site**, the Protocol is to be submitted to Council for approval. If Council is not the certifying authority for this development, a copy of Council's approval is to be provided to the Principal Certifying Authority.

The Protocol is to address, at minimum, the management of any contamination found on the site during the demolition, excavation and construction phases of the development, including at minimum, contaminated soils, groundwater, buried building materials, asbestos, odour and staining. It is important to note that any remediation works will require development consent in line with SREP 20 and SEPP 55.

The Protocol is to be implemented and complied with at all times during the demolition, excavation and construction phases of the development.

23 **D Special BLANK**

**Prior to the issue of the Construction Certificate**, a Construction Noise Impact Assessment and 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 and equipment in association with the 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.

## BCA Issues

### 24 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).

### 25 E009 - Annual fire safety-essential fire safety (Class 2-9 buildings)

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

(a) deal with each essential fire safety measure in the building premises, and

(b) be given:

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

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

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

## Utility Services

### 26 G002 - Section 73 (not for

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

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

### 27 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.

**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

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

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

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

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

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

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

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

### 30 H002 - All forms of construction

Prior to the commencement of construction works:

(a) Toilet facilities at or in the vicinity of the work site shall be provided at the rate of one toilet for every 20 persons or part of 20 persons employed at the site. Each toilet provided must be:

- a standard flushing toilet connected to a public sewer, or
- if that is not practicable, an accredited sewage management facility approved by the council, or
- alternatively, any other sewage management facility approved by council.

(b) All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with the appropriate professional standards. All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.

(c) If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made:

- must preserve and protect the building from damage, and
- if necessary, must underpin and support the building in an approved manner, and
- must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished. The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this condition, whether carried out on the allotment of land being excavated or on the adjoining allotment of land, (includes a public road and any other public place).

(d) If the work involved in the erection or demolition of a building is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or involves the enclosure of a public place, a hoarding or fence must be erected between the work site and the public place:

- if necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place,
- the work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place, and
- any such hoarding, fence or awning is to be removed when the work has been completed.

### 31 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.

### 32 H033 – Clothes line

**Prior to the issue of an Occupation Certificate**, clothes drying facilities are to be positioned and screened from public view.

### 33 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 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

### 34 K101 - Works at no cost to Council

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



35 **K201 - Infrastructure Bond**

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

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

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

36 **K202 - S138 Roads Act – Works and Structures - Minor Works in the public road DRIVEWAYS ROAD OPENINGS**

**Prior to the issue of any Construction Certificate**, a Section 138 Roads Act applications, including payment of application and inspection fees, shall be lodged and approved by Penrith City Council (being the Roads Authority for any works required in a public road). These works may include but are not limited to the following:

- a) 5.5m wide vehicular crossings
- b) Concrete footpaths and or cycleways
- c) Road opening for utilities and stormwater (including stormwater connection to Mamre Road, St Marys)
- d) Temporary construction access

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

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

Note:

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

37 **K204 - S138 Roads Act – RMS CIVIL CONSTRUCTION IN THE STATE ROAD**

Prior to the issue of any Construction Certificate, the Certifying Authority shall ensure that any applicable application, including the payment of application and inspection fees, has been lodged with and approved by the Roads and Maritime Services for any works within the Mamre Road, St Marys reserve.

A copy of the Roads and Maritime Services approval shall be submitted to Penrith City Council prior to Penrith City Council issuing any Roads Act approval.



38 **K205 - S68 Local Government Act – Stormwater drainage works CIVIL CONSTRUCTION IN LOTS**

**Prior to the issue of any Construction Certificate**, the Principal Certifying Authority and/ or Certifying Authority shall ensure that an application under Section 68 of the Local Government Act, including payment of application and inspection fees, has been lodged with, and approved by Penrith City Council for provision of inter-allotment drainage works within the downstream property.

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 or visit Penrith City Council's website for more information.

Note:

1. All works associated with the Section 68 Local Government Act approval must be completed prior to the issue of any Occupation Certificate.

39 **K209 - Stormwater Concept Plan**

The stormwater management system shall be provided generally in accordance with the MUSIC modeling and associated concept plan/s lodged for development approval, prepared by Australian Consulting Engineers Project No. 180894, drawing No's 000 to 106, issue B, dated 25 October 2018.

Engineering plans and supporting calculations for the stormwater management systems are to be prepared by a suitably qualified engineer and shall accompany the application for a Construction Certificate. All grate and surface levels for the bioretention basin must be accurate and a minimum extended detention depth of 0.2m for the bioretention basin must be provided on the detailed stormwater design plans to accompany the Construction Certificate.

