

# PENRITH CITY COUNCIL

## MAJOR ASSESSMENT REPORT

<b>Application number:</b>	DA16/1310.02
<b>Proposed development:</b>	Section 4.56 Modification to a Court Approved Mixed Use Development Comprising 49 x Residential Units, Basement Car Parking and Associated Landscaping and Infrastructure Works - Proposed Amendments Include Changes to Garbage Collection Arrangements, Changes to Retail Tenancy Configurations, Changes to Unit Sizes, Relocation of Lift and Stair Facilities, Provision of Additional Amenities and Amended Landscaping Works
<b>Property address:</b>	152 Henry Lawson Avenue, WERRINGTON COUNTY NSW 2747
<b>Property description:</b>	Lot 1 DP 1218801
<b>Date received:</b>	19 December 2019
<b>Assessing officer</b>	Jane Hetherington
<b>Zoning:</b>	Zone B2 Local Centre - LEP 2010
<b>Class of building:</b>	Class 2 , Class 5 , Class 7a
<b>Recommendations:</b>	Approve

## Executive Summary

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### Reason for LPP Determination: Receipt of more than 10 unique submissions

Council is in receipt of a 4.56 application for proposed modifications to an approved mixed use development containing 49 residential units at 152 Henry Lawson Avenue, Werrington County. The original application was subject to a Land and Environment Court Appeal with determination granted on the 1 March 2018.

The subject site is zoned B2 Local Centre under the provisions of Penrith Local Environmental Plan 2010. The development is defined as *commercial premises* and *shop top housing* which are permissible land uses in the B2 Local Centre zone subject to Council consent.

The modification application has been notified to all adjoining and nearby properties in the area and publically exhibited from the 31 January and 14 February 2020. Twenty-nine (29) submissions were received including 6 proforma letters, 22 individual objections and 1 submission in support of the proposal. The issues raised are discussed under the "Any Submissions" section of this report.

The Minister for Planning recently gave directions under Section 9.1 of the Environmental Planning and Assessment Act 1979 on the development applications that are to be determined on behalf of Council by a local planning panel. These directions, dated 23 February 2018, outlined that development within the Penrith Local Government Area (LGA) that is subject of 10 or more unique submissions by way of objection requires determination by a local planning panel.

Key issues identified for the proposed development include:

#### Waste Management

The Section 4.46 application proposes modifications to the garbage collection arrangements, including the deletion of the turn table within the waste room. The application was accompanied by revised swept paths, prepared by Varga Traffic Planning P/L and dated 11 December 2019 which confirmed that an 11m long large rigid vehicle can turn around within the loading dock area without difficulty and will be able to enter and exit the site in a forward direction. Further, the waste infrastructure including the residential, commercial and bulky goods waste areas have been reconfigured. The modified arrangement has been reviewed by Council's Waste Officer, who has confirmed that it complies with Council's requirements in regards to size and location.

#### Urban Design

The changes to the waste infrastructure (as detailed above) has resulted in amendments to the facades of Building B. The location of the loading dock roller door has shifted to enable vehicle manoeuvring, which has resulted in a large section of blank wall along the eastern elevation. Planter beds has been located at the base to allow landscaping to screen the wall. A condition of consent is recommended that climbing plants be planted to screen the wall. Given that the building is setback approximately 65m from Henry Lawson Drive, the proposed modifications are not considered to have an adverse impact on the streetscape.

An assessment under Section 4.15 and Section 4.56 of the *Environmental Planning and Assessment Act 1979* has been undertaken and is recommended for approval, subject to recommended conditions.

## Site & Surrounds

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The subject site is legally described as Lot 1 DP 1218801 and is known as 152 Henry Lawson Avenue, Werrington County. The subject site is L shaped allotment with a frontage of 44.9m to Henry Lawson Avenue and has a total area of 6,821m<sup>2</sup>. The development site has a modest cross from the northern boundary to the southern boundary (closest to Dunheved Road).

The locality is a mixture of business land uses and residential development. The site currently contains a telecommunications tower and ancillary infrastructure, which are to be retained. The Henry Lawson Club is located to the north and an existing Caltex service station is located on the corner of Dunheved Road and Henry Lawson Avenue. Residential zoned land to the east and west of the subject site predominately contains single storey residential dwelling with detached outbuildings.

## Proposal

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The original development approved by the Land and Environment Court on 1 March 2018 included:

- Construction of a 4 storey mixed use development containing 5 tenancies, 6 business premises and 49 apartments (26 x 2 bedroom and 23 x 3 bedroom);
- A total of 50 residential units (21 x 2 bedroom & 29 x 3 bedroom) on the levels 1, 2, 3;
- Off street car parking for 129 cars located within the basement and at grade;
- Tree/vegetation removal; and
- Associated drainage and landscaping works.

The proposed modifications include:

- Amendments to the garbage collection arrangements by no longer providing a turn table within the waste room;
- Reducing the size of retail tenancy UG07 from 84m<sup>2</sup> to 53m<sup>2</sup> to facilitate appropriate manoeuvring for the garbage truck;
- Introducing a new retail tenancy on the ground floor of block B that has a retail area of 82m<sup>2</sup>;
- Removing the majority of the internal corridor to the ground floor business premises within Block C;
- Increasing the size of unit UB103 from 87m<sup>2</sup> to 120m<sup>2</sup> including the provision of an additional bedroom to create a 3 bedroom unit;
- Decreasing the size of unit UB105 from 108m<sup>2</sup> to 90m<sup>2</sup> and reducing it from 3 bedroom unit to a 2 bedroom unit;
- Relocation of the goods lift and combining two stairs into one from basement to ground in Block B;
- Relocating the egress stair next to the loading bay to the side of main car ramp;
- Provide additional amenities to retail tenancies on the ground floor; and
- Altering the location of planter boxes on level 2 of Block B.

## Plans that apply

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

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### • Section 4.15 - Evaluation

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

### • Section 4.55(2) - Other modifications

Under Section 4.56 of the *Environmental Planning and Assessment Act 1979*, Council may, in response to an application being made, issue consent to modify a development if:

*(a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and*

*(b) it has notified the application in accordance with:*

*(i) the regulations, if the regulations so require, and*

*(ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*

*(c) it has notified, or made reasonable attempts to notify, each person who made a submission in respect of the relevant development application of the proposed modification by sending written notice to the last*

*address known to the consent authority of the objector or other person, and*

*(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.*

In regard to the above, the following is noted:

(a) The following test of *'substantially the same development'* is noted;

In *Vacik Pty Ltd v Penrith City Council* (unreported 1992) the question of substantially the same development was considered by Stein J and in particular the meaning of the word *'substantially'*. In his opinion, *'substantially'* is taken in the context to mean *'essentially or materially or having the same essence'*.

In *North Sydney Council v Michael Standley & Associates Pty Ltd* (1998) the NSWCA recognised that a modified development must be different in some respect to the approved development and used the formulation that *'modify'* meant *'to alter without radical transformation'*.

In applying the ordinary meaning of the words *'substantially the same development'* informed by the above cases, the modified development is of the same essence and therefore is considered to be substantially the same as the original approved development.

(b) The modification application was notified in accordance with Clause 4.4 of Appendix F4 of the Penrith Development Control Plan 2014 to adjoining and nearby properties and publicly exhibited from the 31 January to the 14 February 2020.

(c) Correspondence was sent to each person who made a submission against the approved development application and notified them of the proposed modifications.

(d) Twenty-nine submissions were received during the notification period and these have been suitably addressed and considered as part of the assessment process.

In addition to the above, Section 4.56(1A) and 4.56(1C) of the Environmental Planning and Assessment Act read as follows:

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

*(4) The modification of a development consent in accordance with this section is taken not to be the granting of development consent under this Part, but a reference in this or any other Act to a development consent includes a reference to a development consent as so modified.*

In regard to Clauses (1A) and (1C) above, the following is noted:

(3) Section 4.15 (1) of the Environmental Planning and Assessment Act has been taken into consideration and is discussed later within this report.

(4) Noted.

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



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

*State Environmental Planning Policy No. 55 - Remediation of Land* (SEPP 55) aims to provide a framework for the assessment, management and remediation of contaminated land throughout the state. Clause 7(1) of SEPP 55 prevents consent authorities from consenting to a development unless it has considered whether the land is contaminated and is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out.

The provisions of SEPP 55 were assessed under the original application and found to be satisfactory. The proposed modifications do not impact on the development complying with the requirements.

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

As the proposed development will involve modifications to an approved mixed use development (which includes residential component over 3 storeys), State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development (SEPP 65) is applicable.

Clause 29 stipulates that in determining an application, the consent authority is to take into consideration:

- (a) the advice (if any) obtained from the design review panel, and,
- (b) the design quality of the development (as modified) when evaluated in accordance with the design quality principles, and
- (c) the Apartment Design Guide.

### Advice of Design Review Panel

During the court proceedings for the original application, advice was sought from Council's Urban Design Review Panel Expert. The comments received were considered as part of the proceedings and approval later granted. Given the minor nature of the proposed modifications, advice was not sought from Council's UDRP on the subject application, noting that the key design outcomes are not compromised by the proposed changes.

### Design Quality Principles

The development as amended has been assessed with regard to the Design Quality Principles of SEPP 65 and the proposed modification are not considered to detract from the development meeting these principles. The Section 4.56 application was also accompanied by correspondence by the registered architect who prepared the architectural plans which advised that the amended design meets the intent of the design quality principles as set out in Schedule 1 of SEPP No. 65 - Design Quality of Residential Flat Development.

In addition, it is noted that Condition 95 of the Development Consent for DA16/1310 reads as follows;

*'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 Schedule 1 of State Environmental Planning Policy No. 65 - Design Quality for Residential Apartment Development'*

Should approval be granted for the current Section 4.56 application, this condition will be retained.

### Apartment Design Guide (ADG)

The development as amended by the Section 4.56 application has been assessed with regard to the Apartment Design Guide and is considered to be generally consistent with the key controls contained within the ADG. The following matters are noted for discussion:

#### Building Separation

The Section 4.56 Application provides setbacks aligned with the original Development Consent granted by the Land and Environment Court. Under this approval, Building B was setback at least 3m from the northern boundary. While the proposed modifications do not reduce the buildings setback from the northern boundary, the portion of the building that is setback only 3m has been extended from 15m to 20m. This is supportable given that the amendment is only minor, is located at the back on the Henry Lawson Club and allows for sufficient space to provide a landscape buffer.

#### Apartment Size and Layout

The layout of the apartments within Building B (level 1) have been amended as a result of the modifications to the waste infrastructure. However, this does not change the proposal compliance with the relevant sections of the ADG including apartment mix, solar access, natural ventilation and minimum size requirements.

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

*Sydney Regional Environmental Plan No. 20 - Hawkesbury-Nepean River (No. 2 -1997)* (SREP

20) integrates planning with catchment management to protect the Hawkesbury-Nepean river system, requiring the impact of future land use to be considered in a regional context. The plan covers water quality and quantity, environmentally sensitive areas, riverine scenic quality, agriculture and urban and rural-residential development. It controls development that has the potential to impact on the river environment. The plan applies to all parts of the catchment in the Sydney region (15 local government areas, including Penrith), except for land covered by *Sydney Regional Environmental Plan No.11 - Penrith Lakes Scheme*. SREP 20 is supported by an Action Plan which includes actions necessary to improve existing conditions.

The Section 4.56 modifications are in accordance with the general planning considerations set out in Clause 5 of SREP 20 and the relevant specific planning policies and related recommended strategies set out in Clause 6. In particular, provision will be made for adequate erosion and sediment control measures.

### 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 4.3 Height of buildings	Does not comply - See discussion
Clause 4.4 Floor Space Ratio	Complies - See discussion

#### Clause 4.3 Height of buildings

The Height of Buildings Map identifies a maximum height of 15m as applying to the site. The approved development, at its highest point, had a building height of 17.41m, equating to a 16% variation, although the extent varied across the site. The proposed modification does not alter the height of the development.

#### Clause 4.4 Floor Space Ratio

The Floor Space Ratio (FSR) map shows that the maximum FSR permitted on the site is 1:1. The proposed modifications increase the gross floor area from 6,432m<sup>2</sup> to 6,503m<sup>2</sup>. This results in the development having an FSR of 0.95:1, complying with this control.

## Section 79C(1)(a)(iii) The provisions of any development control plan

### Development Control Plan 2014

Provision	Compliance
C1 Site Planning and Design Principles	Complies
C3 Water Management	Complies
C4 Land Management	Complies
C5 Waste Management	Complies
C6 Landscape Design	Complies
C7 Culture and Heritage	N/A
C8 Public Domain	N/A
C9 Advertising and Signage	N/A
C10 Transport, Access and Parking	Complies
C11 Subdivision	N/A
C12 Noise and Vibration	Complies
C13 Infrastructure and Services	Complies

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

The relevant prescribed conditions of the Regulations, such as the requirement for compliance with the Building Code of Australia and fire safety requirements, have been provided previously as conditions of consent where applicable. Subject to the recommended conditions of consent, the proposed development as amended complies with the requirements of the *Environmental Planning and Assessment Regulation 2000*.

