

PENRITH CITY COUNCIL

NOTICE OF DETERMINATION

DESCRIPTION OF DEVELOPMENT

Application number:	DA16/0621
Description of development:	Demolition of Existing Structures & Construction of Four (4) Storey Residential Flat Building containing 12 Apartments including 1 Affordable Rental Housing Apartment & Basement Car Parking
Classification of development:	Class 2 , Class 7a

DETAILS OF THE LAND TO BE DEVELOPED

Legal description:	Lot 3 DP 508698
Property address:	1 Garner Street, ST MARYS NSW 2760

DETAILS OF THE APPLICANT

Name & Address:	Baini Design Office 2, Level 4 25-33 Old Northern Road BAULKHAM HILLS NSW 2153
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DECISION OF CONSENT AUTHORITY

In accordance with Section 81(1) (a) of the Environmental Planning and Assessment Act 1979, consent is granted subject to the conditions listed in attachment 1.

Please note that this consent will lapse on the expiry date unless the development has commenced in that time.

Date from which consent operates	30 March 2017
Date the consent expires	30 March 2019
Date of this decision	10 March 2017

POINT OF CONTACT

If you have any questions regarding this determination you should contact:

Assessing Officer:	Kathryn Saunders
Contact telephone number:	+612 4732 8567

NOTES

Reasons

The conditions in the attached schedule have been imposed in accordance with Section 80A of the Environmental Planning and Assessment Act 1979 as amended.

Conditions

Your attention is drawn to the attached conditions of consent in attachment 1.

Certification and advisory notes

You should also check if this type of development requires a construction certificate in addition to this development consent

It is recommended that you read any Advisory Note enclosed with this notice of determination.

Review of determination

The applicant may request Council to review its determination pursuant to Section 82A of the Environmental Planning and Assessment Act 1979 within 6 months of receiving this Notice of Determination.

You cannot make this request if the development is Designated Development, Integrated Development or State Significant development or if the application was decided by Sydney West Planning Panel.

Appeals in the Land and Environment Court

The applicant can appeal against this decision in the Land and Environment Court within six (6) months of receiving this Notice of Determination.

You cannot appeal if a Commission of Inquiry was held for the subject development application, or if the development is a State Significant Development.

An appeal to the Land and Environment Court is made by lodging an application to the Court in accordance with the Rules of the Court.

Designated development

If the application was for designated development and a written objection was made in respect to the application, the objector can appeal against this decision to the Land and Environment Court within 28 days after the date of this notice. The objector cannot appeal if a Commission of Inquiry was held.

If the applicant appeals against this decision, objector(s) will be given a notice of the appeal and the objector(s) can apply to the Land and Environment Court within 28 days after the date of this appeal notice to attend the appeal and make submissions at that appeal.

Sydney West Planning Panels

If the application was decided by the Sydney West Planning Panel, please refer to Section 18 of the Greater Sydney Commission Act 2015 and Section 23H of the Environmental Planning and Assessment Act, 1979 (as amended) for any further regulations.

ATTACHMENT 1: CONDITIONS OF CONSENT

General

- 1 The development must be implemented substantially in accordance with the plans listed below:

Architectural Plans prepared by Baini Design			
Plan No.	Description	Revision	Date
16047 - 06	Demolition Plan	C	02/11/16
16047 - 07	Basement – Ground Floor	D	24/02/17
16047 - 08	First Floor, Second & Third Floor	C	02/11/16
16047 - 09	Roof Plan/BASIX Commitments	C	02/11/16
16047 - 10	South & North Elevations	C	02/11/16
16047 - 11	East & West Elevations	C	02/11/16
16047 - 12	Sections 1	C	02/11/16
16047 - 13	Sections 2	C	02/11/16
16047 - 14	External Colours and Finishes	C	02/11/16
16047 - 16	Materials and Finishes Schedule	C	02/11/16
Landscape Plans prepared by RFA Landscape Architects			
L-01	Landscape Plan	B	25/11/16
Stormwater Plans prepared by Australian Consulting Engineers			
101	Stormwater Concept Plan Basement Level Sheet 1 of 2	B	23/11/2016
102	Stormwater Concept Plan Basement Level Sheet 2 of 2	B	23/11/2016
103	Stormwater Concept Plan Ground Level Sheet 1 of 2	B	23/11/2016
104	Stormwater Concept Plan Ground Level Sheet 2 of 2	B	23/11/2016
105	Water Sensitive Urban Design Details	B	23/11/2016
106	On-Site Detention Details and Calculation Sheet	B	23/11/2016
107	Miscellaneous Details Sheet	B	23/11/2016
Additional Reports and Plans			
Report No.	Prepared by/Title/Description	Revision	Date
-	Stormwater Quality Management Plan prepared by Umbrella Civil Consulting Engineers	A	April 2016
15110325	Thermal Performance Assessor Certificate prepared by Anthony Pearl	-	26-04-13
	Waste Management Plan. No author provided.	-	01/06/16
161017	Traffic & Parking Impact Assessment prepared by NSA Consulting Traffic & Transport Consultants	Final	June 2016