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

40 **K211 - Stormwater Discharge – Basement Car parks**

**Prior to the issue of any Construction Certificate**, the Certifying Authority shall ensure that the stormwater drainage system for the basement car park has been designed in accordance with the requirements for pumped systems in AS3500.3 (or as amended) (Plumbing and Drainage – Stormwater Drainage).

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

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

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

**Prior to the issue of a Construction Certificate** the Certifying Authority shall ensure that the recommendations within the Geotechnical Report written by Joe Nader, dated 11 August 2018 are implemented to ensure stability of the Council infrastructure and surrounding developments. The geotechnical investigation, report and strategy shall also comply with the recommendations contained in the technical direction GTD 2012/001 prepared by the Road and Maritime Services as amended.

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

43 **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.

44 **K302 - Traffic Control Plan**

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

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

Note:

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

45 **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.

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

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

47 **K502 - Completion of subdivision works**

**Prior to the issue of a Subdivision Certificate**, the Principal Certifying Authority shall ensure that all subdivision works required by this consent have been satisfactorily completed or that suitable arrangements have been made with Penrith City Council for any outstanding works.

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

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

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

49 **K503 - Stormwater Compliance**

**Prior to the issue of any Occupation Certificate**, the Principal Certifying Authority shall ensure that the stormwater management system (including water sensitive urban design measures):

- 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 system/s shall be provided as part of the works-as-executed drawings.

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

**Prior to the issue of an Occupation Certificate**, a restriction as to user and positive covenant relating to the stormwater management systems (including water sensitive urban design measures) shall be registered on the title of the property. The restriction as to user and positive covenant shall be in Penrith City Council's standard wording as detailed in Penrith City Council's Stormwater Drainage Specification for Building Development – Appendix F

51 **K - Waterways - Stormwater Management system operation and maintenance**

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

52 **K Special (BLANK)**

All car spaces are to be sealed/line marked and dedicated for the parking of vehicles only and not be used for storage of materials/products/waste materials etc

53 **K Special (BLANK)**

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

54 **K Special (BLANK)**

**Prior to the issue of any Occupation Certificate**, the applicant shall provide 'Give Way' (R1-2) sign be at the top of the ramp facing vehicles entering the property and 'Watch for Vehicles Entering' (W8-247) sign at the bottom of the ramp facing vehicles exiting the property.

55 **K Special (BLANK)**

**Prior to the issue of any Occupation Certificate**, the applicant shall provide a 1.5m wide concrete footpath along the frontage of the site in Mitchell Street and from this frontage, along the southern side of Mitchell Street to the existing footpath on Mamre Road. The footpath is to be constructed in accordance with Council specifications and requirements.

## Landscaping

56 **L001 - General**

All landscape works are to be constructed in accordance with the stamped approved Landscape Plan and Penrith Development Control Plan 2014.

A landscape strip shall be added between the ramp and the pedestrian access from the street to soften the hard stand area.

Landscaping shall be maintained:

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

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

57 **L002 - Landscape construction**

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

58 **L003 - Report requirement**

Upon completion of the landscape works associated with the development and **prior to the issue of an Occupation Certificate**, an Implementation Report must be submitted to the Principal Certifying Authority attesting to the satisfactory completion of the landscaping works for the development. The report is to be prepared by a suitably qualified and experienced landscape professional.

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

59 **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.

60 **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.

61 **L Special (BLANK)**

All fencing and retaining walls required by the development shall be constructed at full cost to the property owner or developer of the site.

62 **L Special (BLANK)**

To ensure a high quality finish, any retaining walls shall be of solid masonry construction. The surface shall be either rendered to match the external materials and colour schedule or constructed in a face brick finish.

63 **L Special (Tree protection - Australian Standards)**

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

64 **L Special (Tree protection)**

The Trees must be retained and protected in accordance with the arborists report recommendations.

## **Development Contributions**

65 **N001 - Section 94 contribution (apply separate condition for each Contribution Plan)**

This condition is imposed in accordance with Penrith City Council's Section 94 Contributions Plan(s) for Cultural Facilities. Based on the current rates detailed in the accompanying schedule attached to this Notice, \$2,738 is to be paid to Council prior to a Construction Certificate being issued for this development (the rates are subject to quarterly reviews). If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted Section 94 plan. The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule.