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

### ***Urban Design***

The proposed modifications have resulted in changes to the facades of Building B, particularly on the northern and eastern elevations. To enable waste vehicles to enter the loading dock and perform a three-point turn, the location of the roller door has been shifted to the north. This has resulted in a large section of blank wall on the eastern elevation. To address this issue, planter beds have been located at the base of this wall to allow landscaping to screen this wall. This is considered to be an acceptable solution given the building is setback approximately 65m from Henry Lawson Avenue and will not have an adverse visual impact. The northern elevation has also been amended due to the changes to the waste infrastructure. The portion of the building setback 3m has been extended from 15m to 20m in length. Given that this is adjacent to back of the Henry Lawson Club and provides a sufficient setback to allow landscaping buffer, this modification is supportable.

### ***Waste Management***

The Section 4.46 application proposes to amend the waste infrastructure within the ground floor of Building A. The approved development included a turn table, which is proposed to be deleted under the subject application. The application was accompanied by revised swept paths, prepared by Varga Traffic Planning P/L and dated 11 December 2019 which confirmed that an 11m long large rigid vehicle can turn around within the loading dock area without difficulty and will be able to enter and exit the site in a forward direction. Further, the ground floor of Building B has been reconfigured so that the location of the bulky goods, commercial and residential waste infrastructure has been amended. The modified arrangement has been reviewed by Council's Waste Officer, who has confirmed that it complies with Council's requirements.

### ***Car parking***

The Section 4.46 modification proposes a slight increase in the floor area of the ground floor business and retail premises. This is a result of the deletion of the central corridor in Building A and the amendments to the waste area within Building B. Under the approved plans, the business premises and retail premises had floor areas of 579m<sup>2</sup> and 445m<sup>2</sup>, respectively. The proposed modifications result in the business premises having a floor area of 646m<sup>2</sup> and the retail premises having a floor area of 490m<sup>2</sup>. Under Council's DCP, parking is provided at a rate of 1 space per 40m<sup>2</sup> for business premises and 1 space per 30m<sup>2</sup> for retail premises. The modified development requires a total of 33 parking spaces for the commercial component of the development. The development complies with this requirement with 36 parking spaces being provided for the business/retail components.

While the layout of the apartments within building B (level 1) have been amended, there has been no change to the number of units or bedrooms provided. Given that residential parking is determined by the number of bedrooms, the proposed modifications do not impact on the rate of residential parking required to be provided on-site.

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

The proposed amendments are minor in nature and do not alter the suitability of the site for the development.

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

### **Community Consultation**

The development application was originally advertised in the local newspaper and notified to owners and occupiers of adjoining and nearby properties pursuant to the requirements of the Regulations and in accordance with Council's Development Control Plan. The subject modification application was notified to nearby and adjoining property owners and those who made submission on the original application with the exhibition period from 31 January to 14 February 2020. Twenty-nine (29) submissions were received, including 6 proforma letters, 22 individual objections and 1 submission in support of the proposal.

## Submissions

The following issues were raised in the submissions received and have formed part of the assessment.

<b><i>Issue Raised</i></b>	<b><i>Comments</i></b>
The development is out of character with the surrounding locality	The character of the development and its compatibility to the surrounding locality were considered as part of the original application and found to be acceptable by the Land and Environment Court. The modified development is comparable in terms of built form and scale to the approved development.
The proposal will have an undesirable impact on the surrounding parking and traffic	Traffic generation from the development and its impact on the surrounding road network was considered as part of the original application and considered acceptable by the Land and Environment court. While the proposed modification slightly increase the gross floor area of the business/retail premises (by 112m <sup>2</sup> ), the proposal is not considered to have an significant impact on the traffic from the approved proposal. Further, despite the increase in floor are the number of parking spaces remains compliant with Council's DCP.
The application has not been suitably notified	The application has been notified in accordance with Council's DCP.
Existing infrastructure and services can not cope with an increase in density	The subject modification application does not increase the density of the development from that approved by the Land and Environment Court. Conditions of consent (Nos. 46-48) require certification that essential services, including reticulated water supply and electricity, will be available for the development. These conditions remain applicable.
The proposal will decrease value of surrounding properties	There is no empirical evidence to suggest that this style of development will decrease the value of surrounding properties and as such the application cannot be refused on this basis.
Development will create competition for the Werrington County shops	Commercial competition for existing businesses is not a consideration under the Environmental Planning and Assessment Act, noting that the development as approved by the Court already is not substantially changes as part of this application.
Development will result in anti-social behaviour	Crime Prevention through Environmental Design (CPTED) measures, including the CCTV, restricted access to the buildings and basement and signage, are required by the conditions of consent (Nos. 16-21). These conditions remain applicable.

Development has significantly increased in scale from what was originally proposed	<p>As lodged, the original application included 50 apartments. The development approved by the Land and Environment Court included 49 apartments. No change to the residential component is proposed under the subject modification application.</p> <p>An increase in the floor area (of 112m<sup>2</sup>) of the business/retail premises is proposed under subject modification. However, it is only minor and is not considered to have adverse impacts to the surrounding locality.</p>
Development will result in loss of visual and acoustic privacy for adjoining residents	The proposed modifications are not considered to result in any additional visual or privacy issues to adjoining residents. While there are some additional windows proposed within Building B, these are all located on ground floor and well setback from the side boundary (at least 9m). A condition of consent (No. 36) requires that noise levels from the premises, including the ground floor commercial tenancies, shall not exceed the relevant noise criteria detailed in the approved acoustic report. This condition remains applicable.
Waste collection and storage will result in amenity issues for adjoining residents.	While modifications to the waste infrastructure is proposed under the subject application, the bin storage and collection area are enclosed within Building A. This is consistent with the original approval and is not considered to result in additional amenity impacts for adjoining residents.

## Referrals

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

Referral Body	Comments Received
Waste Services	No objections - subject to conditions

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

Given the nature and scale of the proposed modifications and general compliance with the applicable development controls, the Section 4.56 modifications are not considered to generate any significant issues of public interest.

## Conclusion

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The proposed Section 4.56 modifications have been assessed against the relevant environmental planning policies including *State Environmental Planning Policy No. 65*, *Penrith Local Environmental Plan 2010* and *Penrith Development Control Plan 2014* and in this regard, the proposal as amended is considered to satisfy the aims, objectives and provisions of these policies.

The section 4.56 modifications are considered to provide for an acceptable response to the surrounds of the subject site and will not create any immediate amenity loss subject to appropriate conditions of consent. The proposal as amended is also not considered to create any significant impacts on the natural, social or economic environments and in this regard, the application is considered worthy of support and is recommended for approval subject to appropriate conditions of consent.

## Recommendation

That DA16/1310.02 providing for modifications to an approved mixed use development containing 49 units under Section 4.56 of the Environmental Planning and Assessment Act 1979 at 152 Henry Lawson Avenue, Werrington County be approved subject to the following amended conditions:

### Condition 1

Consent is granted for construction of a commercial/retail development with 'shop top housing' for 49 apartments, being 26 x 2 bedroom units and 23 x 3 bedroom units, on 152 Henry Lawson Avenue, Werrington Council (Lot 1 DP 1218801) including construction and use of pedestrian path over adjacent Council land (Lot 32 DP 576288).

Subject to any amended plans and documents approved by Council under Condition 2 below, the development must be carried out in accordance with the plans and documents listed below, except as amended by the conditions of this consent.

Architectural Plans			
Bathla Group (Project No. 2245) & Zhinar Architects (Project No. 8658), Issue J, K, L, M and N			
A003	16/12/2019	Rev L	Site Plan
A004	16/12/2019	Rev L	Basement 2
A004A	16/12/2019	Rev L	Basement 1
A005	17/02/2020	Rev N	Ground Floor
A006	17/02/2020	Rev N	Level 01
A007	16/02/2019	Rev M	Level 02
A008	22/02/2019	Rev L	Level 03
A009	12/02/2018	Rev J	Roof Plan
A010	16/12/2019	Rev K	Sections AA & BB
A011	16/12/2019	Rev K	Sections CC & DD
A012	16/12/2019	Rev M	Elevations North and South
A013	16/12/2019	Rev M	Elevations East and West Block B & C
A014	16/12/2019	Rev M	Elevations East and West Block A
A015	16/12/2019	Rev L	Materials and Finishes
A022	16/12/2019	Rev K	Garbage and Chute
A024	12/02/2018	Rev J	Tree retention/removal
A025	20/02/2018	Rev K	Adaptable and Liveable Units
A026	20/02/2018	Rev K	Unit Types Block A
A027	18/02/2020	Rev M	Unit Types Block B
A028	20/02/2018	Rev K	Unit Types Block C
Landscape Plans			
Site Image Landscape Architects, Job Number SS17-3357			
000	Cover Sheet	Rev D	08/02/2018
001	Ground Floor Colour Plan	Rev B	12/02/2018
101.1	Landscape Plan - Ground Floor	Rev E	12/02/2018
101.2	Ground Floor	Rev E	12/02/2018
102	Block B&C Rooftop	Rev E	08/02/2018
103	Block A Rooftop	Rev D	08/02/2018
103	Landscape details	Rev C	08/02/2018
Stormwater Plans and Report			
Stormwater quality report prepared by Martens and Associates Pty Ltd Project Number P1706117, JR01V02, November 2017			

Stormwater concept plans	Martens and Associates Pty Ltd	Project Number P1706117	Plan Set Number P501 Release number 04, 16/02/2018
PS01A000 D			
PS01E100 D			
PS01E101 D			
PS01E102 C			
PS01E200 C			
PS01E201 C			
PS01-E202 C			
PS01E203 D			
PS01E204 B			
PS01E300 B			
PS01E305 B			
PS01E405 B			
PS01E600 D			
PS01E700 D			
Arboricultural Impact Assessment Report	Urban Forestry Australia Pty Ltd	August 2017	
Crime Prevention Through Environmental Design (CPTED) Assessment	GLN Planning	17 October 2017	
Detailed Site Investigation Report	Geotesta NE243	18 January 2018	
Additional Site Investigation report	Geotesta NE262	7 February 2018	
Additional Site Investigation report	Geotesta NE262	9 February 2018	
Electromagnetic Field, Stray Current & Electrolysis Assessment Report 18 January 2018	N G Child and Associates	Final, 2 February 2018	
Acoustic Report reference 20160558.4/0711A/R5/GW, Project 20160558.4	Acoustic Logic	7 November 2017	(as amended by further report required by Condition 2)
Natural Ventilation and Noise Control Report	Steve King	7 November 2017	
SEPP65 Design Verification Statement	Issue 2	8 February 2018	
Traffic Assessment and Traffic and Parking Impacts Statement	Varga Traffic Planning	November 2018	
Preliminary Salinity and Geotechnical Assessment	Martens & Associates	July 2016	
Access Report	Ergon Consulting	12 October 2016	
BCA Compliance Assessment Report	AED Group	11 October 2016	
BASIX Certificate	Number 77249M 03	15 February 2018	

Add the following condition:

- Prior to the issue of a Construction Certificate, an amended landscape plan, prepared by a suitably qualified landscape architect is to be submitted to and approved by Council. The plan is to incorporate a climbing wall at the base of the Building B eastern elevation, as marked in red on the architectural plans.







DUNHEVED ROAD

DP 576288  
32

BLOCK C BUSSINESS  
PREMISES CORRIDOR  
DELETED

88.45 m

SITE AREA: 6824 m<sup>2</sup>

COMMUNAL OPEN SPACE  
BLOCK C

BLOCK B

BLOCK B FLOOR LAYOUT  
REVISED

67.30 m

2  
9099m<sup>2</sup>

EXISTING  
HENRY LAWSON  
SPORTS CLUB

45.96 m

DP 565623  
4

EXISTING PETROL  
STATION

EXISTING  
TELEPHONE  
TOWER

COMMUNAL OPEN  
SPACE

BLOCK A

DRIVEWAY REALIGNED  
AND LINE OF PARKING  
MOVED TO BE ADJACENT  
TO BUILDING

POTENTIAL  
SCREEN PLANTING ZONE

Edge Of Bitumen  
Barrier Kerb

STEP AND  
PLANTER BOX  
REVISED

31.54 m

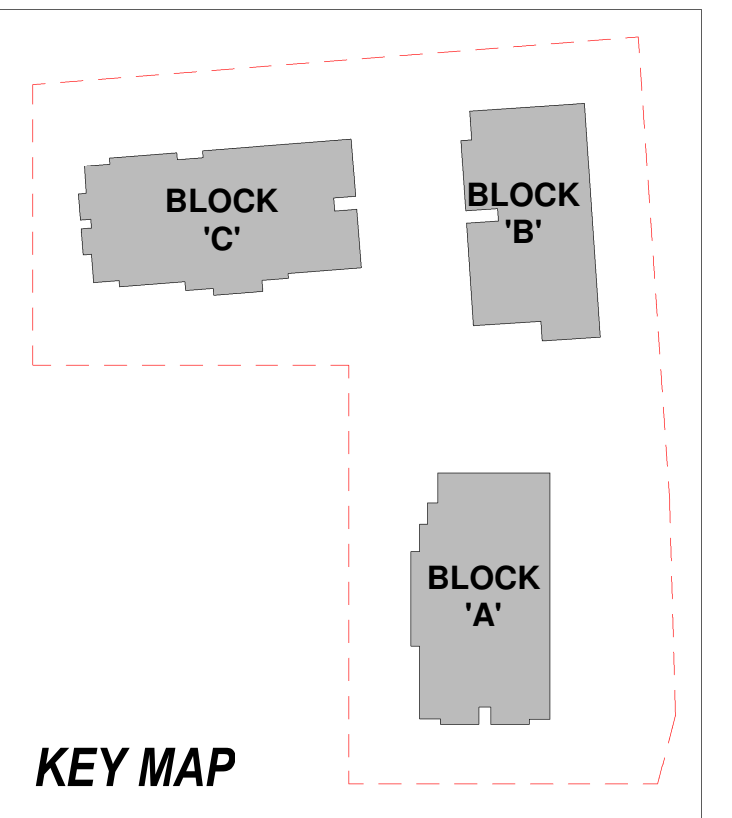
+42.20

10.41 m

44.90 m

PEDESTRIAN VEHICULAR  
ENTRY ENTRY

HENRY LAWSON AVE.



