

SWPP Ref. No.:	2017SWT005
DA No.:	DA17/0334
PROPOSED DEVELOPMENT:	Six (6) Storey Mixed Use Development including Ground Floor Retail Tenancies & Supermarket, First Floor Office Floor Space & Child Care Centre, 62 Residential Apartments & Related Resident Facilities & Basement, Level 1 & Level 2 Car Parking - Lot 3003 DP 1184498, 184 Lord Sheffield Circuit, PENRITH NSW 2750
APPLICANT:	St Hilliers Property (Frank Katsanevas) C/- Urbis (Ryan Macindoe)
REPORT BY:	Clare Aslanis, Senior Environmental Planner, Penrith City Council

Assessment Report

Executive Summary

Council is in receipt of a development application for the construction of a 6 (six) storey mixed use building at 184 Lord Sheffield Circuit, Penrith. Under the Penrith Local Environmental Plan 2010, the proposal is defined as a mixed use development, which is a permissible land uses within the B2 Local Centre zone, with development consent.

The key issues identified for the proposed development and site as part of the assessment include:

Pedestrian link from commuter car park to Penrith Rail Station

- The location of the pedestrian link has been carefully considered to ensure that ground floor retail tenancies and the supermarket will deliver a well activated path for commuters between the commuter car park and station plaza.

Waste management arrangements

- Separate waste storage areas are proposed for residential, commercial, retail and child care uses within the building.

Traffic generating development

- The application was referred to the Roads and Maritime Services for comment and no objection was raised subject to recommended conditions of consent.
- The proposal will exceed the projected dwelling yields identified at the time of subdivision resulting in increased traffic on the local road network. A recommended condition of consent requires a roundabout to be installed at a nearby intersection to cater for this increase.

Sydney Trains Concurrence

- Sydney Trains has issued concurrence pending further detail being submitted as outlined in recommended deferred commencement conditions.

Acoustic impacts of commercial tenancies and the railway line on residential units

- The noise impacts of some commercial tenancies is unclear given the future uses are not yet proposed and will be assessed when future applications are lodged

- Common facilities for residents such as the swimming pool and gymnasium shall be further investigated for noise impacts prior to the consent becoming operational. Hours of use will be restricted by conditions of consent.

Potential site contamination

- The current use of the site as a car park presents a potential for leaks from vehicles and other contaminants to impact the site, including through the bitumen/asphalt material itself and the associated fill used for the construction of the car park. However, this cannot be determined until the car park is removed and relevant testing be undertaken. Conditions of consent are recommended, which will require that a contamination report be submitted to Council for review prior to the issue of a Construction Certificate and where contaminants are identified, separate remediation approval would be required and the remediation undertaken prior to the commencement of works subject of this application.

The application was advertised and notified to adjoining properties and exhibited for a period of 31 days between 12 May and 12 June 2017. No submissions were received by Council in response.

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

Site & Surrounds

The North Penrith (Thornton) estate is centrally located directly adjacent to Penrith Railway Station and immediately to the north of the Penrith City Centre. It is a strategic site, located within the Penrith Regional Centre as identified in the Metropolitan Plan 2036, North West Draft Subregional Strategy and NSW Department of Planning Major Projects Approval MP10-0075 and MP10-0078 dated October 2011.

The greater locality is characterised by a mixture of residential, industrial and recreational uses. Large industrial activities are located to the north on the opposite side of Coreen Avenue. New industrial development is located immediately to the west of the site with the residential suburb of Penrith located further to the east.

The land subject to this application is located on Lot 3003 Lord Sheffield Circuit, Penrith and adjacent the rail line to the south, Penrith rail station plaza to the east and commuter car park to the west. The site is an irregular shaped lot and approximately 6,303m² in size. It is clear of vegetation and currently contains an at grade car park.

Several residential flat buildings are currently under construction along nearby Engineers Place and Lord Sheffield Circuit. An eight storey serviced apartments development has recently been approved on Lord Sheffield Circuit, north of the station plaza.

Proposal

The proposed development involves construction of a 6 storey residential flat building comprising the following:

- 62 Residential apartments, including:
 - 12 x one bedroom units
 - 39 x two bedroom units
 - 11 x three bedroom units
- 1,916m² supermarket space
- 1,181.5m² commercial space
- 1,489m² child care centre space
- 634m² retail space
- Car parking
 - One basement level for 85 car parking spaces
 - Sleeved parking to levels 1 and 2 for 110 car parking spaces
- Level 3 communal open space for residents including:
 - Swimming pool
 - Gymnasium
 - Yoga room
 - TV room
 - Various lounge and meeting rooms
- Ground floor pedestrian linkages between the commuter car park and rail station
- Ancillary landscaping and stormwater works

Plans that apply

- Local Environmental Plan 2010 (Amendment 4)
- Development Control Plan 2014
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- State Environmental Planning Policy (Infrastructure) 2007
- 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 23G - Sydney West Planning Panel (SWPP)**

The application has been assessed in accordance with Section 23G of the Environmental Planning and Assessment Act and the application will be determined by the Sydney West Planning Panel (now referred to as the Sydney Western City Planning Panel) as the proposal has a Capital Investment Value (CIV) of more than \$20 million.

- **Section 79C - Evaluation**

The development has been assessed in accordance with the matters for consideration under Section 79C of the Environmental Planning and Assessment Act 1979, and having regard to those matters, the following issues have been identified for further consideration:

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

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

This Policy ensures the implementation of the BASIX scheme that encourages sustainable residential development. It requires certain kinds of residential development to be accompanied by a list of commitments to be carried out by applicants.

BASIX Certificate No. 684962M_02 was submitted with the Development Application demonstrating compliance with set sustainability targets for water and energy efficiency and thermal comfort.

State Environmental Planning Policy (Infrastructure) 2007

Clause 86 Excavation in, above or adjacent to rail corridors

In accordance with Clause 86 the proposal was required to be referred to Transport for NSW given the proposed excavation is within 25m of the rail corridor.

Sydney Trains has provided concurrence subject to deferred commencement conditions on 29 September 2017.

The deferred commencement condition requires the applicant to liaise with Sydney Trains in relation to an underground electrical cable and aerial electrical easement. Damage to the subject cable would potentially impact rail signalling and other crucial rail operations.

A geotechnical report and excavation methods will be required to satisfy the deferred commencement condition.

Clause 87 Impact of rail noise or vibration on non-rail development

In accordance with Clause 87, Council must consider if the following LAeq levels are not exceeded:

- (a) in any bedroom in the building-35 dB(A) at any time between 10.00 pm and 7.00 am,
- (b) anywhere else in the building (other than a garage, kitchen, bathroom or hallway)-40 dB(A) at any time.

An acoustic report was submitted with the development application, which concluded that where recommended treatments set out in the Acoustic Report are implemented, noise and vibration impacts on future tenants within the proposed residential developments will comply with relevant acoustic criteria.

Recommended conditions of consent will ensure compliance with the recommendations of the report.

Clause 102 Traffic-generating development

In accordance with Clause 104 and Schedule 3 of the State Environmental Planning Policy (Infrastructure) 2007 the proposal was required to be referred to the Road and Maritime Services (RMS) given the proposed development includes more than 200 vehicles and more than 2,000sqm of GFA used for the purpose of a 'shop' (supermarket). The RMS raised no objection subject to their recommended conditions of consent in their letter dated 4 August 2017.

State Environmental Planning Policy No 55—Remediation of Land

The proposal has been assessed against the applicable provisions of the State Environmental Planning Policy No. 55 - Remediation of Land and specifically, an assessment has been undertaken of the proposal against the matters for consideration under Clause 7 Contamination and remediation to be considered in determining a development application.

A review of Council's records does not identify that the site as being contaminated. Whilst extensive remediation and validation of the estate has occurred, the site's current use as a car park could potentially result in site contamination. It is unable to be determined if the proposal satisfies the requirements of the Policy and Council can be satisfied that the land concerned, is suitable for the development as proposed given that testing will not be able to be completed until the car park is removed. It is noted the proposal includes the construction of a basement car park, which is likely to excavate any contaminants they may be found. A condition of consent is recommended that the site be tested following the removal of the carpark and prior to works commencing.

It is noted that the major projects approval MP10-0075 included conditions related to the preparation of Construction Environmental Management Plans related to the former use of the site as defence land and the protocols related to discovery of unexploded ordinances and unexpected finds. In this respect, conditions of consent are recommended to require the proponent to comply with the Conditions of consent of the major projects approval MP10-0075 and in particular the Statement of Commitments included within Schedule 3 of MP10-0075.

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

As assessment has been undertaken of the proposal against the relevant criteria within the State Environmental Planning Policy No. 65—Design Quality of Residential Apartment Development and the proposal is found to be satisfactory, subject to recommended conditions of consent. The proposal is considered to be acceptable when assessed against the nine Design Quality Principles of Schedule 1.

Table 2 below provides an assessment against the applicable provisions of the accompanying Apartment Design Guide (ADG).