Council should be contacted prior to payment to ascertain the rate for the current quarterly period. The S94 invoice accompanying this consent should accompany the contribution payment. The Section 94 Contributions Plan for Cultural Facilities may be inspected at Council's Civic Centre, 601 High Street, Penrith.

66 **N001 - Section 94 contribution (apply separate condition for each Contribution Plan)**

This condition is imposed in accordance with Penrith City Council's Section 94 Contributions Plan(s) for District Open Space. Based on the current rates detailed in the accompanying schedule attached to this Notice, \$25,361 is to be paid to Council prior to a Construction Certificate being issued for this development (the rates are subject to quarterly reviews). If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted Section 94 plan. The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule.

Council should be contacted prior to payment to ascertain the rate for the current quarterly period. The S94 invoice accompanying this consent should accompany the contribution payment. The Section 94 Contributions Plan for District Open Space may be inspected at Council's Civic Centre, 601 High Street, Penrith.

67 **N001 - Section 94 contribution (apply separate condition for each Contribution Plan)**

This condition is imposed in accordance with Penrith City Council's Section 94 Contributions Plan(s) for Local Open Space. Based on the current rates detailed in the accompanying schedule attached to this Notice, \$9,172 is to be paid to Council prior to a Construction Certificate being issued for this development (the rates are subject to quarterly reviews). If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted Section 94 plan. The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule.

Council should be contacted prior to payment to ascertain the rate for the current quarterly period. The S94 invoice accompanying this consent should accompany the contribution payment. The Section 94 Contributions Plan for Local Open Space may be inspected at Council's Civic Centre, 601 High Street, Penrith.

## **Certification**

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

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

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

The Principal Certifying Authority shall submit to Council an "Appointment of Principal Certifying Authority" in accordance with Section 4.19 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 4.19 of the Environmental Planning and Assessment Act 1979.

69 **Q05F - Occupation Certificate for Class10**

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

The Certificate shall not be issued if any conditions of this consent, but not the conditions relating to the operation of the development, are outstanding.

A copy of the Occupation Certificate and all necessary documentation supporting the issue of the Certificate is to be submitted to Penrith City Council, if Council is not the Principal Certifying Authority.

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

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

- A. The applicant is to acquire written consent from a downstream property owner to create an easement for drainage and overland flow minimum 1.5 m wide over downstream properties. Evidence of registration of the easement with Land Registry Services (LRS) NSW shall be submitted to the satisfaction of Penrith City Council prior to the consent becoming operational.
- B Any changes to the concept design of the stormwater drainage plan shall comply with Council's Stormwater Drainage for Building Development policy and be submitted to Penrith City Council prior to the consent becoming operational. If the amended stormwater plan warrants any changes to the Water Sensitive Urban Design (WSUD) strategy, an amended WSUD strategy shall be submitted along with the stormwater plan. Architectural and landscape plans may require amendment to correspond with the changes to the stormwater drainage plan.
- C The architectural plans shall be amended so that a direct, unobstructed and a level path of travel is provided within the front setback area from the pathway along the eastern boundary to the waste storage bay.

# Appendix - Development Control Plan Compliance

## Development Control Plan 2014

### D2 Residential Development

A discussion against the relevant sections of Chapter D2 - Residential Development is provided below:

D2 - Residential Development			
2.4 Multi Unit Housing			
	Item - Required		Complies?
2.4.1 & 2.4.2	Residential Character & Preferred Configuration Does the development adopt elements of the preferred configuration for town house developments?		<p>Complies - The dwelling entry of Unit 1 is orientated to the street.</p> <p>The design allows for landscaping in the front setback to assist with softening the appearance of the units and screen the bin bay. A landscape plan was submitted which provides adequate planting in the front setback and boundaries. A condition has been included which requests the applicant to provide a narrow strip of planting between the ramp and pathway, if possible, to assist further with softening th front hardstand area.</p> <p>Living areas and private courtyards either face rear boundary, internal courtyard or street.</p> <p>A mix of finishes and colours are propos</p> <p>There is opportunity for a green corridor of vegetation to be provided along rear boundary and landscaping provided around the perimeter of the building.</p>
How much floor space is appropriate to your site?			
	Item	Required	Complies?
2.4.3	Development Site	Minimum lot width of 22m in R3 & R4 zones. Should not isolate property with frontage under 22m.	No - 16.9m. However, the application was lodged before this control was in place and does not isolat adjoining sites and consistent with other mul unit housing adjacent.
2.4.4	Urban Form	Dwellings fronting the street should adopt traditional orientation.	Complies
		Living areas and entry to face the street, for each dwelling.	Complies
		Garages to be integrated within the building façade.	Complies - basement car park.
		Avoid gun-barrel developments.	Complies - basement car park.