Original Architect : The Bathla Group

ISSUE	AMENDMENT	DATE	DRAWN	CHECK
L	Issue for Sec 4.55 Application	16.12.19	SY	PN
K	REVISION TO LEC	20.02.18		
J	REVISION TO LEC	12.02.18	OK	
I	REVISION TO JOINT CONFERENCE	5.02.18	OK	
H	REVISION TO LEC	30.01.18	OK	
G	REVISION AS PER LEC LETTER	18.01.18	OK	
F	REVISION JOINT REPORT TO LEC	03.11.18	OK/WH	
E	Revision to LEC	30.08.17	ZLBP	
A	ISSUE FOR DEVELOPMENT APPLICATION	06.10.16	JK	

**zhinar**  
ARCHITECTS  
ZHINAR ARCHITECTS  
Zhinar Architects Pty Ltd ABN 29 495 869 790  
SUITE 1.1 LEVEL 2/12 ROWE STREET, EASTWOOD NSW 2122  
TEL: (02) 8893 8888 FAX: (02) 8893 8833 WEB: www.zhinar.com.au

PROPOSED COMMERCIAL &  
RESIDENTIAL APARTMENT  
DEVELOPMENT

ADDRESS :  
152 HENRY LAWSON AVENUE  
WERRINGTON COUNTY NSW

LGA :

SHEET TITLE:  
SITE PLAN

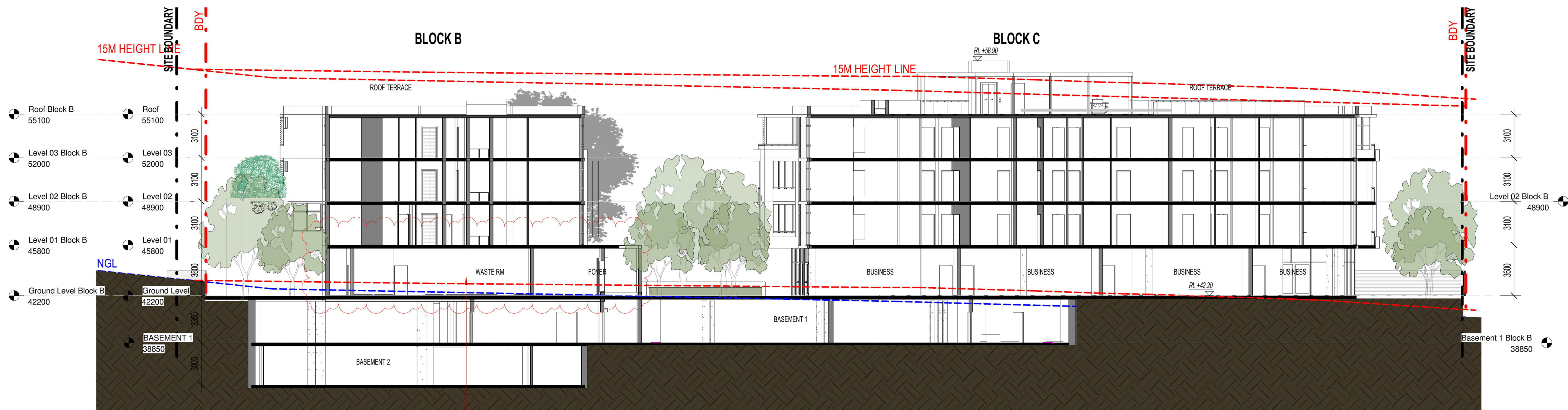
DRAWN: AE-JK	CHECKED: Checker	DATE:	SCALE: @A1 As indicated
JOB No.	DRAWING No.	ISSUE:	
8658	A-003	L	

GENERAL NOTES

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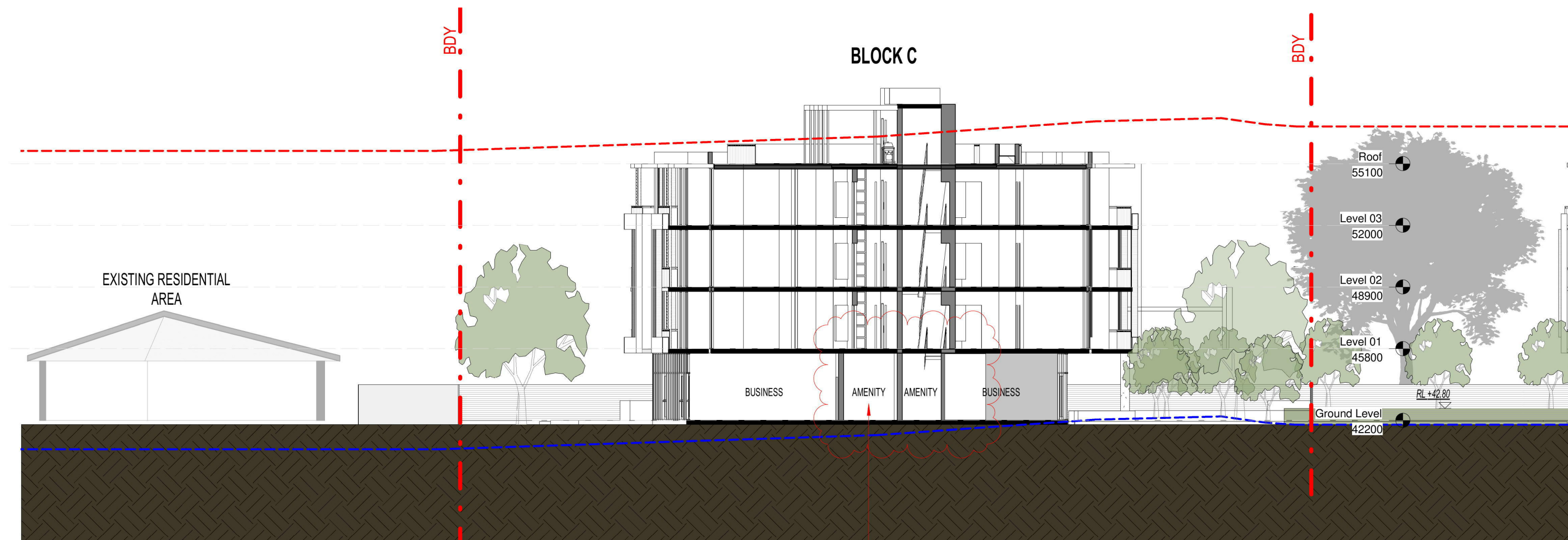
1 Site Plan  
1 : 300





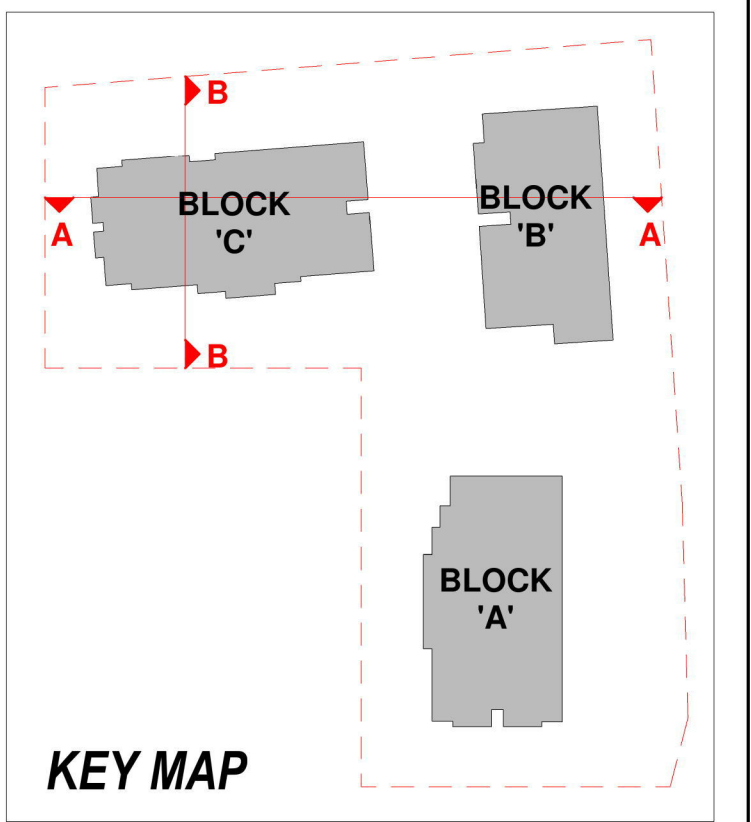
A Section AA  
1 : 200

GROUND FLOOR LAYOUT  
REVISED



B Section BB  
1 : 200

CORRIDOR DELETED



Original Architect : The Bathla Group

K	Issue for Sec 4.55 Application	16.12.19	SY	PN
J	REVISION TO LEC	12.02.18	CK	
I	REVISION TO JOINT CONFERENCE	5.02.18	CK	
H	REVISION TO LEC	30.01.18	CK	
G	REVISION AS PER LEC LETTER	18.01.18	CK	
F	REVISION JOINT REPORT TO LEC	03.11.18	CK/WH	
D	Revision 3	19.06.17	DJ	
A	ISSUE FOR DEVELOPMENT APPLICATION	06.10.16	JK	
ISSUE	AMENDMENT	DATE	DRAWN	CHECK

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TEL: (02) 8893 8888 FAX: (02) 8893 8833 WEB: www.zhinar.com.au

PROPOSED COMMERCIAL &  
RESIDENTIAL APARTMENT  
DEVELOPMENT

ADDRESS :  
152 HENRY LAWSON AVENUE  
WERRINGTON COUNTY NSW

LGA :

SHEET TITLE:  
SECTIONS AA & BB

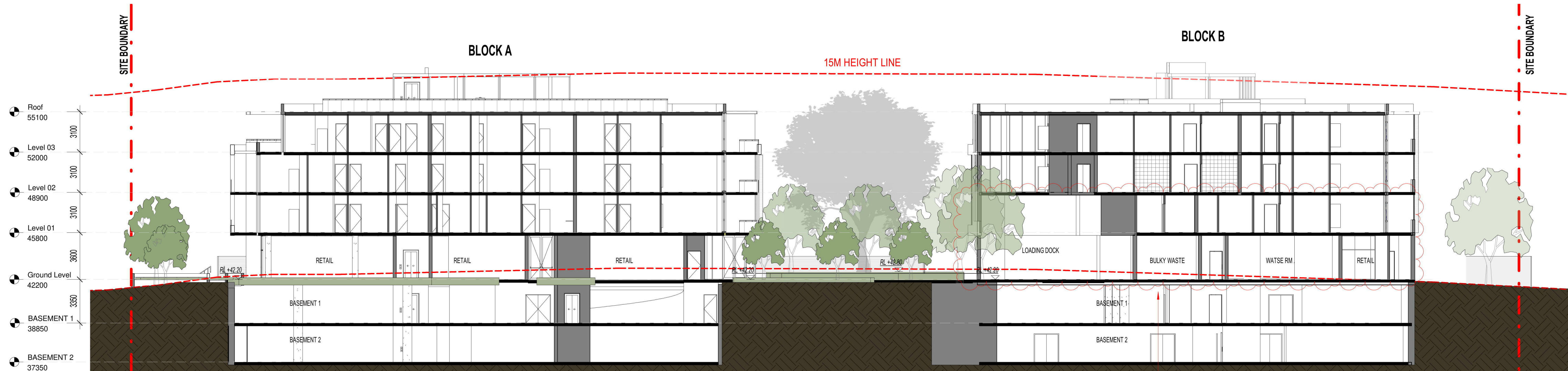
DRAWN:	CHECKED:	DATE:	SCALE: @A1
AE-JK	TC		As indicated
JOB No.	DRAWING No.	ISSUE:	
8658	A-010	K	