Table 2: Assessment Against the Apartment Design Guide (ADG)			
Part 3	Required	Discussion	Complies
3A-1	Each element in the Site Analysis Checklist should be assessed.	A Site Analysis plan was submitted with the application and identifies applicable elements as required within the Checklist. A written description of the proposal and subject site are also included in the submitted Statement of Environmental Effects and accompanying plans and reports.	Yes.
3B-1	Buildings to address street frontages.	Each elevation adequately addresses the street frontages. The ground floor is made up of commercial/retail spaces that effectively activate pedestrian paths. The common entry and foyer areas are of an appropriate design and location.	Yes.

3B-2	Living areas, Private Open Space (POS) and Communal Open Space (COS) to receive compliant levels of solar access.	Refer discussion under Parts 3D and 4A.	N/A.
	Solar access to living spaces and POS of neighbours to be considered.	Due to the orientation of the proposal to the North and the limited dwelling depths with adjacent public spaces and rail corridor, acceptable levels of solar access can be maintained to the open spaces and living zones of neighbouring properties.	Yes.
	If the proposal will significantly reduce the solar access of neighbours, building separation should be increased.	Acceptable levels of solar access is achieved between the primary daylight hours at the winter solstice. The immediate vicinity is comprised of open spaces, the rail corridor and commuter car park resulting in sufficient building separation.	Yes.
3C-1	Courtyard apartments should have direct street access.	No ground floor apartments proposed.	NA.
	Changes in level between private terraces, front gardens and dwelling entries above the street level provide surveillance and improve visual privacy for ground level dwellings.	Residential units begin at Level 2 and do not have any direct interface with public spaces. Garden terraces ensure privacy to lower units Passive surveillance is achieved through the activated street frontages with retail spaces having direct access and views to walkways.	Yes.
	Upper level balconies and windows to overlook the street.	All apartments are provided with an outlook over the adjacent street and station plaza.	Yes.
	Length of solid walls should be limited along street frontages.	Walls are adequately landscaped and articulated. No large expanses of blank wall are proposed.	Yes.
	Opportunity for concealment to be minimised.	Entryways are wide, straight and located in areas of high foot traffic to reduce opportunity for crime and concealment.	Yes.
3C-2	Ramping for accessibility should be minimised.	At grade entries, elevators and escalators are provided for accessible entries.	Yes.
3D-1	Communal Open Space (COS) to have minimum area of 25% of site.	1,833m ² COS is to be provided. The proposal is for 29% of the site which is provided at level 3 with swimming pool, gymnasium and various other meeting rooms.	Yes.
3D-4	Boundaries should be clearly defined between public open space and private areas.	Given the commercial elements on the ground floor and pedestrian paths, all private areas are located above and separated from public areas. Ground floor lobby entries include secure access to residents only.	Yes.

3E-1	Deep soil is to be provided at a rate of 7% of site area with a min. dimension of 3m.	Deep soil areas have not been provided due to the nature and location of the site. The subject site is exempt from the provision of deep soil as per Section 3.11(1) of the North Penrith Design Guidelines 2013. Section 3.11 states that Block T1 (the subject site) has a minimum deep soil zone requirement of 0%.	Yes.
3F-1	Minimum required separation distances from the building to side and rear boundaries is to be achieved as follows: 1-4 Storeys – 6m habitable to habitable and 3m for non-habitable. 5-8 storeys – 9m habitable to habitable and 4.5m for non-habitable.	The subject site is adjacent a public road to the west, rail corridor to the south, station plaza to the east and a vacant site to the north. A development application has been approved (DA16/0411) on the vacant site to the north. The approved development provides a 14m setback to the shared boundary, resulting in more than 21m separation between the buildings.	Yes.
3G-1	Building entries to be clearly identifiable.	Lobby entryways are articulated with high quality materials and finishes. Mail boxes may be co-located adjacent to the entry points from the station plaza which are accessible and are paved to the pedestrian paths.	Yes.
3G-2	Building access ways and lift lobbies to be clearly visible from the public domain and communal spaces.	The main pedestrian entryways are visible from the surrounding retail spaces and station plaza.	Yes.
	Steps and ramps to be integrated into the overall building and landscape design.	No steps or ramps proposed at ground.	NA.
3H-1	Carpark access should be integrated with the building's overall façade.	The car parking entry is adequately integrated into the design of the site with access along the western elevation. The car park façade uses a material palette consistent with the rest of the building. Car park entrances are opened during the day but enclosed at night by security doors. The visible interior will reflect the façade design in material palette and design with no visible service areas.	Yes.
	Clear sight lines to be provided for drivers and pedestrians.	Adequate sight lines are provided for drivers and pedestrians at the street frontage.	Yes.

	Garbage collection, loading and servicing areas are screened.	The waste collection area is provided entirely within the building.	Yes. Condition recommended.
3J-1	The site is located within 800m of a railway station and as such car parking rates are set by the RMS (formerly RTA) Guide to Traffic Generating Developments document.	Refer discussion under Penrith DCP 2014.	N/A
3J-2	Secure undercover bicycle parking should be provided for motorbikes and scooters.	Secure bicycle parking is proposed within the basement and ground floor of the building.	Yes.
3J-3	A clearly defined and visible lobby area or waiting area should be provided to lifts and stairs.	Lobby areas are clearly defined and appropriately located with sufficient safe manoeuvring areas provided.	Yes.
	Supporting facilities within car parks, including garbage, plant and switch rooms, storage areas, and car wash bays can be accessed without crossing car parking spaces.	The basement areas are provided with storage cages, bicycle parking and building manager amenities that are accessed from common areas or pathways and do not rely on access through parking spaces.	Yes.
3J-6	Positive street address and active frontages to be provided at ground floor.	Wide and direct pedestrian access pathways are provided to the communal entries and lift lobby areas.	Yes.
4A-1	Living rooms and private open spaces of at least 70% of apartments to receive 2 hours direct sunlight between 9am and 3pm mid-winter.	Submitted documentation confirms that 77% of apartments are provided with compliant levels of solar access.	Yes.
4A-3	Sun shading devices are to be utilised.	Balconies are proposed to be covered by the levels over. Submitted elevations include sun shading devices and louvres to the northern façade.	Yes.
4B-3	60% of apartments are to be naturally ventilated and overall depth of cross-through apartments 18m maximum glass-to-glass line.	Submitted documentation confirms that 61% of apartments receive natural cross flow ventilation.	Yes.

4C-1	Finished floor to finished ceiling levels are to be 2.7m for habitable rooms, 2.4m for non-habitable rooms.	The proposal is for a minimum of 2.7m measured from finished floor to finished ceiling level for habitable rooms, 2.4m for non habitable rooms and 3.3m for mixed use areas.	Yes.
4D-1	Apartments are to have the following min. internal floor areas: 1 bed – 50sqm 2 bed – 70sqm 3 bed – 90sqm Additional bathroom areas increase minimum area by 5sqm.	All proposed apartment sizes comply with the ADG requirements.	Yes.
4D-2	In open plan layouts the maximum habitable room depth is 8m from a window.	All units comply with this requirement.	Yes
4D-3	Master bedrooms to be 10sqm's and other rooms 9sqm's.	All units comply with this requirement.	Yes.
	Bedrooms to have a minimum dimension of 3m.	All units comply.	Yes
	Living rooms to have minimum width of 3.6m for a 1 bedroom unit and 4m for 2 & 3 bedrooms.	All units comply.	Yes
4E-1	All units to have the following primary balcony areas: 1 bed – 8sqm (2m deep) 2 bed – 10sqm (2m deep) 3 bed – 12sqm (2.4m deep)	All units comply.	Yes.
4E-3	Downpipes and balcony drainage are integrated with the overall façade and building design.	A condition of consent is recommended in this regard.	Yes. Condition recommended.
	Air-conditioning units should be located on roofs, in basements, or fully integrated into the building design.	A condition of consent is recommended in this regard.	Yes. Condition recommended.
4F-1	Daylight and natural ventilation to be provided to all common circulation spaces.	Natural light is provided to the central lobby and lift core circulation spaces.	Yes.