		<p>Each building block no longer than 20m.</p> <p>Articulate building forms.</p> <p>Max. 5m external walls between distinct corners.</p>	<p>No - Units 1 to 3 are housed in a building which exceeds 20m. However, the bulk is reduced at the front of the site due to the access ramp.</p> <p>The bulk of these buildings is not excessive when viewed from adjoining properties and articulation has been used to minimize the visual impact and bulk of the development, as well as landscaping.</p> <p>The other two blocks comply.</p>
		Variety of roof forms and pitches	Complies
		Windows in every elevation.	Complies - windows in every elevation
		Shadow-casting features (e.g. Verandas) applied to every wall.	Complies – eaves and sun shade devices.
2.4.5	Front and Rear setbacks	<p>Single storey component Rear Setback = 4m</p> <p>Double storey component Rear Setback = 6m</p>	Complies - 7.3m
		Front Setback = adopts a setback to match the neighbourhood character, average of neighbours or minimum 5.5m	Complies - 8.6m
		Garages and parking not permitted in front setback.	Complies
2.4.6	Building Envelope and Side Setbacks	<p>Building envelope max cut and fill = 500mm</p> <p>Max roof pitch = &lt;25° for single storey</p>	Complies
		<p>Min 2m side setback to max 50% of boundary</p> <p>Vary side setbacks</p>	Complies - 3m to dwellings, 2m to basement
2.4.7	Driveways and Parking	2 spaces per 3 & 4 bed unit	Complies - 18
		Visitor 1 per 5 units	
		Is manoeuvrability OK? (Check AS2890.1 – 1993)	Yes. Reviewed by Development Engineer's.
		3.0m = min driveway width plus passing bay where more than 5 dwellings & driveways longer than 30m	Yes. Reviewed by Development Engineer's.
		<p>Landscaped verge between driveway, fences and buildings</p> <p>1m landscaping between driveways and dwellings</p> <p>Landscaping between driveway &amp; side boundary where possible</p>	Landscaping provided in front of dwellings, along side and rear boundaries and access ramp.

		Garages and parking spaces should not be located in the front setback and should not face the street and setback min 6.5m from the outside driveway kerb.	Complies
		Basement car parking permitted on lot with minimum 22m frontage.	Lot is <22m however this control has only recently changed, so reduced frontage is acceptable.
2.4.8	Landscaped Area	Minimum 40% of site area for R1 and R3 zones and 35% for R4 zone (excluding any landscape areas <2.0m in width and basement encroachment).	Complies - 40% The deep soil zone allows for tree planting and screening potential is available to the street edges and neighbouring properties.
		Central communal open space where more than 10 dwellings, being 10% of landscaped area.	N/A
		Provide effective separation between neighbouring dwellings	Complies
2.4.9	Solar Planning	4 hours to living areas of the proposed & adjoining dwelling	Complies
		3 hours to POS of the proposed & adjoining dwelling	Complies
		Min 3 hours solar access to 40% of the private open space area	Complies
		Place windows on all exterior walls exposed to the northern sun.	Complies - Windows provided and patios where possible.
Urban Design			
	Item	Required	Complies?
2.4.10	Significant Townscapes / Landscapes	The proposal is to conserve significant vegetation on the site.	Yes – no significant vegetation identified.
		Adopt / reflect predominant building characteristics in the area.	Complies – materials and roof pitch are compatible with the area.
		Minimise visual impact of driveways and garages.	Complies - One driveway and car parking in the basement.
2.4.11	Corner Sites & Park Frontages	For frontages to a second street: - min. setback to dwellings & garage 5.5m - min. verandah setback 3m - each building max. width 20m	N/A - see discussion above.
		For frontages to a park: - Dwellings and POS to face the park, - maximum 20m long building, - minimum dwelling or verandah setback 2m, max 50% of the total building elevation	N/A
2.4.12	Building Design	Stepped alignment of walls, articulated roof forms and variety of materials	Complies