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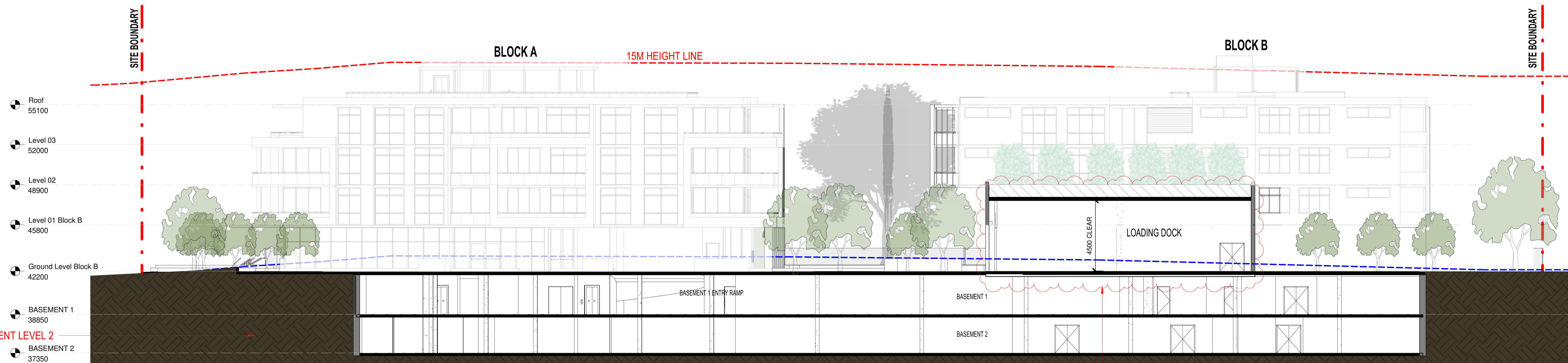
**GENERAL NOTES**

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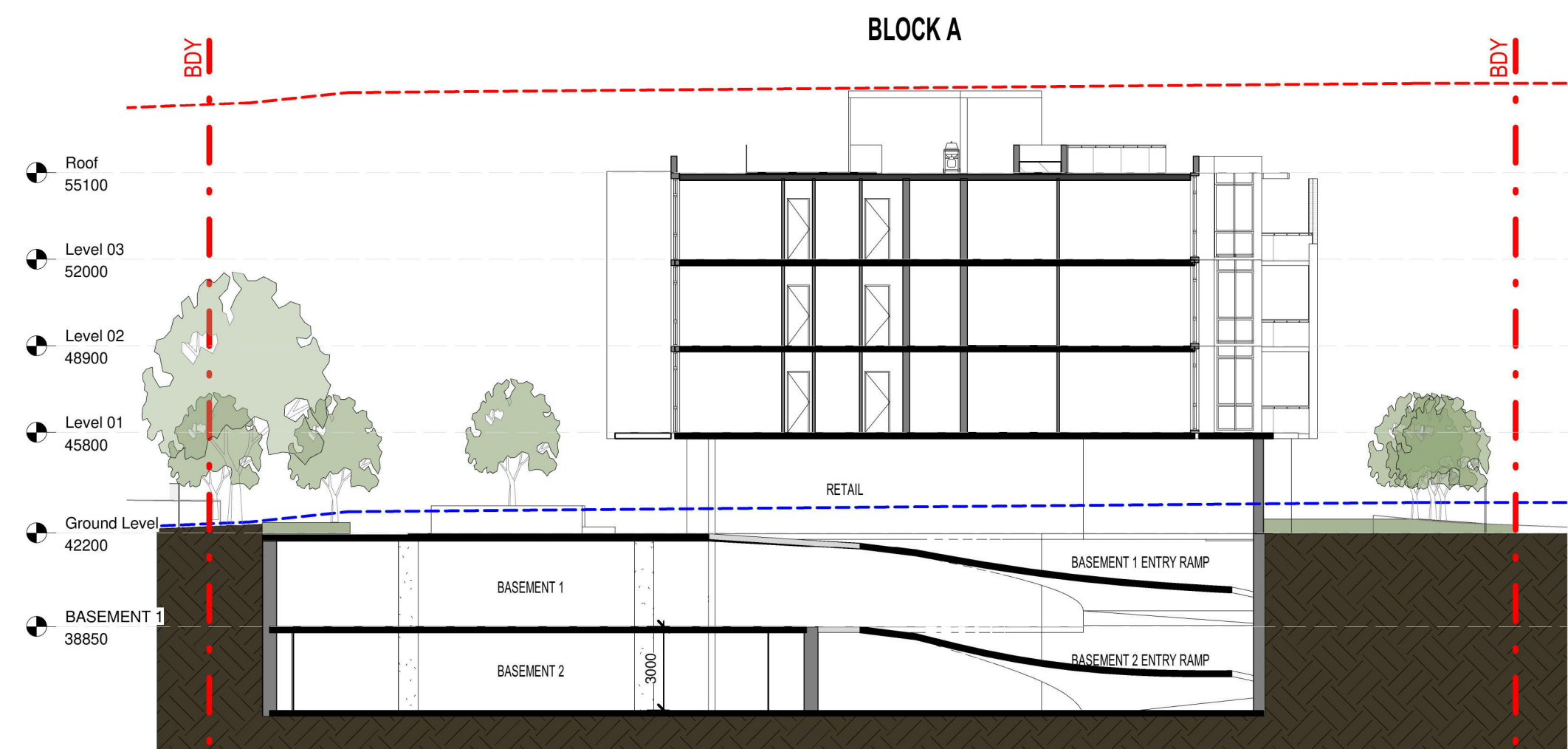




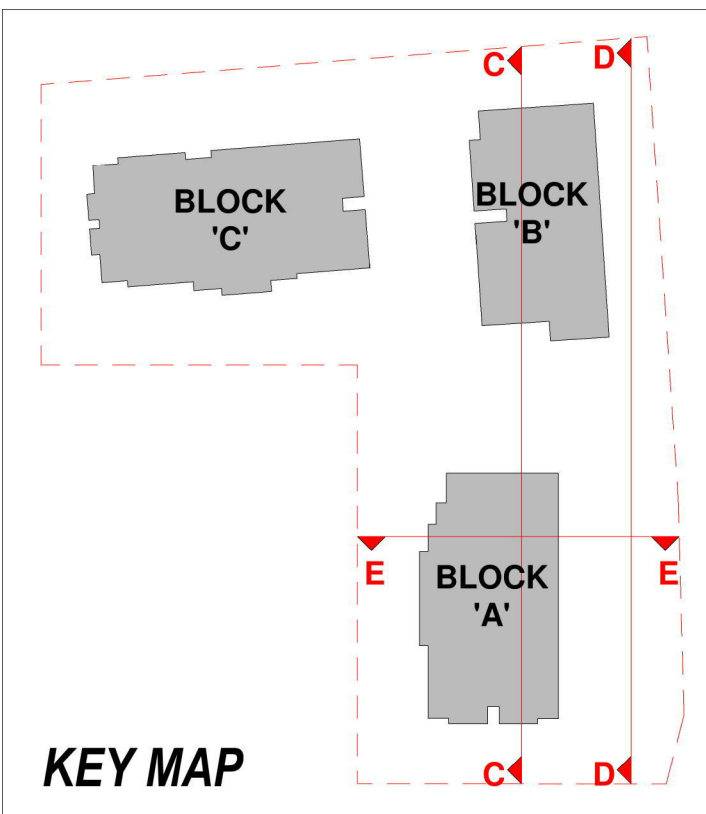
C Section CC  
1 : 200



D Section DD  
1 : 200



E Section EE  
1 : 200



Original Architect : The Bathla Group

ISSUE	AMENDMENT	DATE	DRAWN	CHECK
K	Issue for Sec 4.55 Application	16.12.19	SY	PN
J	REVISION TO LEC	12.02.18	CK	
I	REVISION TO JOINT CONFERENCE	5.02.18	CK	
H	REVISION TO LEC	30.01.18	CK	
G	REVISION AS PER LEC LETTER	18.01.18	CK	
F	REVISION JOINT REPORT TO LEC	03.11.18	CK,WH	
E	Revision to LEC	30.08.17	ZL,SP	
D	Revision 3	19.06.17	DJ	
A	ISSUE FOR DEVELOPMENT APPLICATION	06.10.16	JK	

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PROPOSED COMMERCIAL &  
RESIDENTIAL APARTMENT  
DEVELOPMENT

ADDRESS :  
152 HENRY LAWSON AVENUE  
WERRINGTON COUNTY NSW

LGA :

SHEET TITLE:  
SECTIONS CC & DD

DRAWN: AE-JK CHECKED: TC DATE: SCALE: @A1  
As indicated

JOB No. DRAWING No. ISSUE:

8658 A-011 K

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17/12/2019 10:53:16 AM





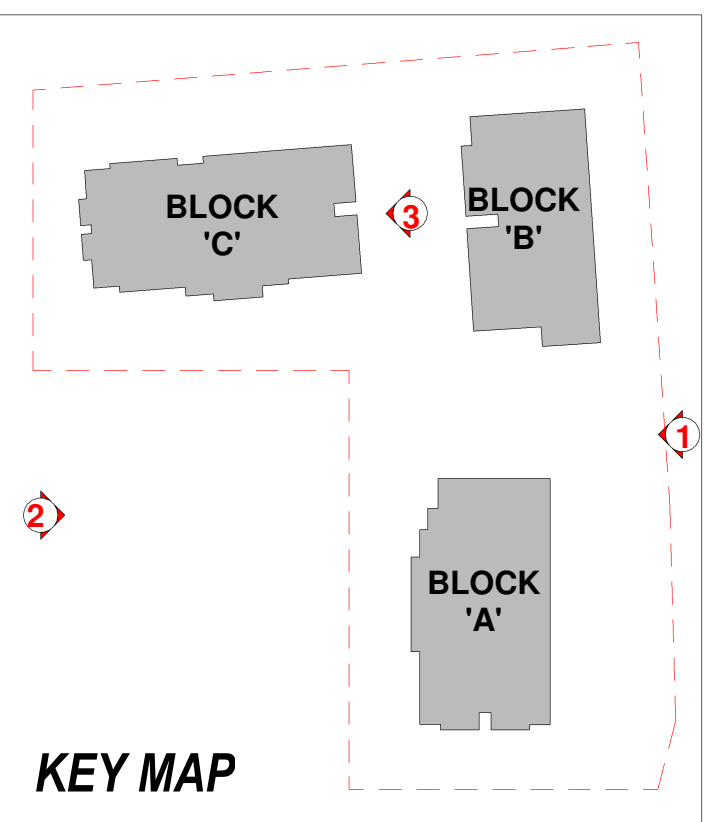
1 NORTH ELEVATION(BUILDING-A&B)  
1 : 200



2 SOUTH ELEVATION (BUILDING-A&C)  
1 : 200



3 NORTH ELEVATION (BUILDING-C)  
1 : 200



Original Architect : The Athla Group

ISSUE	AMENDMENT	DATE	DRAWN	CHECK
M	Issue for Sec 4.55 Application	16.12.19	SY	PN
L	REVISION TO LEC	22.02.18		
K	REVISION TO LEC	20.02.18		
J	REVISION TO LEC	12.02.18	OK	
I	REVISION TO JOINT CONFERENCE	5.02.18	OK	
H	REVISION TO LEC	30.01.18	OK	
G	REVISION AS PER LEC LETTER	18.01.18	OK	
F	REVISION JOINT REPORT TO LEC	03.11.18	CK,WH	
E	Revision to LEC	30.06.17	ZLBP	
D	Revision 3	19.06.17	DJ	
A	ISSUE FOR DEVELOPMENT APPLICATION	06.10.16	JK	

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PROPOSED COMMERCIAL &  
RESIDENTIAL APARTMENT  
DEVELOPMENT

ADDRESS :  
152 HENRY LAWSON AVENUE  
WERRINGTON COUNTY NSW

L.G.A :