4G-1	In addition to storage in kitchens, bathrooms and bedrooms, the following storage is to be provided: 1 bed – 4m ³ 2 bed – 6m ³ 3 bed – 10m ³ With 50% of the above to be provided within the Units.	Adequate storage is provided within each unit in addition to storage cages located with the basement carpark.	Yes.
4K-1	Flexible apartment configurations are provided to support diverse household types.	The development proposes a range of unit sizes, configurations and number of bedrooms to accommodate change over time and cater for differing households. A condition of consent is recommended to require that 10% of apartments (6) are to be constructed as adaptable. Adaptable apartments are to be allocated an accessible car parking space.	Yes. Conditions recommended.
4L-1	Direct street access should be provided to ground floor apartments.	Complies.	Yes.
4M-1	Building facades to be well resolved with an appropriate scale and proportion to the streetscape and human scale.	At ground level the high ceiling height and the proportion of the colonnade on the pedestrian link and East facades expresses the retail use and is appropriately scaled. The building steps in on the northern façade to reduce the apparent scale from pedestrians at the ground.	Yes.
4O-1	Landscape design to be sustainable and enhance environmental performance.	The submitted landscape design report prepared by Crone indicates a selection of trees and shrubs appropriate for the site.	Yes.
4Q-2	Adaptable housing is to be provided in accordance with the relevant Council Policy.	A condition requiring 10% of apartments to be designed as adaptable is recommended.	Yes. Condition recommended.
4S	Mixed use development should be concentrated around public transport and centres.	The site is located adjacent to Penrith Rail Station.	Yes.
4U-1	Adequate natural light is provided to habitable rooms.	All habitable rooms are provided with appropriate levels of natural light. Apartment depths and open floor plan arrangements allow light into kitchens, dining and living areas.	Yes.
4V-2	Water sensitive urban design systems to be designed by suitably qualified professional.	The application has been referred to Council's internal Environmental Waterways Unit with no objections raised. WSUD measures have also been considered at the major projects approval stage.	Yes.

4W-1	A Waste Management Plan is to be provided.	A Waste Management Plan has been submitted.	Yes.
	Circulation design allows bins to be easily manoeuvred between storage and collection points.	The waste collection area located at the ground floor is considered to be adequate. The proposal for 1 x residual chute, 1 x recycling chute and 1 x 240l bin within a cupboard located on each level (adjacent to each lift lobby) is considered to be acceptable. The building manager will be responsible for the changing of bins and their presentation for collection within the ground floor collection area.	Yes.

Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

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

Local Environmental Plan 2010 (Amendment 4)

Provision	Compliance
Clause 1.2 Aims of the plan	Complies
Clause 2.3 Permissibility	Complies
Clause 2.3 Zone objectives	Complies
Clause 4.1A Minimum lot sizes for dual occupancies, multi dwelling housing and residential flat buildings	N/A
Clause 4.3 Height of buildings	Complies
Clause 4.4 Floor Space Ratio	N/A
Clause 4.5 Calculation of floor space ratio and site area	N/A
Clause 4.6 Exceptions to development standards	N/A
Clause 5.9 Preservation of trees or vegetation	N/A
Clause 5.9AA Trees or vegetation not prescribed by development control plan	N/A
Clause 5.10 Heritage conservation	N/A
Clause 7.1 Earthworks	Complies
Clause 7.2 Flood planning	Complies
Clause 7.4 Sustainable development	Complies
Clause 7.5 Protection of scenic character and landscape values	Complies
Clause 7.6 Salinity	Complies
Clause 7.7 Servicing	Complies
Clause 7.8 Active street frontages	Complies
Clause 7.12 Maximum gross floor area of commercial premises	N/A
Clause 8.1 Application of Part	Complies
Clause 8.2 Sun access	Complies
Clause 8.3 Minimum building street frontage	Complies
Clause 8.4 Design excellence	Complies
Clause 8.5 Building separation	Complies
Clause 8.6 Serviced apartments	Complies
Schedule 1 Additional permitted uses	Complies

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

Draft State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017

This draft policy has been established to cater for significant population growth and allows for streamlined assessment and approval processes applying to child care and school facilities.

The proposal will not contravene the provisions of the draft SEPP

Draft Amendment to Penrith Local Environmental Plan 2010

At the time of lodgement, the site was subject to a Planning Proposal, which has since been gazetted. The Planning Proposal seeks to:

- Insert a clause applying to Key Sites within the Penrith City Centre, offering floor space bonuses in return for a public benefit
- Identify the subject land as a Key Site.

The amendment to Penrith LEP 2010 (Amendment 14) was effective from 23 June 2017. The amendment introduced a new provisions relating to development incentive for Key Sites within the Penrith City Centre (Clause 8.7). It is noted that the subject development application does not rely on this Clause. The proposed development is permissible and compliant with relevant development standards under the Penrith LEP 2010 at the time of lodgement.

Section 79C(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	Does not comply - see Appendix - Development Control Plan Compliance
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 - see Appendix - Development Control Plan Compliance
C11 Subdivision	N/A
C12 Noise and Vibration	Complies
C13 Infrastructure and Services	Complies
D2.1 Single Dwellings	N/A
D2.2. Dual Occupancies	N/A
D2.3 Secondary Dwellings	N/A
D2.4 Multi Dwelling Housing	N/A
D2.5 Residential Flat Buildings	Complies
D2.6 Non Residential Developments	N/A
E11 Penrith	Does not comply - see Appendix - Development Control Plan Compliance

Section 79C(1)(a)(iiia) The provisions of any planning agreement

There are no planning agreements relevant to this application.

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

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

Further, the development was submitted with an Access Report concluding that the proposal is capable of complying with the applicable provisions of the Building Code of Australia and relevant Australian Standards. The proposed development complies with the applicable requirements of the Regulations.

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

Context and Character

The development of the site will have a minor impact of the character of the area. The site is currently an at-grade car park and the approval of the development will introduce a six storey mixed use development into the streetscape. The proposed setbacks, street activation, overall design and selected materials are assessed to be sympathetic with the local area and are supportive of the high quality future desired streetscape character anticipated for the area both under the Penrith DCP 2014 and the approved Major Project Concept Plan for Thornton Estate (MP10-0075).

Solar Access

The development is not likely to have adverse impact on the amount of solar access attributed to neighbouring sites as the shadow is generally cast on street and public spaces.

Traffic and Parking

As a result of the proposal it is expected that there will be an increase in the volume of traffic entering the site, however the development proposes a compliant car parking rate and is unlikely to impact negatively, to the detriment of the local network. Conditions of consent are recommended with regard to the allocation of car parking spaces and compliance with applicable Australian Standards related to parking, manoeuvring and sight lines.

Noise and Construction Impacts

Construction at the site will have a temporary affect on the amenity of the area due to noise from construction traffic, equipment and machinery. Standard conditions of consent are recommended with regard to hours of construction, noise and dust suppression and soil and sediment control.

Social & Socio-Economic Impacts

The development is unlikely to result in any negative social impacts in the area. The proposal has been assessed against the principles and objectives contained within the DCP, specifically those related to safety and security and is compliant in this regard.

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

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

- The use is compatible with surrounding and future adjoining land uses;
- The grade and area of the site is capable of providing for, or connecting to the infrastructure required to service and maintain the development;
- The proposal is permissible within the zoning and will not result in unacceptable negative environmental impacts in the locality;
- The site is ideally located adjacent a major transport hub within the Penrith city centre.

Section 79C(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 advertised and notified to nearby and adjoining residents.

Council notified 9 properties in the area and the exhibition period we between 12 May and 12 June 2017. Council has received no submissions in response.

Referrals

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

Referral Body	Comments Received
Building Surveyor	No objections - subject to conditions
Development Engineer	No objections - subject to conditions
Environmental - Environmental management	Not supported, however conditions provided
Environmental - Waterways	No objections - subject to conditions
Waste Services	Not supported, however conditions provided
Traffic Engineer	No objection subject to conditions
Community Safety Officer	No objections
Social Planning	No objections

Environmental - Environmental management

Council's Environmental Management Officer has not supported the application given limited information regarding acoustic impacts of commercial uses on residents, and land contamination.

The Noise Impact Assessment (NIA) dated 28/08/2017 includes discussion of the proposed common pool area, commercial uses and the Childcare Centre. Some of these uses are not yet proposed and child care centre numbers and operational information will be subject to a later application. The subject development application seeks approval for retail and child care centre space to be provided with the specific detail of the future uses to form part of separate applications.

With this being the case, the Noise Impact Assessment provides commentary of potential methods for noise mitigation, which are generally operational in nature. A number of conditions have been recommended to ensure that noise impacts are addressed prior to the issue of a construction and/or occupation certificate.

The site is also currently being used as a commuter car park, which is a potentially contaminating activity. However, any site investigations would require the car park bitumen to be removed before testing can be undertaken. It is also noted that the inclusion of a basement carpark is likely to remove any contaminated soil prior to construction. For these reasons, a condition has been recommended that the testing be undertaken following the removal of the car park and prior to construction, and be submitted to Council for approval.

Waste Services

Council's Waste Management Officer has not supported the application on the basis of potential capacity issues of waste infrastructure should future stages of development include additional dwellings. The application has been assessed against the current proposal and is compliant with the capacities identified within the Council's DCP. Any future development application will need to address waste collection and does not form part of this development application.

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

The likely impacts of the proposal have been assessed as acceptable or have been addressed by way of recommended conditions of consent and as such, the proposed development will not generate any significant issues of public interest.

Section 94 - Developer Contributions Plans

Condition C4 of MP10-0075 (as amended) and Condition B8 of MP10-0078 (as amended) set out the rates for Section 94 contributions for residential dwellings within the Thornton Estate, consistent with the Ministerial Cap for Section 94 plans. The Conditions state that:

1. Contributions shall be made payable to Penrith City Council for the purposes of District Open Space Facilities at a rate per dwelling type, as shown below:

Development Type	Contribution
Residential flat building, Multi dwelling housing and Shop-top housing	\$1,566 for each new dwelling
Dwelling houses, Dual occupancies and subdivision	\$2,427.30 for each new dwelling or new lot
Housing for older people	\$1,174.50 for each new dwelling.