		The design of facades should be varied	The proposal contains three free units grouped in blocks with articulated building elements to reduce bulk.
		Extensive blank external walls should be avoided	Blank walls avoided.
2.4.13	Energy Efficiency	NatHERS certificate indicating 3.5 star rating Roof and top floor ceiling insulation with R3 rating. Wall insulation with R1.5 rating. Living areas to face within 30° of north. Shading devices for windows, doors and skylights including eaves of 450mm. Employ effective glazing Cross ventilation to rooms	Complies - BASIX provided. Complies - BASIX provided with 3.5 Complies - BASIX provided with R2 Complies - achieved where applicable Complies  Glazing applied to all windows - Complies with BASIX Requirements  Windows provided to aid in cross-ventilation.
2.4.14	Design of Dwellings and Private Courtyards	Min private open space area for each unit = 25m <sup>2</sup>	Complies - Minimum POI size provided.
		POS to include area 5m x 4m, suitable for outdoor dining, adjoining living or dining.	Complies - Minimum 5m 4m including patio area provided.
		Min 2m wide clothes drying area	Provided
		Direct access from POS to street through 2m wide landscape area or carport with an open design.	No - not possible for all units due to design.
		Front and rear setbacks should be utilised for private residential gardens.	Complies
2.4.15	Garage Design	Garages concealed from the street (recessed behind building line)	N/A - basement
		Allow full opening of vehicle doors (ie. min garage width = 3.0m for single width and 5.7m for double width)	Complies - reviewed by Council's Development Engineer.
		Basements rise no higher than 1.5m above ground, natural ventilation, consider appearance & landscaping	Complies
		For units that require 2 spaces, 1 is to be covered. Stacked parking not permitted behind garages.	Complies
2.4.16	Garden Design	Rear boundary planting scheme is to consist of a combination of low to medium high trees.	Complies. Rear planting scheme proposed on the landscape plan is adequate.
		Side boundary planting to consist of small to medium sized trees and feature plantings within courtyards.	Complies – Side planting scheme proposed on the landscape plan is adequate and basement setbacks does not affect ability for good planting.

		Street frontage plantings to consist of private gardens, civic garden frontages, and accent plantings.	Complies
2.4.17	Paving design	Driveways to be presentable, be overlooked by living areas, be divided into panels or bands, allow for the direct infiltration of water, minimise width.	Complies.
		Minimum 1m wide pavement in front of doorways.	Complies - Provided
		Paving beneath clothes lines.	Complies.
		Paving under garbage bins storage areas.	Complies.
2.4.18	Fences and retaining walls	Max height = 1.8m (2.4m on sloping sites including retaining wall).	Complies . 1.8m timber lapped and capped fence to side boundaries, which is acceptable.
		Maximum 1.2m forward of the building line , or if taller, of see-through construction. Not metal.	Complies . Max. 1.2m timber fence on front boundary with landscaping proposed.
		POS fencing facing the street frontage is to be <50% of the allotment width. Solid walls setback 2m for landscaping,	Complies.
		Retaining wall max. 500mm high.	
2.4.19	Visual and \Acoustic Privacy and Outlook	Min 3m separation between any facing windows of adjacent dwellings.	Complies
		Courtyards to have pergolas and masonry walls	Not indicated - Not deemed required.
		2m landscaped verge between driveways and general rooms	N/A
		Bedrooms designed away from noisy rooms	Complies.
		Active and passive living areas separated in design	Complies - Bedrooms located on the first floor with living spaces on ground floor adjacent to garage
		Windows of habitable rooms with direct outlook into habitable windows, to be offset or sill height 1.7m or fixed obscure glazing.	Complies subject to amendments in red on stamped approved plans offsetting some between Units 3 and 4, and 6 and 7
		Balconies above 800mm to include screening or planting.	N/A
2.4.20	Safety and Security	High level of passive surveillance.	Complies. Casual surveillance is provided due to the design.

2.4.21	Access & Adaptability	<p>Accessibility to comply with AS1428-1998 – Design for access and mobility.</p> <p>Non-slip finish, no steps, capable of being modified.</p>	<p>Complies. Unit 1 has been specifically designed for adaptability under AS1428-1998. However, a lift from the basement and level entries are proposed and the ground floor could provide an accessible bathroom and lounge conversion if required. Refer to the access report post adaption layout for further information (page 15).</p>
2.4.22	Storage and Services	<p>10m<sup>3</sup> of storage per household as cupboard in addition to wardrobes, in lockable garage, or locker.</p> <p>Provision of designated waste storage areas</p> <p>Provision of letter boxes</p> <p>Accommodate telecommunications</p>	<p>Complies. Provided in allocated area in basement.</p> <p>Bin bay proposed.</p> <p>Could be conditioned if recommended for approval.</p> <p>Could be conditioned if recommended for approval.</p>