SHEET TITLE:  
ELEVATIONS - NORTH & SOUTH

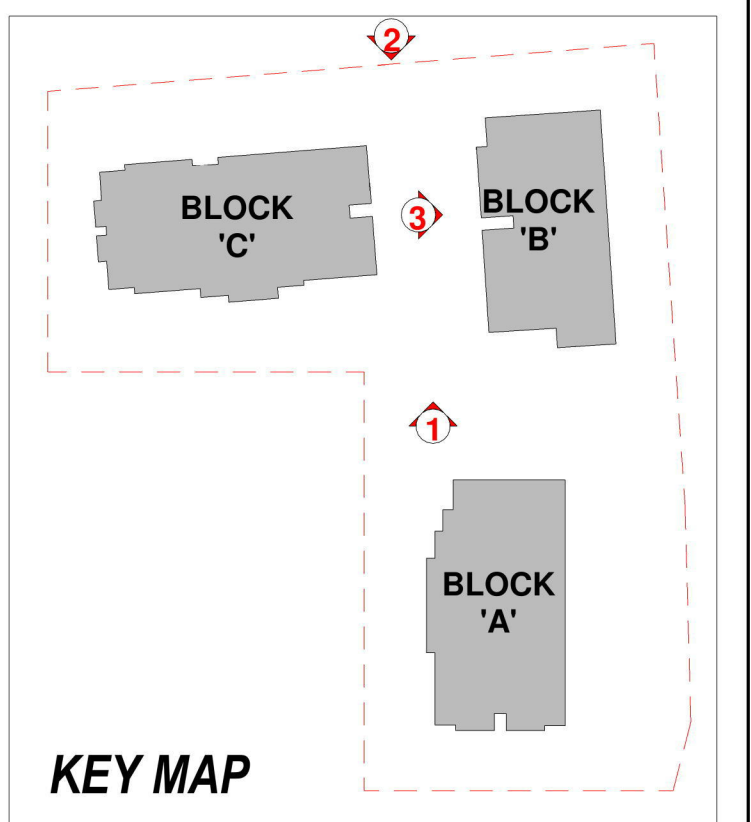
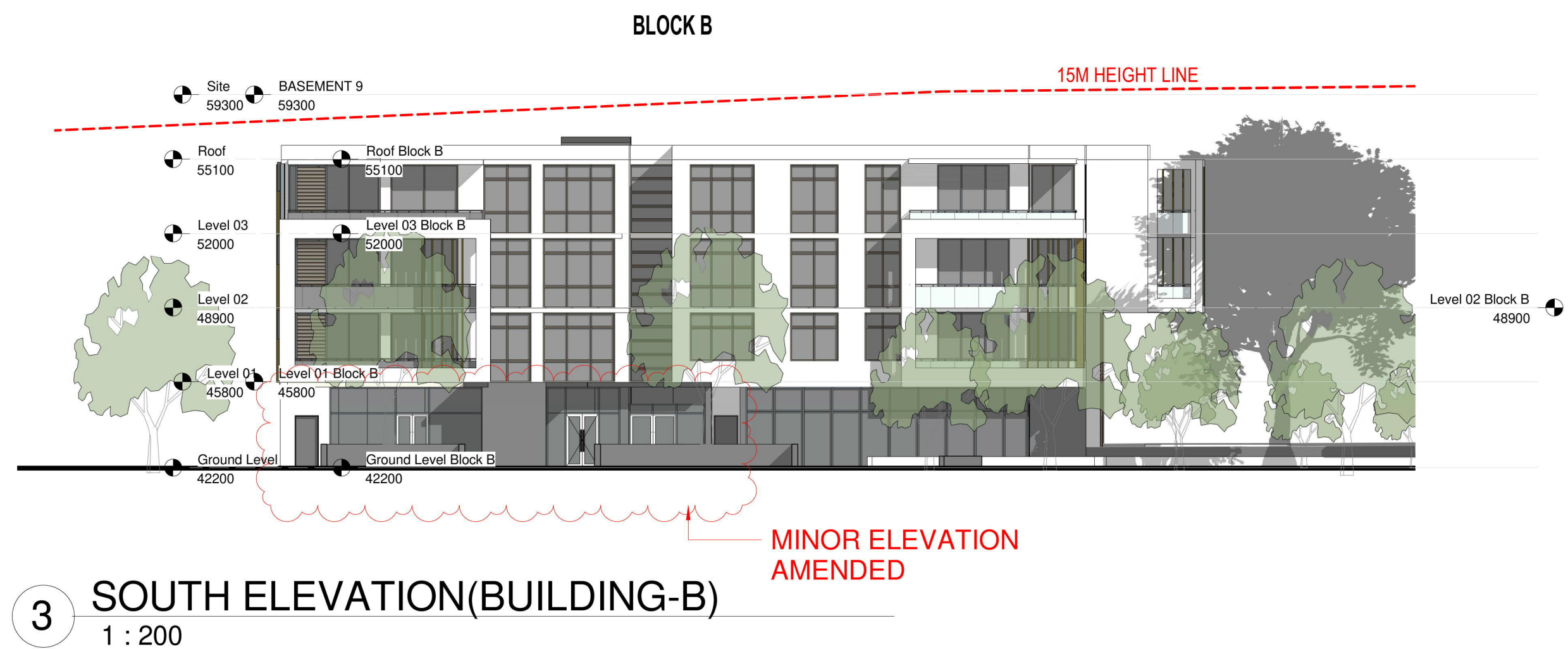
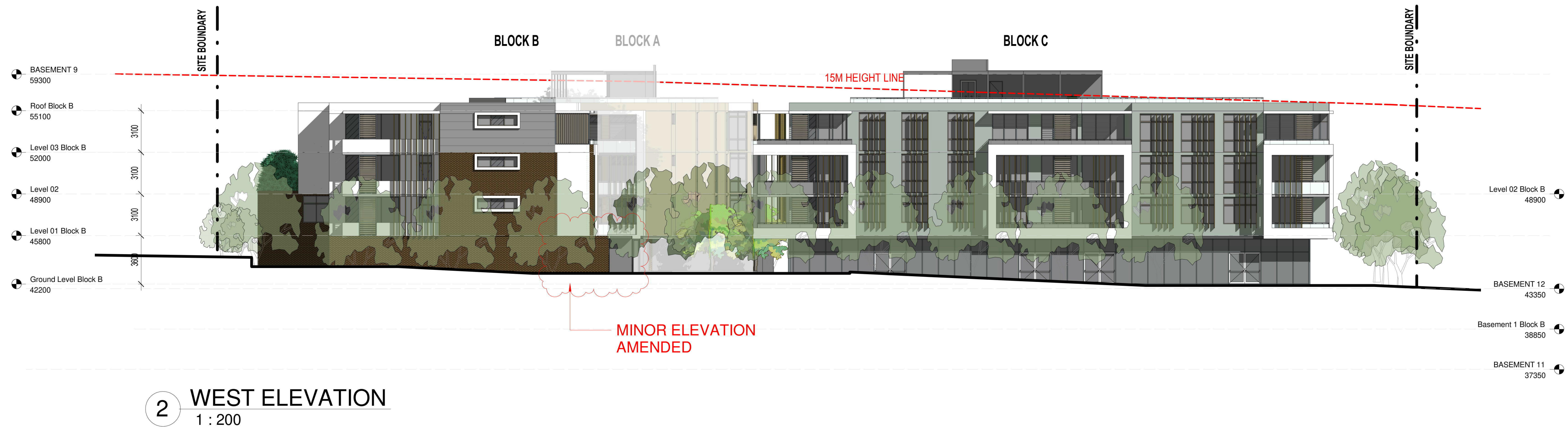
DRAWN:	CHECKED:	DATE:	SCALE: @A1
AE	TC		As indicated
JOB No.	DRAWING No.	ISSUE:	
8658	A-012	M	

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Original Architect : The Bathla Group

ISSUE	AMENDMENT	DATE	DRAWN	CHECK
M	Issue for Sec 4.55 Application	16.12.19	SY	PN
L	REVISION TO LEC	22.02.18		
K	REVISION TO LEC	20.02.18		
J	REVISION TO LEC	12.02.18	CK	
I	REVISION TO JOINT CONFERENCE	5.02.18	CK	
H	REVISION TO LEC	30.01.18	CK	
G	REVISION AS PER LEC LETTER	18.01.18	CK	
F	REVISION JOINT REPORT TO LEC	03.11.18	CK,WH	
E	Revision to LEC	30.08.17	ZL,SP	
D	Revision 3	19.06.17	DJ	
A	ISSUE FOR DEVELOPMENT APPLICATION	06.10.16	JK	

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PROPOSED COMMERCIAL &  
RESIDENTIAL APARTMENT  
DEVELOPMENT

ADDRESS :  
152 HENRY LAWSON AVENUE  
WERRINGTON COUNTY NSW

LGA :

SHEET TITLE:  
ELEVATIONS - EAST & WEST - BLOCK B &  
C

DRAWN: AE CHECKED: TC DATE: SCALE: @A1  
As indicated

JOB No. 8658 DRAWING No. A-013 ISSUE: M

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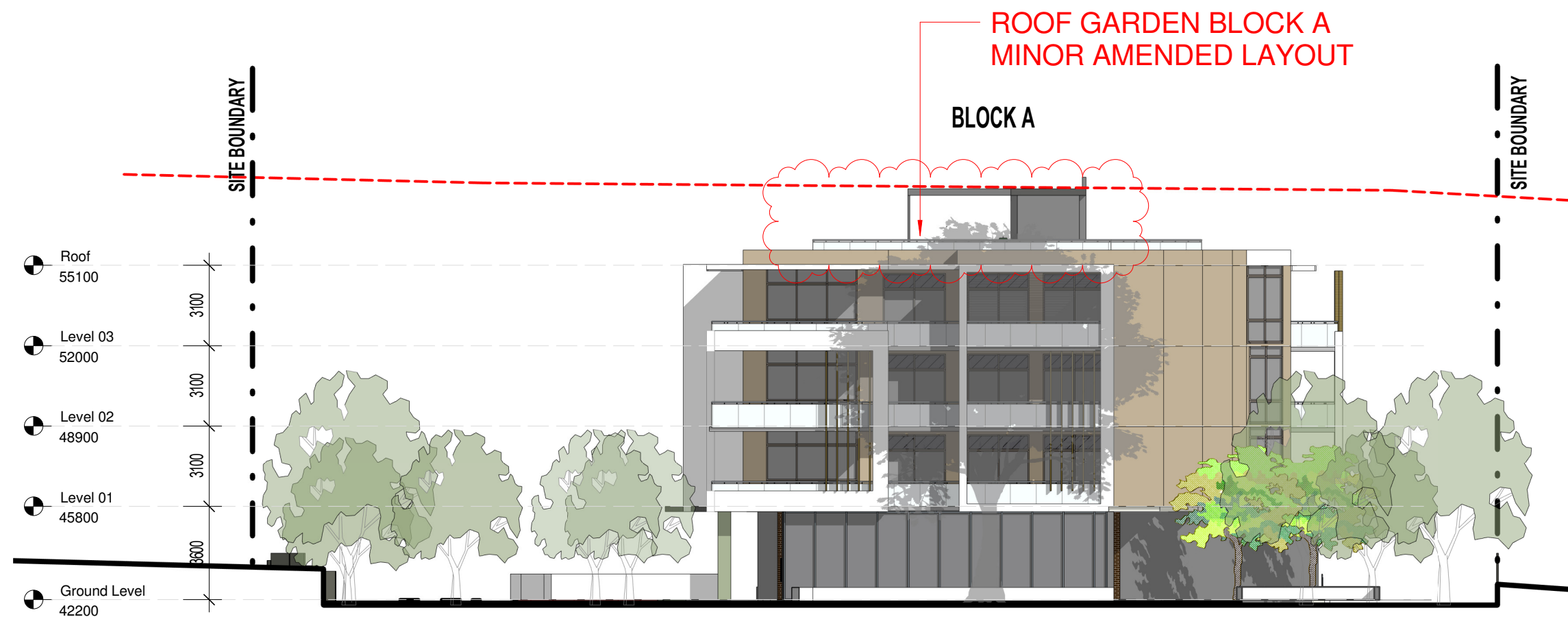
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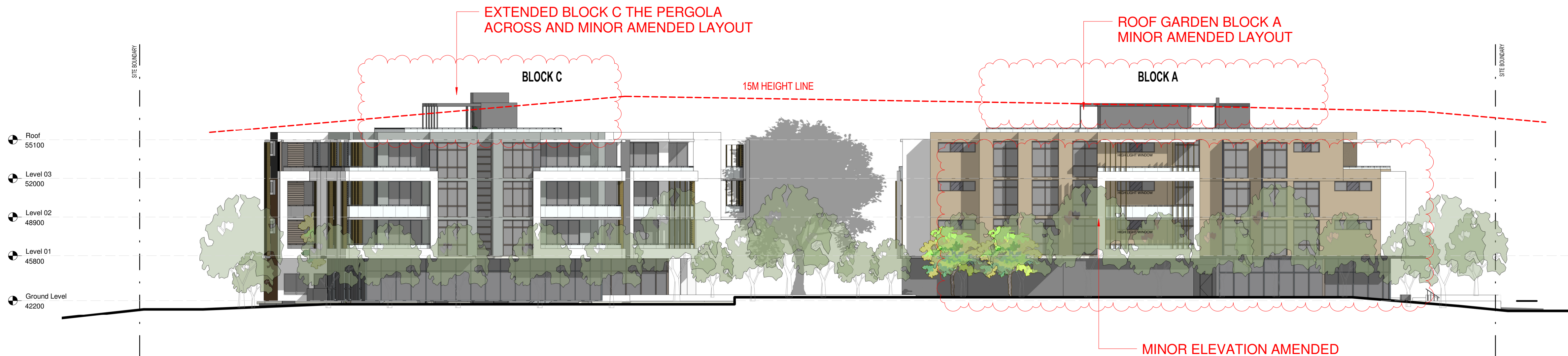