2. The contributions are to be paid to Council prior to Construction Certificate being issued for a dwelling,

3. Deferred or periodic payments may be permitted subject to agreement from Council. Council may require the applicant to provide a bank guarantee for the full amount of the contribution or the outstanding balance,

4. If not paid within the current quarterly period, the contribution will be reviewed at the time of payment in accordance with the adopted Section 94 Plan.

Note: Section 94 Contributions are not required for the community facility or any other non-residential development.

Based on the above requirements, the following Section 94 contributions for district open space facilities are applicable:

- 62 dwellings x \$1,838 = \$113,956.00

A condition of consent is recommended to require the payment of this contribution prior to the issue of a Construction Certificate.

Conclusion

The proposal has been assessed against the relevant environmental planning instruments and policies, including the Penrith LEP 2010 and the Penrith DCP 2014. The proposal is found to satisfy the aims, objectives and provisions of these policies and is acceptable.

The proposal will have a positive impact on the surrounding character of the area and proposes a site responsive design which is compliant with Council's key development standards and as such is not contrary to the public interest. The application is therefore worthy of support, subject to the recommended conditions.

Recommendation

1. That DA17/0334 for six storey mixed use building at 184 Lord Sheffield Circuit, Penrith, be approved subject to the attached conditions.

CONDITIONS

General

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

<u>Plan</u>	<u>Numbered</u>	<u>Drawn By</u>	<u>Dated</u>
Basement 01 Plan	1099 (Issue B)	Crone Architects	31 July 2017
Ground Floor Plan	1100 (Issue B)	Crone Architects	31 July 2017
Level 01 Plan	1101 (Issue B)	Crone Architects	31 July 2017
Level 02 Plan	1102 (Issue B)	Crone Architects	31 July 2017
Level 03 Plan	1103 (Issue B)	Crone Architects	31 July 2017
Level 04 Plan	1104 (Issue B)	Crone Architects	31 July 2017
Level 05 Plan	1105 (Issue B)	Crone Architects	31 July 2017
Level 06 Plan	1106 (Issue A)	Crone Architects	7 April 2017
Roof Plan	1107 (Issue A)	Crone Architects	7 April 2017
East Elevation Plan	2000 (Issue A)	Crone Architects	7 April 2017
South Elevation Plan	2001 (Issue A)	Crone Architects	7 April 2017
West Elevation Plan	2002 (Issue A)	Crone Architects	7 April 2017
North Elevation Plan	2003 (Issue A)	Crone Architects	7 April 2017
Elevations Detail Plan	2050 (Issue A)	Crone Architects	7 April 2017
Elevations Detail Plan	2051 (Issue A)	Crone Architects	7 April 2017
Section AA Plan	3000 (Issue A)	Crone Architects	7 April 2017
Section BB Plan	3001 (Issue A)	Crone Architects	7 April 2017
Waste Management Plan	-	Elephants Foot	27 March 2017
Landscape Design Report for Lot 3003 Issue A		Urbis	18 April 2017

- 2 The proponent is to comply with the applicable conditions of consent of the Major Projects Approval No. MP10-0075 and the Statement of Commitments included within Schedule 3 of MP10-0075, in particular, those related to site contamination, unexpected finds and the discovery of unexploded ordinance.

- 3 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.)
 - Position and orientation of boom/jib and counter boom/jib
 - 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 both ends of the boom/jib and counter boom/jib, such that the lighting will provide an indication of the height of the crane and the radius of the crane boom/jib. Such lighting, 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.
 - When a crane is unattended for an extended period of time ensure the crane's boom is retracted and lowered as far as possible.
 - No part of the crane or structure shall extend beyond the boundaries of the subject development site unless approved by Penrith City Council in consultation with the Nepean Blue Mountains Local Health District. Any encroachment beyond the boundaries of the subject site shall be the minimum amount required to facilitate construction and access all parts of the construction site.
- 4 Should any "unexpected finds" occur during site excavation and earthworks, including, but not limited to, the identification/finding of contaminated soils, buried building materials, asbestos, odour and/or staining, works are to cease immediately and Council notified. Any such "unexpected finds" shall be addressed by an appropriately qualified environmental consultant.

All remediation works within the Penrith Local Government Area are considered to be Category 1 works under State Environmental Planning Policy No. 55 - Remediation of Land. Should any contamination be found during development works and should remediation be required, development consent is to be sought from Penrith City Council before the remediation works commence.

- 5 A minimum of 7 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 by the Association of Consultants in Access Australia confirming that the adaptable dwellings are capable of being modified, when required by the occupant, to comply with the Australian Housing Standard (AS 4299-2009). A Compliance Certificate in this regard, shall be provided **prior to the issue of an Occupation Certificate.**

- 6 **Prior to the issue of an Occupation Certificate**, the developer is to enter into a formal 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 or 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 Council's Waste Collection and Processing Contracts for Standard Waste Collection. The provision of Council's waste collection service will not commence until formalisation of the agreement.

The document can be downloaded from Council's website. The original signed copy is to be provided to Penrith City Council **prior to the issue of an Occupation Certificate**.

- 7 In accordance with the Schedule 3 of the Statement of Commitments attached to the Major Projects Approval No. MP10-0075, evidence of the preparation of a Transport Access Guide document, that is to be made available to residents of the development, is to be provided to the Principal Certifying Authority **prior to the issue of the Occupation Certificate**.
- 8 **Prior to the issue of an Occupation Certificate**, a design verification statement from a qualified designer shall be submitted. The design verification statement shall verify that the development achieves the design quality shown in the approved Construction Certificate plans and specifications, having regard to the design quality principles set out in Part 2 of State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development.
- 9 **Prior to the issue of a Construction Certificate**, a design verification statement from a qualified designer shall be submitted. The design verification statement shall verify that the Construction Certificate plans and specifications achieve or improve the design quality of the development for which development consent was granted, having regard to the design quality principles set out in Part 2 of State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development.
- 10 A Final Schedule of Materials and Finishes is to be submitted to and approved by Penrith City Council prior to the issue of the Construction Certificate.
- 11 The development must be implemented substantially in accordance with the stamped-approved plans issued by Penrith City Council and other plans or documents approved in respect to Schedule 1 by Council or an accredited Certifier, except as may be amended in red on the attached plans and by the following conditions.
- 12 This development consent relates to the construction of the apartments building and the pedestrian through-site link only. A separate development application shall be submitted to Penrith City Council for any future development of the site not covered by this consent. No approval is granted for the use of any commercial spaces on the ground and first floors as indicated on plans or referenced within supportive reports or documentation.
- 13 All civil engineering construction works shall be carried out substantially in accordance with Penrith City Council's Guidelines for Engineering Works for Subdivisions and Developments Part 2 - Construction.
- 14 **Prior to the commencement of any fit-out works or occupation**, a separate development application is to be obtained from Penrith City Council for the use of each commercial tenancy within the building.

- 15 **The development shall not be used or occupied until an Occupation Certificate has been issued.**
- 16 A separate development application for the erection of any sign or advertising structure, other than an advertisement listed as exempt development under the State Environmental Planning Policy (Exempt and Complying Developments Codes) 2008, is to be submitted to Penrith City Council, complying with the requirements of Penrith Development Control Plan 2014
- 17 The finishes of all structures and buildings are to be maintained at all times and any graffiti or vandalism immediately removed/repaired.
- 18 A **Construction Certificate** shall be obtained prior to commencement of any building works.
- 19 In the event of Council receiving complaints regarding excessive odour from the garbage bay area, the person(s) in control of the premises shall at their own cost arrange for an environmental investigation to be carried out (by a suitably qualified person) and submit a report to Council specifying the proposed methods for the control of odour emanating from the garbage bay area
- 20 The following Crime Prevention Through Environmental Design matters are to be incorporated in the design of the buildings:
- (a) User/sensor electronic security gates shall be installed at the basement carpark entrances/exits.
 - (b) The finishes of all structures and buildings are to be maintained at all times and any graffiti or vandalism is to be removed and or repaired immediately.
 - (c) Each individual apartment is to be clearly numbered and each level of the building is to be easily identifiable when viewed from the lift.
- 21 Car parking and vehicle access points, pedestrian pathways, lobby areas, stairwells, garbage rooms, laneways and pedestrian access routes in outdoor public spaces should be lit to the minimum of Australian Standard 1158 and the following design requirements:
- (a) Lighting is to be consistent in order to reduce the contrast between shadows and illuminated areas.
 - (b) Lighting is to be designed in accordance with AS 4282 - Control of the obtrusive effects of outdoor lighting.