1 EAST ELEVATION - BLOCK A  
1 : 200



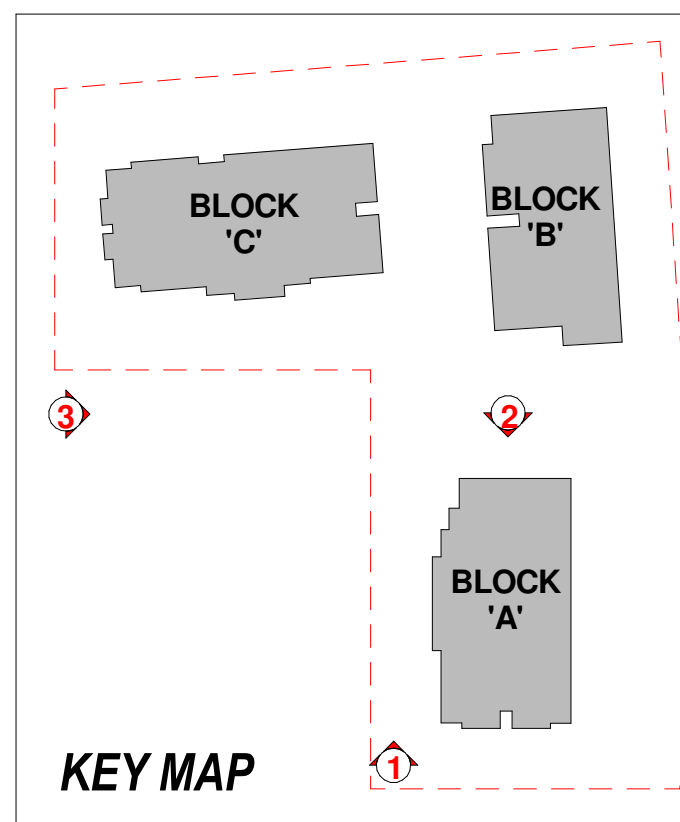
2 WEST ELEVATION - BLOCK A  
1 : 200



3 SOUTH ELEVATION (BUILDING-A&C)  
1 : 200

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KEY MAP

ISSUE	DATE	REVISION	BY
L	22.02.18	REVISION TO LEC	
K	20.02.18	REVISION TO LEC	
J	12.02.18	REVISION TO LEC	CK
I	05.02.18	REVISION TO JOINT CONFERENCE	CK
H	30.01.18	REVISION TO LEC	CK
G	18.01.18	REVISION AS PER LEC LETTER	CK
F	03.11.17	REVISION JOINT REPORT TO LEC	CK WH
E	30.08.17	Revision to LEC	ZL BP
D	19.06.17	Revision 3	DJ
A	06.10.16	ISSUED FOR DEVELOPMENT APPLICATION	JK



#### PROJECT: PROPOSED COMMERCIAL & RESIDENTIAL APARTMENT DEVELOPMENT

152 HENRY LAWSON AVENUE  
WERRINGTON COUNTY NSW

LOT NUMBER:  
LOT 1 IN DP 1218801

DRAWING TITLE:  
**ELEVATIONS - EAST &  
WEST - BLOCK A**

DATE:	SCALE: As indicated	DRAWING No:	REV:
DRAWN BY: AE	PROJECT NO: 2245	A-014	L

DO NOT SCALE  
USE FIGURED DIMENSIONS AT ALL TIMES. IF IN DOUBT CHECK WITH THE BUILDER. CONTRACTORS TO CHECK AND VERIFY ALL LEVELS, DATUMS AND DIMENSIONS ON SITE AND SHALL REPORT ANY DISCREPANCIES OR OMISSIONS TO THE BUILDER PRIOR TO COMMENCEMENT OF WORK AND DURING THE CONSTRUCTION PHASE.

NORTH

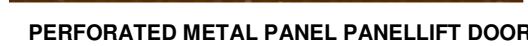
DA ISSUE

C:\Users\chuck\Documents\152 Henry Lawson Ave Rev.K-2\_Chuck.rvt





NOTE: ALL BALCONY  
BALUSTRADES SHALL BE  
PROVIDED WITH OPAQUE GLAZING  
TO A HEIGHT OF AT LEAST 1.2M TO  
MAINTAIN SUFFICIENT LEVELS OF  
PRIVACY FOR RESIDENTS



LOADING DOCK DOOR



REF NO.	ITEM DESCRIPTION	LOCATION	COLOR	CODE	COLOR
P-1	PAINT FINISH	WALLS/COLUMNS	NATURAL WHITE	DULUX OR SIMILAR	
P-2	PAINT FINISH	WALLS	SILVER GREY	DULUX OR SIMILAR	
P-3	PAINT FINISH	WALLS	SELF-DESTRUCT	DULUX OR SIMILAR	
LLL-1	LYSAGHT LONGLINE 305	WALLS	MONUMENT	COLOURBOND OR SIMILAR	
AF	ALUMINUM FRAMED WINDOWS	WINDOWS/DOORS	ANOTEC SILVER GREY	DULUX OR SIMILAR	
AS	ALUMINUM LOUVER SCREEN	BALCONY	ANOTEC SILVER GREY	DULUX OR SIMILAR	
SS	SANDSTONE	WALLS	YELLOW	TEAKWOOD	
AB-1	ALUMINUM CLADDING PANEL	BALCONY BOX FRAME/ROOF	PURE WHITE 10	ALUCOBOND OR SIMILAR	
B	BRICK	WALLS	BLUE BRICK	BOWRAL BLUE OR SIMILAR	
GB	GLASS BALUSTRADE (TO 1.2M HIGH)	BALCONY	GLAZING /OBSCURE	EVANTAGE OR SIMILAR	
AV	ALUMINUMVERTICAL BLADES	BALCONY	ANOTEC SILVER GREY	DULUX OR SIMILAR	
PL	PERFORATED METAL PANEL PANEL LIFT DOOR	LOADING DOCK	MONUMENT	COLOURBOND OR SIMILAR	

L	Issue for Sec 4.55 Application		16.12.19		SY
K	REVISION TO LEC		20.02.18		
J	REVISION TO LEC		12.02.18	OK	
I	REVISION TO JOINT CONFERENCE		5.02.18	OK	
H	REVISION TO LEC		30.01.18	OK	
G	REVISION AS PER LEC LETTER		18.01.18	OK	
F	REVISION JOINT REPORT TO LEC		03.11.18	OK	WH
E	Revision to LEC		30.08.17	ZB	P
D	REVISION TO LEC				
C	REVISION TO LEC				
B	REVISION TO LEC				
A	REVISION TO LEC				

zhin an

**ZHINAR ARCHITECTS**  
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PROPOSED COMMERCIAL &  
RESIDENTIAL APARTMENT  
DEVELOPMENT

ADDRESS :  
152 HENRY LAWSON AVENUE  
WERRINGTON COUNTY NSW

L.G.A :

SHEET TITLE:  
**MATERIALS AND FINISHES**

DRAWN:	CHECKED:	DATE:	SCALE: @A
AE	TC		As indicated

JOB No. 8658      DRAWING No. A-015      ISSUE L

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J	12.02.18	REVISION TO LEC	CK
I	5.02.18	REVISION TO JOINT CONFERENCE	CK
H	30.01.18	REVISION TO LEC	CK
G	18.01.18	REVISION AS PER LEC LETTER	CK
F	03.11.17	REVISION JOINT REPORT TO LEC	CK
E	30.08.17	Revision to LEC	ZL
D	19.06.17	Revision 3	BP
ISSUE	DATE	REVISION	BY




137 Gilba Road, Girraween Sydney NSW - 2145  
PO Box 270 Westworthville NSW 2145  
T: 02 9636 1455 | F: 02 9638 4762  
info@bathla.com.au | www.bathla.com.au

PROJECT:  
**PROPOSED COMMERCIAL & RESIDENTIAL APARTMENT DEVELOPMENT**

152 HENRY LAWSON AVENUE  
WERRINGTON COUNTY NSW

LOT NUMBER:  
LOT 1 IN DP 1218801

DRAWING TITLE:  
**TREE RETENTION/REMOVAL**

DATE:	SCALE: 1 : 200	DRAWING No:	REV:
DRAWN BY: Author	PROJECT NO: 2245	A-024	J
DO NOT SCALE		<div>NORTH</div> 	
USE FIGURED DIMENSIONS AT ALL TIMES. IF IN DOUBT CHECK WITH THE BUILDER.			
CONTRACTORS TO CHECK AND VERIFY ALL LEVELS, DATUMS AND DIMENSIONS ON SITE AND SHALL REPORT ANY DISCREPANCIES OR OMISSIONS TO THE BUILDER PRIOR TO COMMENCEMENT OF WORK AND DURING THE CONSTRUCTION PHASE.			
DA ISSUE			
C:\Users\chuck\Documents\152 Henry Lawson Ave Rev K-2_Chuck.rvt			



## Annexure A

## Universal Property Group v Penrith City Council

## Conditions of Consent

## DA 16/1310 152 Henry Lawson Avenue, Werrington County

## General

- Consent is granted for construction of a commercial/retail development with 'shop top housing' for 49 apartments, being 26 x 2 bedroom units and 23 x 3 bedroom units, on 152 Henry Lawson Avenue, Werrington Council (Lot 1 DP 1218801) including construction and use of pedestrian path over adjacent Council land (Lot 32 DP 576288).

Subject to any amended plans and documents approved by Council under Condition 2 below, the development must be carried out in accordance with the plans and documents listed below, except as amended by these conditions of this consent.

<b>Architectural Plans</b> <b>Bathla Group, Project No. 2245, Issue J, K and L</b>			
A003	20/02/2018	Rev K	Site Plan
A004	20/02/2018	Rev K	Basement 2
A004A	20/02/2018	Rev K	Basement 1
A005	22/02/2018	Rev L	Ground Floor
A006	22/02/2018	Rev L	Level 01
A007	22/02/2018	Rev L	Level 02
A008	22/02/2018	Rev L	Level 03
A009	12/02/2018	Rev J	Roof Plan
A010	12/02/2018	Rev J	Sections AA and BB
A011	12/02/2018	Rev J	Sections CC and DD
A012	22/02/2018	Rev L	Elevations North and South
A013	22/02/2018	Rev L	Elevations East, West Block B & C
A014	22/02/2018	Rev L	Elevations East and West Block A
A015	20/02/2018	Rev K	Materials and Finishes
A022	12/02/2018	Rev J	Garbage and Chute

			System
A024	12/02/2018	Rev J	Tree retention/removal
A025	20/02/2018	Rev K	Adaptable and Liveable Units
A026	20/02/2018	Rev K	Unit Types Block A
A027	20/02/2018	Rev K	Unit Types Block B
A028	20/02/2018	Rev K	Unit Types Block C
<b>Landscape Plans</b>			
<b>Site Image Landscape Architects, Job Number SS17-3357</b>			
000	Cover Sheet	Rev D	8/02/2018
001	Ground Floor Colour Plan	Rev B	12/02/2018
101.1	Landscape Plan – Ground Floor	Rev E	12/02/2018
101.2	Ground Floor	Rev E	12/02/2018
102	Block B&C Rooftop	Rev E	8/02/2018
103	Block A Rooftop	Rev D	8/02/2018
103	Landscape details	Rev C	6/02/2018
<b>Stormwater Plans and report</b>			
Stormwater Quality Report prepared by Martens and Associates Pty Ltd Project Number P1706117, JR01V02, November 2017			
Stormwater concept plans	Martens and Associates Pty Ltd	Project Number P1706117	Plan Set Number P501 Release number 04, 16/02/2018
PS01A000 D			
PS01E100 D			
PS01E101 D			
PS01E102 C			
PS01E200 C			
PS01E201 C			
PS01-E202 C			
PS01E203 D			

PS01E204 B			
PS01E300 B			
PS01E305 B			
PS01E405 B			
PS01E600 D			
PS01E700 D			
Arboricultural Impact Assessment Report	Urban Forestry Australia Pty Ltd	August 2017	
Crime Prevention Through Environmental Design (CPTED) Assessment	GLN Planning	17 October 2017	
Detailed Site Investigation Report	Geotesta NE243	18 January 2018	
Additional site investigation report	Geotesta NE262	7 February 2018	
Additional site investigation report	Geotesta NE262	9 February 2018	
Electromagnetic Field, Stray Current & Electrolysis Assessment Report 18 January 2018	N G Child and Associates	Final, 2 February 2018	
Acoustic Report reference 20160558.4/0711A/R5/GW, Project 20160558.4	Acoustic Logic	7 November 2017	(as amended by further report required by condition 2)
Natural Ventilation and Noise Control Report	Steve King	7 November 2017	
SEPP65 Design Verification Statement	Issue 02	8 February 2018	
Traffic Assessment and Traffic and Parking Impact Statement	Varga Traffic Planning	November 2016	
Preliminary Salinity and Geotechnical Assessment	Martens & Associates	July 2016	

Access Report	Ergon Consulting	12 October 2016	
BCA Compliance Assessment Report	AED Group	11 October 2016	
BASIX certificate	Number 772494M 03	15 February 2018	

### **Amendments and additional documents**

2. Prior to the issue of a Construction Certificate for any building works the following documents and plans are to be submitted to Council:
  - a. Plans indicating appropriate screening of any mechanical plant or unsightly structures installed on the external facades or rooftop
  - b. Plans and details of all required boundary fencing and retaining walls. Timber retaining walls are not permitted
  - c. Plans as to the location of the padmount substation, which is to be designed and located to avoid the need for a blast wall to adjoining properties
  - d. A revised access report reflecting the approved plans. The recommendations of the access report shall be incorporated into the Construction Certificate plans
  - e. An Addendum to the existing Acoustic Report prepared by Acoustic Logic, reference 20160558.4/0711A/R5/GW, Project 20160558.4, dated 7 November 2017, be submitted to Council that references or acknowledges the extended operating hours of the adjacent Caltex Service Station and food outlet and confirms if the extended hours and operation do or don't alter the conclusions of the existing report. Note: Additional noise mitigation measures may be required and these should be identified in any amended Acoustic Report, or Addendum to the existing Report and the development shall incorporate such revised measures in plans submitted for approval of a construction certificate.
  - f. An updated Waste Management Plan reflecting the amended plans and providing a plan of management.
  - g. Revised MUSIC Modelling which reflects the final stormwater plans.