Advisory Notes:

- Lighting should be directed towards access/egress routes to illuminate potential offenders, rather than towards the building or observation points.
- Lighting is to take into account vegetation and landscaping that may act as an entrapment point and should be designed to avoid vandalism.
- Where appropriate movement sensor lighting may be incorporated.
- Lighting shall be maintained and kept in good working order.
- Appropriate directional signage is to be installed to assist with way-finding.
- All surfaces in the car parking areas should be light in colour to reflect as much light as possible.

22

The following conditions from Sydney Trains shall be satisfied as part of this application:

- If required by Sydney Trains, prior to the commencement of works, prior to the issue of the Occupation

Certificate, or at any time during the excavation and construction period deemed necessary by Sydney Trains, a joint inspection of the rail infrastructure and property in the vicinity of the project is to be carried out by representatives from Sydney Trains and the Applicant. These dilapidation surveys will establish the extent of any existing damage and enable any deterioration during construction to be observed. The submission of a detailed dilapidation report will be required unless otherwise notified by Sydney Trains.

- The following items are to be submitted to Sydney Trains for review and endorsement prior to the issuing of a Construction Certificate:
 - o Machinery to be used during excavation/construction.

The Principal Certifying Authority is not to issue the Construction Certificate until it has received written confirmation from Sydney Trains that this condition has been complied with.

- An acoustic assessment is to be submitted to Council prior to the issue of a Construction Certificate demonstrating how the proposed development will comply with the Department of Planning's document titled "Development Near Rail Corridors and Busy Roads- Interim Guidelines".
- Prior to the issue of a Construction Certificate the Applicant is to engage an Electrolysis Expert to prepare a report on the Electrolysis Risk to the development from stray currents. The Applicant must incorporate in the development all the measures recommended in the report to control that risk. A copy of the report is to be provided to the Principal Certifying Authority with the application for a

Construction Certificate.

- The design, installation and use of lights, signs and reflective materials, whether permanent or temporary, which are (or from which reflected light might be) visible from the rail corridor must limit glare and reflectivity to the satisfaction of Sydney Trains. The Principal Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.
- Prior to the issue of a Construction Certificate a Risk Assessment/Management Plan and detailed Safe Work Method Statements (SWMS) for the proposed works including any potential impact/ risk to the Rail Corridor land and Sydney Trains assets (including the 11kV and 66kV undergrounded cables) are to be submitted to Sydney Trains for review and comment on the impacts on rail corridor. The Principal

Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.

- If required by Sydney Trains, a track monitoring plan (including instrumentation and the monitoring regime during excavation and construction phases) is to be submitted to Sydney Trains for review and endorsement prior to the issuing of a Construction Certificate. The Principal Certifying Authority is not to issue a Construction Certificate until written confirmation has been received from Sydney Trains advising of the need to undertake the track monitoring plan, and if required, that it has been endorsed.
- If required, prior to the issue of a Construction Certificate the Applicant is to contact Sydney Trains Engineering Management Interfaces to determine the need for public liability insurance cover. If insurance cover is deemed necessary this insurance be for sum as determined by Sydney Trains and shall not contain any exclusion in relation to works on or near the rail corridor, rail infrastructure. The Applicant is to contact Sydney Trains Engineering Management Interfaces to obtain the level of insurance required for this particular proposal. Prior to issuing the Construction Certificate the Principal Certifying Authority must witness written proof of this insurance in conjunction with Sydney Trains written advice to the Applicant on the level of insurance required.
- If required, prior to the issue of a Construction Certificate the Applicant is to contact Sydney Trains Engineering Management Interfaces to determine the need for the lodgement of a Bond or Bank Guarantee for the duration of the works. The Bond/Bank Guarantee shall be for the sum determined by Sydney Trains. Prior to issuing the Construction Certificate the Principal Certifying Authority must witness written advice from Sydney Trains confirming the lodgement of this Bond/Bank Guarantee.
- Prior to the issuing of a Construction Certificate the Applicant is to submit to Sydney Trains a plan showing all craneage and other aerial operations for the development and must comply with all Sydney Trains requirements. If required by Sydney Trains, the Applicant must amend the plan showing all craneage and other aerial operations to comply with all Sydney Trains requirements. The Principal Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from the Sydney Trains confirming that this condition has been satisfied.
- Prior to the commencement of works the Applicant shall peg-out the easement and common property boundary with RailCorp's land. This work is to be undertaken by a registered surveyor.

Where the Applicant proposes to enter the rail corridor, the Principal Certifying Authority shall not issue a Construction Certificate until written confirmation has been received from Sydney Trains confirming that its approval has been granted. □ Prior to the commencement of works appropriate fencing is to be in place along the rail corridor to prevent unauthorised access to the rail corridor during construction. Details of the type of fencing and the method of erection are to be to the satisfaction of Sydney Trains prior to the fencing work being undertaken.

- The development shall have appropriate fencing fit for the future usage of the development site to prevent unauthorised access to the rail corridor by future occupants of the development. Prior to the issuing of an Occupation Certificate the Applicant shall liaise with Sydney Trains regarding the adequacy of any existing fencing along the rail corridor boundary. Details of the type of new fencing to be installed and the method of erection are to be to the satisfaction of Sydney Trains prior to the fencing work being undertaken.
- The developer must provide a plan of how future maintenance of the development facing the rail corridor is to be undertaken. The maintenance plan is to be submitted to Sydney Trains prior to the issuing of the Occupation Certificate. The Principal Certifying Authority shall not issue an Occupation Certificate until written confirmation has been received from Sydney Trains advising that the maintenance plan has been prepared to its satisfaction.
- Prior to the issuing of an Occupation Certificate the Applicant is to submit as-built drawings to Sydney Trains and Council. The as-built drawings are to be endorsed by a Registered Surveyor confirming that there has been no encroachment into Sydney Trains property or easements, unless agreed to be these authorities. The Principal Certifying Authority is not to issue the final Occupation Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied
- No scaffolding or hoarding is to be used facing the rail corridor unless prior written approval has been obtained from Sydney Trains. To obtain approval the proponent will be required to submit details of the scaffolding and hoarding, the means of erecting and securing this scaffolding, the material to be used, and the type of screening to be installed to prevent objects falling onto the rail corridor. Unless agreed to by Sydney Trains in writing, scaffolding shall not be erected without isolation and protection panels.
- Sydney Trains or Transport for NSW (TfNSW), and persons authorised by those entities for the purpose of this condition, are entitled to inspect the site of the development and all structures to enable it to consider whether those structures have been or are being constructed and maintained in accordance with the approved plans and these conditions of consent, on giving reasonable notice to the principal

contractor for the development or the owner or occupier of the part of the site to which access is sought.

- The developer shall make provision for easy and ongoing access by rail vehicles, plant and equipment to support maintenance and emergency activities.
- Unless advised by Sydney Trains in writing, all excavation, shoring and piling works within 25m of the rail corridor are to be supervised by a geotechnical engineer experienced with such excavation projects.
- No rock anchors/bolts are to be installed into Sydney Trains property or easements.
- No work is permitted within the rail corridor, or its easements, at any time unless prior approval or an Agreement has been entered into with Sydney Trains.
- Given the development site's location next to the rail corridor, drainage from the development must be adequately disposed of/managed and not allowed to be discharged into the corridor unless prior approval has been obtained from Sydney Trains.
- During all stages of the development, environmental legislation and regulations will be complied with.
- During all stages of the development extreme care shall be taken to prevent environmental harm within the railway corridor. Any form of environmental harm to areas within the railway corridor or legislative non-compliance that arises as a consequence of the development activities shall remain the full responsibility of the Applicant.
- During all stages of the development, extreme care shall be taken to prevent any form of pollution

entering the railway corridor. Any form of pollution that arises as a consequence of the development activities shall remain the full responsibility of the Applicant.

- Copies of any certificates, drawings, approvals/certification or documents endorsed by, given to or issued by Sydney Trains must be submitted to Council for its records prior to the issuing of a Construction Certificate.
- Any conditions issued as part of Sydney Trains approval/certification of any documentation for compliance with the Sydney Trains conditions of consent, those approval/certification conditions will also form part of the consent conditions that the Applicant is required to comply with.

- 23 Any plant or unsightly structures installed on the external facades or rooftop must be screened from view.
- 24 Prior to the issue of Construction Certificate the Certifying Authority shall ensure the proposed development is compatible with the stormwater treatment recommendations of the North Penrith Stages 2B - 3B Water Cycle Management Strategy Report Incorporating Water Sensitive Urban Design Techniques prepared by J.Wyndham Prince, reference 9470Rpt1B dated 17 October 2012.
- 25 A detailed Management Strategy is to be submitted **prior to Construction Certificate** that details how the wetland and central water feature will be protected from pollutants and sediment during the building construction stages.

Environmental Matters

- 26 Erosion and sediment control measures shall be installed **prior to the commencement of works on site**. 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).

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.

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

- 28 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.
- 29 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.
- 30 All excavated waste must be properly classified, and all excavated waste, including contaminated soil, is to be lawfully transported and disposed of at a lawful waste facility. Suitable documentation is to be provided to Council demonstrating the lawful transportation and disposal of the waste, including any contaminated soil. No contaminated soil is to be retained on site.
- 31 All mechanical plant and equipment is to comply with the noise criteria outlined in the Council approved Noise Impact Assessment/Acoustic Report.

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 established 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 has 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.

- 32 The installation of a wash bay will require consent from Penrith City Council.
Any proposed vehicle wash bay is to be installed and connected to the sewer in accordance with Sydney Water's requirements.
Where a wash bay is proposed, details of the vehicle wash bay including the Section 73 Certificate issued by Sydney Water for the discharge of trade waste from the premises shall be submitted to the Principal Certifying Authority before the wash bay can be installed.

- 33 No waste water resulting from, or associated with, the excavation and construction phase of the development, is permitted to enter Council's stormwater system. All waste water 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 waste water and are to be made available to Penrith City Council on request. Should approval be obtained from Sydney Water for the discharge of any waste water 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.

Only clean and unpolluted water is to be discharged into Penrith City Council's stormwater drainage system.

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

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

- state the legal property description of the fill material source site,
- be prepared by an appropriately qualified person with consideration of all relevant guidelines (e.g. EPA, ANZECC, NH&MRC), standards, planning instruments and legislation,
- clearly indicate the legal property description of the fill material source site,
- provide details of the volume of fill material to be used in the filling operations,
- provide a classification of the fill material to be imported to the site in accordance with the Environment Protection Authority's "Environmental Guidelines: Assessment, Classification & Management of Non-Liquid Wastes" 1997, and
- (based on the fill classification) determine whether the fill material is suitable for its intended purpose and land use and whether the fill material will or will not pose an unacceptable risk to human health or the environment.

An appropriately qualified person/s shall:

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

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

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

{Note: An appropriately qualified person is defined as "a person who, in the opinion of Council, has a demonstrated experience, or access to experience in hydrology, environmental chemistry, soils 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."}

36 **Prior to the issue of the Construction Certificate**, a Construction Waste Management Plan is to be submitted to Council for approval. This Plan is to address all waste materials generated during the construction phase of the development, including details of the proposed waste volumes, on site storage and management, designated waste contractors and waste facilities.

The approved Waste Management Plan must be implemented and adhered to on site, with supporting documentation / receipts retained in order to verify the disposal of materials in accordance with the approved Plan.

- 37 **Prior to the issue of the Construction Certificate**, a Construction Noise and Vibration Impact Assessment and Management Plan is to be prepared and submitted to Council for approval. This assessment is to consider (at minimum) the findings and recommendations of the Council approved Noise Impact Assessment/Acoustic Report, and the construction program, construction methods, equipment and vehicles in association with the NSW Department of Environment and Climate Change's "Interim Construction Noise Guideline" 2009 and "Assessing Vibration: a technical guideline".

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

- 38 **Prior to the issue of an Occupation Certificate**, a qualified acoustic consultant shall certify that the development has been constructed to meet the indoor design sound levels in accordance with the Council approved acoustic report. The certification shall be submitted to the Principal Certifying Authority. A copy of the certification together with the Occupation Certificate shall be submitted to Penrith City Council if Council is not the Principal Certifying Authority.

- 39 Garbage rooms within buildings shall have masonry walls with smooth face cement rendering to the full height internally and be provided with a smooth concrete floor. The floor shall be graded and drained to a floor waste connected to the sewer that shall be charged with a suitably located cold water hose cock. Access doors to the garbage store shall be tight fitting solid core or of non-combustible construction.

- 40 **Upon completion of the removal of the carpark area**, and prior to any other development works commencing (other than carpark removal works), the remaining underlying soils are to be investigated, sampled and tested by an appropriately qualified environmental consultant. The environmental consultant is to ensure that adequate assessment, including soil sampling and analysis, is undertaken to determine the suitability of the site for the proposed use. The investigation work is to be in accordance with the National Environment Protection (Assessment of Site Contamination) Measure 1999 [NEPM 2013] and applicable NSW EPA contaminated land guidelines and a report submitted to Council for consideration and approval.

The contamination assessment is to be provided to Penrith City Council for approval. If Penrith City Council is not the certifying authority, a copy of Council's approval is to be submitted to the Private Certifying Authority. No works (other than carpark removal works) are to commence until the contamination assessment has been submitted to and approved by Penrith City Council.

Should it be identified that remediation works are required to be undertaken, a separate development application is to be submitted to Council for this work. No work on the current development is to proceed until such time as this new application has been approved by Council, and Council has approved the Validation Report associated with the remediation works.

An appropriately qualified person/s shall:

1. Supervise the investigation works.
2. Supply Council with a copy of any relevant documentation for further testing carried out during the site investigation works.
3. Address off site impacts and proposed management strategies where relevant.
4. (after completion of works) Certify by way of a Compliance Certificate or other written documentation that the site will not pose an unacceptable risk to human health or the environment and is suitable for the proposed residential land use. A copy of the Compliance Certificate or other written documentation is to be submitted to the Principal Certifying Authority (PCA) and Penrith City Council if it is not the PCA.

{Note: An appropriately qualified person is defined as "a person who, in the opinion of Council, has a demonstrated experience, or access to experience in hydrology, environmental chemistry, soil science, ecotoxicology, 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."}

- 41 In the event of ongoing noise complaints relating to the development being received by Council, the owner and/or occupier of the development maybe required by Council to obtain the services of a suitably qualified acoustic consultant to undertake a noise impact assessment on the development to address the concerns of the community.

The noise impact assessment report is to be prepared and provided to Council for approval within 45 days of being requested. Any mitigation works are to be undertaken within thirty (30) days from the date of notice from Council, unless otherwise specified.

- 42 A Noise Management Plan (NMP) is to be prepared and submitted to Penrith City Council for consideration and approval **prior to the issue of an Occupation Certificate**.

The NMP shall be prepared by suitably qualified persons, and may need to be amended to include any comments provided by Council. The NMP is to address the Childcare Centre component of the development [and any other non-residential component(s) as required by Council] and is to :

- address all noise related aspects of the development's operational phases, including, but not limited to:
 - how the restriction on the number of children playing outside will be managed
 - a schedule describing the times of outdoor play for each group of children; and
- address the relevant conditions of this consent; and
- recommend any systems/controls to be implemented to minimise the potential for any adverse noise impact(s); and
- incorporate a program for ongoing monitoring and review to ensure that the NMP remains contemporary with relevant environmental standards.

The Council approved Noise Management Plan is to be implemented and complied with at all times.

- 43 The waste collection room located on ground floor is to be constructed in accordance with the provisions outlined in section 4.4.2 of the 'Residential Flat Building Developments Waste Management Guideline' document. Amended plans to be submit to Council for approval prior to the issue of the Construction Certificate.
- 44 The on-site waste collection infrastructure to permit the collection of integrated auger compactors shall be built in accordance with section 7.2 and 7.3 of the 'Residential Flat Building Developments Waste Management Guideline' document. .
- 45 The turn table located on ground floor is to incorporate a hydraulic override system in accordance with section with 3.2.5 of the 'Residential Flat Building Developments Waste Management Guideline' document.

- 46 The two chute rooms located in basement 1 are to be constructed in accordance with the provisions outlined in section 4.4.1 of the 'Residential Flat Building Developments Waste Management Guideline' document. Amended plans to be submitted to Council for approval prior to the issue of the Construction Certificate.
- 47 The bulky waste room located on ground floor to be constructed in accordance with the provisions outlined in section 4.4.3 of the 'Residential Flat Building Developments Waste Management Guideline' document. Amended plans to be submitted to Council for approval prior to the issue of the Construction Certificate.

BCA Issues

- 48 The owner of a building, to which an essential fire safety measure is applicable, shall provide Penrith City Council with an annual fire safety statement for the building. The annual fire safety statement for a building must:
- (a) deal with each essential fire safety measure in the building premises, and
 - (b) be given:
 - within 12 months after the last such statement was given, or
 - if no such statement has previously been given, within 12 months after a final fire safety certificate was first issued for the building.
 -
- As soon as practicable after the annual fire safety statement is issued, the owner of the building to which the statement relates:
- must also provide a copy of the statement (together with a copy of the current fire safety schedule) to the Commissioner of New South Wales Fire Brigades, and
 - prominently display a copy of the statement (together with a copy of the current fire safety schedule) in the building.
- 49 All aspects of the building design shall comply with the applicable performance requirements of the Building Code of Australia so as to achieve and maintain acceptable standards of structural sufficiency, safety (including fire safety), health and amenity for the on-going benefit of the community. Compliance with the performance requirements can only be achieved by:
- (a) complying with the deemed to satisfy provisions, or
 - (b) formulating an alternative solution which:
 - complies with the performance requirements, or
 - is shown to be at least equivalent to the deemed to satisfy provision, or
 - (c) a combination of (a) and (b).

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

Utility Services

- 50 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.

- 51 **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 must be consulted over the proposed location of the substation before the Construction Certificate for the development is issued as the location of the substation may impact on other services and building, driveway or landscape design already approved by Council. Confirmation is to be provided that a blast wall or other protective structure is/is not required.