- h. Swept path diagrams for the HRV must be provided to demonstrate the full required manoeuvre, to enter, collect and exit the site.
- i. The turn table must be revised so as to comply with section 2.4 of the 'Penrith City Council Residential Flat Building Waste Management Guideline' – no overhang on the turntable is permitted.

**Stormwater easement**

- 3. Prior to the issue of a construction certificate, and prior to the commencement of any works, an easement of minimum 2.5 metres wide to drain water from 152 Henry Lawson Avenue (Lot 1 DP 1218801) through 144a Dunheved Road, Werrington County (Lot 32 DP 576288) to the existing stormwater drainage system in Dunheved Road shall be obtained and registered on the title to that land and the land burdened by the easement. Evidence of registration of the easement from Land Registry Services must be submitted to the Council.

Note: The Council may require the Applicant to provide some compensation for the easement and to pay all costs associated with the creation of the easement.

**Pedestrian path across adjacent land**

- 4. Development consent is granted for the footpath across Council's adjacent land to Dunheved Road. No approval is granted for removal of any trees for this path or on Council property.

Note: The Applicant will need agreement from the owner of the land (Council) to construct the path on this land, and if necessary obtain an easement for access across the land.

- 5. Prior to the appointment of a principal certifying authority detailed architectural and engineering plans are to be submitted to Penrith City Council for consideration and approval in relation to the proposed 1.5m pedestrian footpath across the RE1 zoned land owned by Penrith City Council.

**General conditions**

- 6. The approved works must be carried out in accordance with the requirements of the Building Code of Australia.
- 7. A Construction Certificate shall be obtained prior to the commencement of any building works.
- 8. The development shall not be used or occupied until an Occupation Certificate has been issued.

9. All doors to waste infrastructure rooms should open outwards 180 degrees to ensure the door does not restrict hallway clearances

**Prior to construction certificate**

10. All mechanical ventilation equipment, ducts, air conditioner services and the like shall be shown on the Construction Certificate documentation as being contained within the buildings.
11. In the event that a hydrant booster is necessary to service the development, the booster shall be integrated into the design of the development. Prior to the issue of a Construction Certificate, Council shall be consulted regarding the proposed location of the booster, as the location of the booster may impact on other services and building, driveway or landscape design. Confirmation will also be required with regard to any heat shield or other such structures required.

**Fencing**

12. Prior to the issue of an Occupation Certificate, all required boundary fencing, courtyard fencing and retaining walls shall be constructed at full cost to the applicant/developer.

**Adaptable units and accessibility**

13. A minimum of five (5) apartments shall be constructed as adaptable units to meet the requirements for persons with a disability. The Construction Certificate application shall be accompanied by certification from an accredited access consultant 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).
14. Prior to the issue of an Occupation Certificate, a certificate prepared by a qualified access consultant certifying that the development has been constructed to satisfy the recommendations of the access report shall be submitted to the Principal Certifying Authority.
15. No approval is granted for any use of the non-residential/commercial units. Prior to occupation of any non-residential/commercial components of the buildings, and subject to any applicable environmental planning instrument, a separate development approval is to be obtained to use the non-residential/commercial components of each building or each tenancy within the building/complex for any purpose.

**Note:** The operating hours of the future ground floor commercial tenancies, including delivery and service vehicles generated by the development, are to comply with the noise criteria and restrictions for times of use in accordance with the Acoustic Report prepared by Acoustic Logic, dated 7 November 2017, reference 20160558.4/0711A/R5/GW.

### **Crime Prevention Through Environmental Design**

16. A user/sensor electronic security system, including intercom/swipe card access or alternative access control measures, shall be installed to vehicular entry/exit points to the basement car park as well to lifts, stair wells and garbage and storage areas, to limit unauthorised access to these areas.
17. Prior to the issue of an Occupation Certificate, a lighting system shall be installed for the development to provide uniform lighting across common areas and driveways. Exterior lighting shall be located and directed in such a manner so as not to create a nuisance to surrounding land uses. The lighting shall be the minimum level of illumination necessary for safe operation. The lighting shall be in accordance with AS 4282 "Control of the obtrusive effects of outdoor lighting" (1997).
18. All barriers along pathways throughout the development should be permeable including fencing, landscaping, etc to eliminate entrapment spots and blind corners and the recommendations of the CPTED Assessment prepared by GLN Planning are to be incorporated into the design and reflected on Construction Certificate plans.
19. The development is to incorporate a CCTV system that covers the common lobby areas, common circulation pathways, and access and egress points to and from the basement to all three (3) buildings.
20. Entrances to the development shall be easily recognisable through design features and directional signage and be clearly visible and legible to users.
21. Graffiti resistant coatings shall be used to external surfaces including blank walls, fences and outdoor furniture throughout the development.

### **Demolition**

22. All demolition and excavated material shall be disposed of at a lawful site or waste facility or lawfully reused. Details of the proposed disposal location(s) or reuse location of all excavated material from the development site shall be provided to the Principal Certifying Authority prior to commencement of demolition.
23. Prior to the issue of the Construction Certificate, a Construction Management Plan



(CMP) is to be prepared by a suitably experienced / qualified person and submitted to Council for approval. If Council is not the certifying authority, a copy of Council's approval is to be provided to the Principal Certifying Authority.

24. The CMP is to address the environmental aspects of the construction phase of the development and is to include details on the environmental management practices and controls to be implemented on the site. The CMP is to address, but is not limited to the following:

- *Water quality management,*
- *Noise control and hours of operation,*
- *Dust suppression,*
- *Waste management (including solid and liquid waste),*
- *Erosion and sediment control,*
- *Air quality including odour and dust control.*

25. All construction activities on the site are to be implemented and carried out in accordance with the CMP during the construction phase of the development.

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

27. Mud and soil from vehicular movements to and from the site must not be deposited on the road. Hosing down of vehicle tyres shall be conducted in a suitable off-street area where wash water is prevented from entering the stormwater system or adjoining property. Suitable erosion and sediment control measures shall be provided at all vehicular entry/exit points.

### **Environmental Matters**

28. A noise compliance report shall be submitted to Penrith City Council prior to the issuing of the Occupation Certificate. The report shall state that the noise reduction measures detailed in the Acoustic Report prepared by Acoustic Logic, dated 7 November 2017, reference 20160558.4/0711A/R5/GW (as revised under condition 2(f) have been implemented, and confirm that the noise emissions from the premises and into the premises complies with noise criteria specified in the report.

29. 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 prevent the offsite migration of sediment and

polluted waters as defined by the Protection of the Environment Operations Act, 1997.

The approved sediment and erosion control measures are to be installed **prior to and maintained throughout the construction phase of the development until the land, that was subject to the works, have been stabilised and grass cover established.** 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.

30. No fill material shall be imported to the site or re-used within the site until such time as a Validation Certificate (with a copy of any report forming the basis for the validation) for the fill material has been submitted to, considered and approved by Council. The Validation Certificate shall:

- ☐ be prepared by an appropriately qualified person (as defined in the Penrith Development Control Plans) with consideration of all relevant guidelines, standards, planning instruments and legislation (e.g. EPA and NEPM 2013),
- ☐ clearly state the legal property description of the fill material source site and the total amount of fill tested,
- ☐ 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 NSW Environment Protection Authority's "Waste Classification Guidelines" 2009, and
- ☐ (based on the fill classification) determine whether the fill material is suitable for its intended purpose and land use and whether the fill material will or will not pose an unacceptable risk to human health or the environment.

Note: The Penrith Development Control Plans define an appropriately qualified person as "a person who, in the opinion of Council, has a demonstrated experience, or access to experience in hydrology, environmental chemistry, soil science, 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."

31. 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 work may be requested. In these circumstances the remediation works shall be carried out prior to any further approved works.

32. An Unexpected Finds Protocol (the Protocol) is to be developed by an appropriately qualified environmental consultant. Prior to the issue of the Construction Certificate,

the Protocol is to be submitted to Council and approved. If Council is not the certifying authority for this development, the report is required to be provided to Penrith City Council for approval. The Protocol is to address, at minimum, the management of any contamination found on the site during the excavation and construction phase of the development, including at minimum, contaminated soils, groundwater, buried building materials, asbestos, odour and staining. The above Protocol is to be complied with at all times during the excavation and construction phase of the development.

33. Any new information which comes to light during remediation, demolition or construction works which has the potential to alter previous conclusions about site contamination, shall be notified to Council immediately on discovery and in writing.
34. All waste materials stored on-site during demolition and construction works are to be contained within a designated area such as a waste bay or bin to ensure that no waste materials are allowed to enter the stormwater system or neighbouring properties. The designated waste storage areas shall provide at least two waste bays / bins so as to allow for the separation of wastes, and are to be fully enclosed when the site is unattended.
35. The vehicle car wash bay shall be provided for residents of the development. Collection, reuse and ultimate disposal of water used in the vehicle wash bay shall be in accordance with Sydney Water's requirements. The car wash bay shall be designed so that the following requirements are met:
  - Have an adequate parking and washing floor space.
  - Provide a water supply.
  - Minimise water use with appropriate devices (e.g., such as a gun-type nozzle which closes when released and a timer operative valve, collection and use of rainwater).
  - Have a water supply cut out system/fail-safe mechanisms provided to ensure that mechanical failure; drainage blockage or lack of maintenance cannot result in wastewater surcharge into the stormwater system.
  - Be designed to ensure that over spray, drift of water or detergent does not cause a nuisance to persons, vehicles, residences, other buildings, neighbouring properties or the environment.

- Be located so that washing can occur with minimal disturbance to other residents.

Details are to be submitted to the Principal Certifying Authority before the wash bay is installed.

36. Noise levels from the premises, including from the ground floor commercial tenancies when approved and occupied, shall not exceed the relevant noise criteria detailed in the Acoustic Report prepared by Acoustic Logic, dated 7 November 2017, reference 20160558.4/0711A/R5/GW (as revised under 2(f) and/or 27). All recommendations and restrictions provided to ensure future use of the commercial tenancies will comply with those criteria in the report as revised shall be implemented and incorporated into the design, construction and use of the development, and shall be shown on plans accompanying the Construction Certificate application.
37. The operating noise level of plant and equipment shall not exceed 5dB(A) above the background noise level when measured at the boundaries of the premises and shall not be audible in any premises of a different occupancy between 10.00pm and 7.00am on weekdays and 10.00pm and 8.00am on weekends and public holidays. The provisions of the Protection of the Environment Operations Act, 1997 apply to the development, in terms of regulating offensive noise.
38. In the event of Council receiving a complaint regarding excessive noise, the person(s) in control of the premises from where the noise is emanating may be directed by Council to at their own cost arrange for an acoustic investigation to be carried out (by a suitably qualified person) and submit a report to Council specifying any need for proposed methods for the control of noise emanating from the premises.
39. Where an intruder alarm is installed on the premises it shall be fitted with a timing device in accordance with the requirements of the Protection of the Environment Operations Act 1997.
40. Stockpiles of sand, soil and other material shall be stored clear of any drainage line or easement, tree protection zone, water bodies, footpath, kerb or road surface and shall have erosion and sediment control measures in place to prevent the movement of such materials onto the aforementioned areas and adjoining land.
41. All storage of materials and goods associated with the use of the ground floor

commercial tenancies shall be contained within the building at all times

42. 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.
43. Only clean and unpolluted water is to be discharged into Penrith City Council's stormwater drainage system. Liquid wastes suitable for discharge to the mains sewer are to be discharged in accordance with Sydney Water requirements.

If Sydney Water will not allow disposal to the sewer then a licensed waste contractor is to remove the liquid waste from the premises to an appropriate waste facility.

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

#### **BCA Issues**

44. 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).
45. 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.

### **Utility Services**

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

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

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

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

48. 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:

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

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

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

## **Construction**

49. 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:

- 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.

50. Prior to the commencement of construction works:

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

- a standard flushing toilet connected to a public sewer, or

- if that is not practicable, an accredited sewage management facility approved by Council, or
  - alternatively, any other sewage management facility approved by Council.
- (b) All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with the appropriate professional standards. All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.
- (c) If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made:
- must preserve and protect the building from damage, and
  - if necessary, must underpin and support the building in an approved manner, and
  - must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished. The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this condition, whether carried out on the allotment of land being excavated or on the adjoining allotment of land, (includes a public road and any other public place).
- (d) If the work involved in the erection or demolition of a building is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or involves the enclosure of a public place, a hoarding or fence must be erected between the work site and the public place:
- if necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place,
  - the work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place, and
  - any such hoarding, fence or awning is to be removed when the work has been completed.
51. Construction works that are carried out in accordance with an approved consent that involve the use of heavy vehicles, heavy machinery and other equipment likely to



cause offence to adjoining properties shall be restricted to the following hours in accordance with the NSW Environment Protection Authority Noise Control Guidelines:

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

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

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

## **Engineering**

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

53. 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 Councils 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 4732 7777 or visit Penrith City Council's website for more information.

54. Prior to the issue of a Construction Certificate, the Certifying Authority shall ensure that a Section 138 Roads Act application including the 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 the provision of vehicular crossings, drainage infrastructure, the provision of grated kerb inlet pits and stormwater drainage pipeline and footpath restoration.

The existing concrete footpath for the full length of the property frontage in Lethbridge

Street shall be replaced.

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

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

Note:

(a) Where Penrith City Council is the Certifying Authority for the development, the Roads Act approval for the above works may be issued concurrently with the Construction Certificate.

(b) All works associated with the Roads Act approval must be completed prior to the issue of an Occupation Certificate.

55. 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 stormwater drainage works in Dunheved Road.

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.

d) The Section 138 Roads Act application may be lodged concurrently with the Section 68 Local Government Act application for the whole of the drainage works in Dunheved Road and Lot 32 DP 576288.

56. Prior to the issue of any Construction Certificate, the Principal Certifying Authority and/ or Certifying Authority shall ensure that an application under Section 68 of the Local Government Act, including payment of application and inspection fees, has been lodged with, and approved by Penrith City Council for provision of stormwater drainage works in Lot 32 DP 576288 being No 144a Dunheved Road, Werrington County.

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) All works associated with the S68 Local Government Act Approval must be completed prior to the issue of any Occupation Certificate or Subdivision Certificate as applicable.

b) The Section 68 Local Government Act application may be lodged concurrently with the Section 138 Roads Act application for the whole of the drainage works in Dunheved Road and Lot 32 DP 576288.

57. 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.

58. Prior to the issue of a Construction Certificate, the Certifying Authority is to be provided with certification that the stormwater management system has been designed in accordance with Penrith City Council's Stormwater Drainage for Building Developments Policy and Water Sensitive Urban Design (WSUD) Policy.

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

60. Prior to the issue of any Construction Certificate, the Certifying Authority is to be

provided with certification from a qualified traffic engineer that confirms vehicular access, circulation, manoeuvring, pedestrian and parking areas associated with the subject development are in accordance with AS 2890.1, AS2890.2, AS2890.6.

Prior to the issue of any Construction Certificate, the Certifying Authority is also to be provided with certification from a qualified traffic engineer that confirms vehicle manoeuvring areas and vehicle clearances have been provided in accordance with the turn path assessment plans referred to in condition 1.

61. 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 for patrons. 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.

62. Prior to the issue of a Roads Act Approval, a Performance Bond is to be lodged with Penrith City Council for stormwater drainage works in Dunheved Road road reserve and adjacent Council land the subject of the easement contemplated in the deferred commencement.

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

Note: Contact Penrith City Council's Development Engineering Department on (02) 4732 7777 for further information relating to bond requirements.

63. 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 the stability of surrounding developments and Council infrastructure adjacent to the development site. The geotechnical investigation, report and strategy shall comply with the recommendations contained in the technical direction GTD 2012/001 prepared by the Roads and Maritime Services, as amended. The development shall undertake a dilapidation report addressing 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 the issue of any Construction Certificate and then updated and submitted to Council prior to the issue of any Occupation Certificate to confirm no damage has occurred.

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

65. Prior to commencement of any works associated with the development, a Traffic Control Plan, including details for pedestrian management, shall be prepared in accordance with AS1742.3 "Traffic Control Devices for Works on Roads" and the Roads and Maritime Services' publication "Traffic Control at Worksites" and certified by an appropriately accredited Roads and Maritime Services Traffic Controller. Traffic control measures shall be implemented during the construction phase of the development in accordance with the certified plan. A copy of the plan shall be available on site at all times.

66. All earthworks shall be undertaken in accordance with AS 3798 and Penrith City Council's Design Guidelines for Engineering Works for Subdivisions and Developments and Engineering Construction Specification for Civil Works.

The level of testing shall be determined by the Geotechnical Testing Authority/ Superintendent in consultation with the Principal Certifying Authority.

67. Prior to the issue of an Occupation Certificate, the Principal Certifying Authority shall ensure that all works associated with any Section 138 Roads Act approval or Section 68 Local Government Act approval have been inspected and signed off by Penrith

City Council.

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

- j. Stormwater management systems (including on-site detention and water sensitive urban design)
  - Have been satisfactorily completed in accordance with approved Construction Certificate and the requirements of this consent.
  - Have met the design intent with regard to any construction variations to the approved design.
  - Any remedial works required to be undertaken have been satisfactorily completed.

Details of the approved and constructed system/s shall be provided as part of the WAE drawings.

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

- k. Stormwater management systems (including on-site detention and water sensitive urban design)

Shall be registered on the title of the property with confirmation provided to Council. The restriction as to user and positive covenant shall be in Penrith City Council's standard wording as detailed in Penrith City Council's Stormwater Drainage for Building Development.

70. Prior to the issue of an Occupation Certificate, works-as-executed drawings, final operation and maintenance management plans and any other compliance documentation shall be submitted to the Principal Certifying Authority in accordance with Penrith City Council's Engineering Construction Specification for Civil Works, WSUD Technical Guidelines and Stormwater Drainage for Building Developments. An original set of Works As Executed drawings and copies of the final operation and maintenance management plans and compliance documentation shall also be submitted to Penrith City Council with notification of the issue of the Occupation and / or Subdivision (Strata) Certificate where Penrith City Council is not the Principal Certifying Authority.

71. Prior to the issue of any Occupation Certificate, a Maintenance Bond is to be lodged

with Penrith City Council for stormwater drainage works in Dunheved Road road reserve.

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

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

### **Landscaping**

73. Landscape works are to be constructed in accordance with Section C6 Landscape Design of Penrith Development Control Plan 2014.

74. Landscaping shall be maintained:

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

75. The three proposed landscape bays separating above ground car parking along the northern boundary of the site are to be constructed as raised planting beds with masonry walls to match the proposed buildings to a height of 1m. The landscape bays must have a least one suitable tree with a mature height of 4-6m. The walls of the raised landscape bed are to be set in from carparking spaces by 300mm in accordance with AS 2890.1

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

77. On completion of the landscape works associated with the development and prior to the issue of an Occupation Certificate for the development, an Implementation Report shall 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.

78. All plant material associated with the construction of approved landscaping is to be planted in accordance with Section C6 Landscape Design of Penrith Development Control Plan 2014.

79. 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.

80. All trees that are required to be retained as part of the development are to be protected in accordance with the minimum tree protection standards prescribed in Section C6 Landscape Design of Penrith Development Control Plan 2014.

81. No consent is given to remove trees from Council property, specifically trees 13,14,15,20,23,24. No trees are to be removed from Council property or the road verge unless approved by Council.

82. No trees are to be removed, ringbarked, cut, topped or lopped or wilfully destroyed (other than those within the proposed building footprint or as shown on the approved plans) without the prior consent of Penrith City Council and in accordance with Council's Tree Preservation Order and Policy.

83. Prior to the issue of an Occupation Certificate, two (2) Spotted Gum Trees are to be planted along the Henry Lawson frontage. The trees are to be native in species and have a minimum 20L pot size. Before the street trees are planted, the location of the street trees are to be approved by Penrith City Council (as the relevant Roads Authority).

#### **Development Contributions**

84. This condition is imposed in accordance with Penrith City Council's Section 94 Contributions Plan for Cultural Facilities. Based on the current rates detailed in the accompanying schedule attached to this Notice, \$18,336 is to be paid to Council prior to a Construction Certificate being issued for this development (the rates are subject to quarterly reviews). If not paid within the current quarterly period, this contribution



will be reviewed at the time of payment in accordance with the adopted Section 94 plan. The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule.

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

85. This condition is imposed in accordance with Penrith City Council's Section 94 Contributions Plan for District Open Space. Based on the current rates detailed in the accompanying schedule attached to this Notice, \$180,879 is to be paid to Council prior to a Construction Certificate being issued for this development (the rates are subject to quarterly reviews). If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted Section 94 plan. The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule.

Council should be contacted prior to payment to ascertain the rate for the current quarterly period. The S.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.

86. This condition is imposed in accordance with Penrith City Council's Section 94 Contributions Plan for Local Open Space. Based on the current rates detailed in the accompanying schedule attached to this Notice, \$65,386 is to be paid to Council prior to a Construction Certificate being issued for this development (the rates are subject to quarterly reviews). If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted Section 94 plan. The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule.

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

## **Waste Management**

87. The on-site waste infrastructure provided within the development is to be built in accordance with the approved plans.

**88. On-site waste infrastructure is to be provided in accordance with the following waste management requirements and compliance demonstrated prior to the issue of a Construction Certificate:**

- All on-site waste collection infrastructure, doors and access points (Waste Chute Room, Waste Collection Room, Bulky Household Waste Collection Room, Hoist and Loading bay) are to be lockable through Council's Abloy Key System. System specifications are outlined in section 3.5.5 of the 'Residential Flat Building Guideline' document.
- All on-site waste collection infrastructure (Waste Chute Room, Waste Collection Room, Bulky Household Waste Collection Room and Loading bay) are to provide wash facilities through the use of a centralised mixing valve and hose cock. Respective drainage and water proofing to be installed to support the use of hose facilities. Waterproofing certification for the waste infrastructure shall be required.
- Unless otherwise stated, the on-site waste collection infrastructure must comply with the requirements of section 3.5 of the 'Residential Flat Building Guideline' document.
- The Bin Lift (hoist) is to be large enough to accommodate 2x 1100L bins with 200mm manoeuvrability clearance to permit bin movement from the basement to the ground floor loading bay.
- The on-site loading bay to provide an unobstructed height clearance of 4.5m during all heavy rigid vehicle manoeuvres on-site.
- Adequate acoustic treatments, mechanical ventilation and lighting to be installed within the loading bay to permit on-site waste collection with the doors closed during collection.
- The turn table for the 10.5m heavy rigid waste collection vehicle to incorporate a hydraulic override system or similar assisted override system to ensure the turn table can be rotated in the event of a systems malfunction.
- The turn table is to be provided in accordance with section 2.4 of the 'Residential Flat Building Guideline' document.

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

- A bin tug device is required to be provided for the internal movement of 1100L bins. The device is to be provided in accordance with section 3.6 of the 'Residential Flat Building Guideline' document device specifications. The device must be permanently stored within the development. The supply and installation of the device must be proved to Council prior to the Occupation Certificate being issued. The location of the storage area for the device; the proposed use; and operational requirements are required to be submitted to Council for approval prior to the Occupation Certificate being issued. The nominated storage point for the tug device shall be adjacent to the on-site waste collection infrastructure. The proposed utilisation of the tug must be demonstrated so as to be suitable to bring bins to the loading bay for collection.
- The turn table for the 10.5m heavy rigid waste collection vehicle to incorporate a hydraulic override system or similar assisted override system to ensure the turn table can be rotated in the event of a systems malfunction.
- 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 and damage. Please see Council's required **Agreement for Onsite Waste Collection** at <https://www.penrithcity.nsw.gov.au/Building-and-Development/Development-Applications/Forms/>

- **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.
- Council's service will be provided/commenced upon the completion and approval of all on-site waste collection infrastructure and the attainment and submission of an Occupation Certificate. All requirements of Council's domestic collection services must be complied with at all times. Please telephone Council on (02) 4732 7615 to arrange for the commencement of waste collection services.

90. Garbage and recycling rooms within the 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

91. All waste and recycling containers shall be stored in the designated waste storage area. The body corporate shall be responsible for cleaning and maintaining the waste storage area and waste collection containers. In the event of Council receiving complaints regarding odour from the premises, body corporate 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.

92. All excavated material and other wastes generated as a result of the development are to be re-used, recycled or disposed of in accordance with the approved waste management plan.

Waste materials not specified in the approved waste management plan are to be disposed of at a lawful waste management facility. Where the disposal location or waste materials have not been identified in the waste management plan, details shall be provided to the Certifying Authority as part of the waste management documentation accompanying the Construction Certificate application.

All receipts and supporting documentation must be retained in order to verify lawful

disposal of materials and are to be made available to Penrith City Council on request.

### **Payment of fees**

93. All roadworks, dedications and stormwater drainage works are to be carried out at the applicant's cost.
94. 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**

95. 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 Schedule 1 of State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development.
96. 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.

97. 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 Schedule 1 of State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development.

#### **Use of rooftop areas**

98. Residents of Block B are to be provided with access, and be permitted to use, the rooftop communal open space areas on Block A and Block C. The roof top common open space on Building C is not to be used after 10pm, 7 days per week. Should the building be subject to a future application for strata subdivision the right of access, and time restriction on use are to be contained in the by-laws of the strata plan to ensure that residents in Block B are provided with access to suitable communal open space areas, and to minimise noise and overlooking intrusion on nearby residents.

End of conditions