- 52 **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.

- 53 In the event that a hydrant booster is necessary to service the development, the booster shall be integrated into the design of the building. **Prior to the issue of a Construction Certificate**, Penrith City Council must be consulted over the proposed location of the booster as the location of the booster may impact on other services and building, driveway or landscape design already approved by Council. Confirmation is required with regard to any heat shield or other such structures required.

Construction

- 54 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.

55 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.

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

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

Other construction works carried out inside a building/tenancy and do not involve the use of equipment that emits noise are not restricted to the construction hours stated above.

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

Swimming Pools

- 57 When the swimming pool construction has reached a stage where the pool is capable of holding water, the pool area shall be restricted from access in accordance with AS1926 "Swimming Pool Safety". Restriction of access to the pool area shall also comply with the Swimming Pools Act, 1992.
- 58 The swimming pool is to be surrounded at all times by a child-resistant barrier that:
- separates the swimming pool from any moveable dwelling, hotel or motel situated on the premises and from any place (whether public or private) adjoining the premises, and
 - is located immediately around the swimming pool, and
 - contains within its bounds no structure apart from the swimming pool and such other structures (such as diving boards and pool filtration plants) as are wholly ancillary to the swimming pool, and
 - is designed, constructed, installed and maintained in accordance with the standards prescribed by AS 1926 "Swimming Pool Safety".
- 59 All backwash from the swimming pool shall be directed into the mains sewer.

In areas where sewer is not available, the following requirements apply -

- The swimming pool shall be provided with filtration equipment that does not require a backwash facility (eg. a cartridge filtration system).
- Overspill water shall be diverted away from the swimming pool and not directed onto adjoining properties.
- The frequency of emptying of the swimming pool water shall be minimised. Water resulting from the emptying of the pool shall be collected and disposed of by a private wastewater disposal contractor. Disposal by other means is not permitted.

Engineering

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

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

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

- 61 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 provision of civil works which include vehicular crossings and the alterations to pedestrian crossings in Dunshea Street.

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

Note:

- a) Where Penrith City Council is the Certifying Authority for the development the Roads Act approval for the above works may be issued concurrently with the Construction Certificate.
- b) Separate approvals may also be required from the Roads and Maritime Services for classified roads.
- c) All works associated with the Roads Act approval must be completed prior to the issue of any Occupation Certificate or Subdivision Certificate as applicable.

- 62 The stormwater management system shall be provided generally in accordance with the concept plan/s lodged for development approval, prepared by AT&L, reference number 17-450, drawings DAC101 to DAC111 revision P1, dated 28/06/2017.

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

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

- 63 The stormwater management system shall be provided generally in accordance with the concept plan/s lodged for development approval, prepared by (at&I), reference number (17-450), revision (P1), sheets DAC102-DAC111 dated (28.03.2017).

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.

- 64 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.

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

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

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

- 66 Prior to the issue of a Construction Certificate the Certifying Authority shall ensure that a Geotechnical investigation, report and strategy has been conducted to ensure stability of the Council infrastructure and surrounding developments. The geotechnical investigation, report and strategy shall comply with the recommendations contained in the technical direction GTD 2012/001 prepared by the Road and Maritime Services as amended. The development shall undertake a dilapidation report for all surrounding buildings and Council owned infrastructure that confirms that no damage occurs due to the excavations associated with the development. If Council is not the Certifying Authority the dilapidation report shall be submitted to Council prior to Construction Certificate and then updated and submitted prior to any Occupation Certificate confirming no damage has occurred.
- 67 All existing (aerial) and proposed services for the development, including those across the frontage of the development are to be located or relocated underground in accordance with the relevant authorities regulations and standards.
- 68 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.
- 69 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.

Notes:

- a) Contact Penrith City Council's Engineering Services Department on (02) 4732 7777 for further information on this process.
- b) Allow eight (8) weeks for approval by the Local Traffic Committee.
- c) Applicable fees are indicated in Council's adopted Fees and Charges

- 70 Prior to the issue of any Construction Certificate, in order to facilitate pedestrian movements from the north of the site, 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 provision of civil works for the construction of two (2x) pedestrian facilities on Lord Sheffield Circuit, including street-lighting for each facility, linking the site with pedestrian pathways via the existing pram ramps situated 9m and 41m (respectively) east of the intersection with Dunshea Street (at no cost to Council). Each of the two facilities is to consist of four (4x) kerbside pedestrian blister islands, each 2m (width) by 4m (length), tapered on approach and departure.

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 (with design, signage and line marking associated with the facilities to be subject to approval by Council's Local Traffic Committee).

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

Note:

- a) Where Penrith City Council is the Certifying Authority for the development the Roads Act approval for the above works may be issued concurrently with the Construction Certificate.
- b) Separate approvals may also be required from the Roads and Maritime Services for classified roads.
- c) All works associated with the Roads Act approval must be completed prior to the issue of any Occupation Certificate or Subdivision Certificate as applicable.

- 71 The size of the largest vehicle to enter the site shall be restricted to 12.5m due to the length limitations of the proposed truck turntable.

- 72 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 provision of civil works for the construction of a roundabout at the intersection of Thornton Drive and Coombewood Avenue (at no cost to Council).

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 (with design, signage and line marking associated with the facilities to be subject to approval by Council's Local Traffic Committee).

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

Note:

- a) Where Penrith City Council is the Certifying Authority for the development the Roads Act approval for the above works may be issued concurrently with the Construction Certificate.
- b) Separate approvals may also be required from the Roads and Maritime Services for classified roads.
- c) All works associated with the Roads Act approval must be completed prior to the issue of any Occupation Certificate or Subdivision Certificate as applicable.

- 73 Prior to the issue of any Occupation Certificate, RMS approved pedestrian fencing is to be installed along the kerb edge on on both sides of Dunshea Street (extending around the southern corner to the bike parking section to prevent pedestrians crossing at the corner), fronting the commuter car park, directing pedestrians to the proposed relocated pedestrian crossing/s on Dunshea Street. To accommodate the pedestrian fencing, the existing footpath (fronting the commuter car park on the western side of Dunshea Street) is to be widened to be an accessible 1.5m wide (minimum) path, with associated pram ramps.
- 74 All servicing of the site by heavy vehicles, including (but not limited to) deliveries to commercial tenancies, must be undertaken via the proposed service vehicle driveway and turntable, with a plan of management to be provided indicating how the use of the service driveway/turntable is to be facilitated between all users.
- 75 Prior to the issue of any Occupation Certificate, the driveway to/from the loading dock area is to be fitted with appropriately placed access-point traffic light system to ensure that heavy vehicles due not simultaneously traverse the driveway/ramp in opposing directions.
- 76 All vehicles are to enter and exit the site in a forward direction.
- 77 Prior to the issue of any Construction Certificate, to facilitate pedestrian movements to the west and east of the site, 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 provision of civil works for the construction of three (3) compliant on-road raised-threshold pedestrian crossings, including compliant street-lighting at each facility, (two on Dunshea Street and one on Lord Sheffield Circuit) linking to proposed internal footways at ground level (at no cost to Council).

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 (with design, signage and line marking associated with the facilities to be subject to approval by Council's Local Traffic Committee).

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

Note:

- a) Where Penrith City Council is the Certifying Authority for the development the Roads Act approval for the above works may be issued concurrently with the Construction Certificate.
 - b) Separate approvals may also be required from the Roads and Maritime Services for classified roads.
 - c) All works associated with the Roads Act approval must be completed prior to the issue of any Occupation Certificate or Subdivision Certificate as applicable.
- 78 The required sight lines around driveway entrances are not to be compromised by landscaping, fencing, signage or other obstructions.
- 79 The subleasing of car parking spaces is not permitted by this consent, and all car parking spaces are to be linemarked and dedicated for the parking of vehicles only and not to be used for storage of materials/products/waste materials/etc.
- 80 The use of the Transport for NSW (TfNSW) Penrith Station Commuter Car Park for overflow/supplementary car parking is not permitted by this consent.

- 81 Prior to the issue of any Construction Certificate, the Certifying Authority shall ensure that vehicular access (including the service vehicle driveway to the loading dock area), circulation, manoeuvring, pedestrian and parking areas associated with the subject development are in accordance with AS2890.1, AS2890.2, AS2890.6 and Council's requirements.

Landscaping

- 82 All landscape works are to be constructed in accordance with the stamped approved plan Landscape Design Report by Urbis and dated 18 April 2017 and Penrith Council's Development Control Plan 2014.

Landscaping shall be maintained:

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

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

- 83 The approved landscaping for the site must be constructed by a suitably qualified and experienced landscape professional.
- 84 The following series of reports relating to landscaping are to be submitted to the nominated consent authority at the appropriate time periods as listed below. These reports shall be prepared by a suitably qualified and experienced landscape professional.

i. Implementation Report

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

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.

This report is to be prepared by a suitably qualified and experienced landscape professional.

- 85 All plant material associated with the construction of approved landscaping is to be planted in accordance with Penrith Development Control Plan 2014.

86 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.

Development Contributions

87 This condition is imposed in accordance with Penrith City Council's Section 94 Contributions Plan for District Open Space as required under Major Projects Approval No. MP10-0075. Based on the current rates detailed in the accompanying schedule attached to this Notice, \$113,956.00 is to be paid to Penrith City Council prior to a Construction Certificate being issued for this development (the rates are subject to quarterly reviews).

If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted Section 94 plan and conditions of the Major Projects Approval No. MP10-0075. The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule and under major projects approval No. MP10-0075. Council should be contacted prior to payment to ascertain the rate for the current quarterly period.

The Section 94 invoice accompanying this consent should accompany the contribution payment. The Section 94 Contributions Plan for District Open Space may be inspected at Council's Civic Centre, 601 High Street, Penrith.

The Major Projects Approval No. MP10-0075 may be viewed via the Department of Planning and Environment's Major Projects website <http://majorprojects.planning.nsw.gov.au/>.

Payment of Fees

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

89 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

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

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

The Principal Certifying Authority shall submit to Council an "Appointment of Principal Certifying Authority" in accordance with Section 81A of the Environmental Planning and Assessment Act 1979.

Information to accompany the Notice of Commencement

Two (2) days before any earthworks or construction/demolition works are to commence on site (including the clearing site vegetation), the proponent shall submit a "Notice of Commencement" to Council in accordance with Section 81A of the Environmental Planning and Assessment Act 1979.

- 91 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 building.

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

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

Schedule 1 (Deferred Commencement)

- 92 An acoustic report prepared by a suitably qualified acoustic consultant is to be submitted to Penrith City Council for approval. The report is to consider the criteria, findings and recommendations detailed within the "Thornton Lot 3003 DP1184498, Lord Sheffield Circuit, Penrith Noise Impact Assessment" prepared by Acoustic Logic and dated 28/08/2017(Document Reference: 20170322.1/2808A/R3/BW) and is to provide a further comprehensive noise and vibration assessment of the development as a whole, including all non-residential components. The acoustic report is to assess the noise and vibration levels and associated impacts of the non-residential uses upon residential tenancies within the development, as well as adjoining nearby future receivers. This is to include, but not be limited to, an assessment of all commercial/retail premises, child care centre, gym, lap pool and associated equipment, communal area, as well as mechanical plant and equipment, and waste management and collection areas. The report is to include (but not be limited to) consideration of the Industrial Noise Policy, the AAAC Guideline for Child Care Centre Acoustic Assessment 2013, AS2107:2000, the EPA Assessing Vibration: A Technical Guideline", as well as the criteria established in the Noise Impact Assessment prepared by Acoustic Logic and dated 28/08/2017.

If Council is not the certifier issuing the Construction Certificate, then a copy of the report approved by Council should be submitted to the certifier, prior to the issue of a Construction Certificate.

- 93 This consent is not to operate until the Applicant satisfies the Council, within 12 months of the date of this consent, that it has obtained approval/certification from Sydney Trains as to the following matters and the approval/certification has been forwarded to the Council:

A1. Sydney Trains has an 11kV and 66kV underground electrical cable and existing aerial electrical easement. Subject to the extinguishment of the High Voltage HTTL Aerial Electrical Easement and subsequent immediate registering of the proposed replacement HTTL Electrical Cable Easement, the Applicant shall undertake, prepare and provide the following documentation to Sydney Trains for review and approval/certification:

Sydney Trains has an 11kV and 66kV underground electrical cable and existing aerial electrical easement. Subject to the extinguishment of the High Voltage HTTL Aerial Electrical Easement and subsequent immediate registering of the proposed replacement HTTL Electrical Cable Easement, the Applicant shall undertake, prepare and provide the following documentation to Sydney Trains for review and approval/certification:

1. The Applicant shall undertake a detailed services search to establish the existence and exact location of any rail services within or near to the development site. Persons performing the service search shall

use equipment that will not have any impact on rail services and signalling.

a) The applicant must discuss with Sydney Trains the method of undertaking the services search prior to conducting the search.

2. Upon completion of the detailed services search, the Applicant is to provide to Sydney Trains a report regarding:

- a) The established existence and exact location of any rail services
- b) Potential risk impact of the services on the proposed development
- c) Potential risk impact of the proposed development on any rail services
- d) Compliance with AS 7000
- e) Compliance with ISSC 20
- f) Compliance with the Safe Approach Distances (SADs) in the Sydney Trains Document titled "SMS-06-GD-0268 – Working Around Electrical Equipment"

g) Compliance with relevant Transport for NSW Asset Standards Authority standards/guidelines.

Should the existing High Voltage HTTL Aerial Electrical Easement not be approved for extinguishment and subsequent immediate registering of the proposed replacement HTTL Electrical Cable Easement, then revised plans taking into account the existing High Voltage HTTL Aerial Electrical Easement need to be submitted.

A2. The Applicant shall prepare and provide to Sydney Trains for approval/certification the following final version items:

The Applicant shall prepare and provide to Sydney Trains for approval/certification the following final version items:

1. Geotechnical and Structural report/drawings that meet Sydney Trains requirements. The Geotechnical Report must be based on actual borehole testing conducted on the site closest to the rail corridor.
2. Construction methodology with construction details pertaining to structural support during excavation. The Applicant is to be aware that Sydney Trains will not permit any rock anchors/bolts (whether temporary or permanent) within its land or easements.
3. Cross sectional drawings showing the rail corridor, sub soil profile, proposed basement excavation and structural design of sub ground support adjacent to the rail corridor. All measurements are to be verified by a Registered Surveyor.
4. Detailed Survey Plan showing the relationship of the proposed developed with respect to Sydney Trains easement and rail corridor land.
5. If required by Sydney Trains, an FE analysis which assesses the different stages of loading-unloading

of the site and its effect on the rock mass surrounding the rail corridor.

Any conditions issued as part of Sydney Trains deferred commencement A1 and A2 approval/certification of the above documents will also form part of the consent conditions that the Applicant is required to comply with.

Appendix - Development Control Plan Compliance

Development Control Plan 2014

Part C - City-wide Controls

C5 Waste Management

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

The proposal complies with the Clause in that all waste streams are accommodated for including general waste, bulky waste and recyclable waste. The proposal is for residual and recycling garbage chutes accompanied by a 240L recycling bin within a cupboard room on all levels. Commercial waste is stored and collected separately to residential via a private contractor.

Sufficient bin storage area at the ground floor collection point was provided for the volume of 1 x 17m³ compactor unit for each residual and recycling with an additional 10 x 1100L Bins to be used and stored within the basement, below the respective garbage chutes (as calculated using the rates provided within Council's Residential Flat Building Waste Management Guidelines document) to accommodate the expected volume of recyclable waste generated by the development.

Adequate general (residual and recycling) waste bin storage areas are provided within waste rooms on basement level 1 at the base of the chutes. It is proposed to store 240l recycling bins within a bin room adjacent to the collection point at ground floor.

Recommended conditions of consent will ensure minimum room dimensions and doorway widths.

E11 Penrith

The proposal has been assessed against the Penrith DCP 2014, in particular Chapter E11, Part B - North Penrith and is found to be acceptable. Compliance with particular sections of the Chapter is detailed below.

Clause 11.8.2.1 Vision

The proposal is assessed to comply with the vision statements expressed within the clause in that the proposal is well designed and will contribute to active spaces within the Estate.

Clause 11.8.3.3 Building Envelopes

The proposal complies with the applicable building envelope controls in that the building complies with the 6 storey height limit identified for the site within Figure E11.37.

Clause 11.8.3.10 Specific Provisions - Residential Flat Buildings

The DCP states that the following car parking rates override the parking rates outlined within Section C10 Transport, Access and Parking.

1-2 Bedrooms - 1 x space per dwelling

3+ Bedrooms - 2 x spaces per dwelling

Visitor Parking - On street

The proposal for 73 residential car spaces (including 16 accessible spaces) and no visitor spaces is able to comply with the above DCP requirement for 73 residential car parking spaces. A condition of consent is recommended to required that each 1 and 2 bedroom unit is to be allocated one car space and each 3 bedroom unit is to be allocated two car parking spaces.

A further 122 car parking spaces are provided for the commercial and retail components of the building. Whilst the commercial and retail uses are not yet proposed, a traffic report was submitted in support of the application, which concluded that 122 car parking spaces would be sufficient given the proximity to the commuter car park, rail station and Penrith city centre.

Clause 11.8.4 The Village Centre

The proposed development is consistent with the preferred land uses within the Village Centre as identified in Figure E11.47 of the DCP. The site is identified for retail use, which is provided at the ground and first floor of the development.

The development is also consistent with the building setbacks and build-to-lines within the Village Centre and proposes a *build to boundary* building line along the station plaza and to Lord Sheffield Circuit in compliance with Figure E11.48 of the DCP.

The proposal achieves compliance with controls related to the integration of services and plant into the design of the building and the use of high quality materials and finishes on the facades of the building. Access is provided at ground floor to all lobby areas.