as stamped approved by Council, the application form, BASIX Certificate No. 720107M and any supporting information received with the application, except as may be amended in red on the approved plans and reports by the following conditions.

2 Prior to the issue of the Construction Certificate, the following design alterations are to be made:

- (a) A minimum of 12 car parking spaces are to be provided within the basement carpark. Should bicycle parking be relocated as a result of this condition, the new location of bicycle parking shall be shown on amended plans.
- (b) A 1.5m wide pedestrian pavement is to be provided along the frontage of the site. A min. 1.5m wide pavement is to be provided from the boundary of the site to the pavement.
- (c) Fencing associated with the private open space area of Unit GF.03 is to be a maximum 1.2m if of solid or masonry construction with slatted timber or similar, up to a maximum height of 1.8m.
- (d) One (1) street tree is to be provided along the frontage of the site. The selected tree is to be an Australian native, preferably endemic to the area and is to have a minimum mature height of 6m.
- (e) Fixed glazing is to be provided to the southern elevation adjacent to the communal lobby and lift circulation areas on levels 1, 2 and 3, in addition to the proposed louvres.
- (f) The width of the west facing level 1 balcony attached to Unit 01.01 is to be a maximum depth of 3m.
- (g) The floor of the communal waste area is to be finished so that it has a smooth and even surface and is graded to prevent water from pooling within the waste bay.
- (h) The waste bay is to be provided with a hose cock and the entryway to the waste area is to be a minimum of 1.2m wide.
- (i) Fixed louvres are to be provided to the lounge room windows of Units 01.01, 02.01, 03.01, 01.03, 02.03 and 03.03. The louvres are to be angled to restrict cross viewing into the windows of adjacent apartments.

Amended plans indicating the above amendments are to be submitted to and approved by Penrith City Council prior to the issue of a Construction Certificate.

3 Prior to the issue of an Occupation Certificate, an amended landscape plan is to be submitted to and approved by the Manager Development Services at Penrith City Council. The amended landscaping plan shall reflect the stamped approved architectural and stormwater layouts and include the following amendments:

- (a) Planter boxes proposed along the southern elevation are to be provided with irrigation for watering and are to have a minimum soil depth of 800mm.
- (b) A planter box is to be provided along the northern and southern boundary to unit GF.01 and the southern boundary of Unit GF.02. These planters are to have a minimum soil depth of 800mm.
- (c) A tree is to be provided within the front setback of the lot, adjacent to the Garner Street entryway to Unit GF03. The selected tree species is to have a minimum mature height of 6m and is to be a minimum 45l pot size.

4 The following design and/or construction issues need to be addressed prior to the issue of any Construction Certificate to ensure compliance with the Building Code of Australia:

- (a) Non-compliance with the deemed-to-satisfy provisions of Volume 1 of the Building Code of Australia in regards to the number of exits provided to the basement.

Amended documentation is to be submitted to the Principal Certifying Authority detailing compliance with the above.

- 5 Prior to the issue of an Occupation Certificate, the redundant kerb cross over and driveway is to be removed and kerb and gutter reinstated.**
- 6 A restriction must be registered, before the date of the issue of the Occupation Certificate, against the title of the property on which the development is to be carried out, in accordance with Section 88E of the *Conveyancing Act 1919*.**

The restriction is to ensure the requirements of Clause 17 of State Environmental Planning Policy (Affordable Rental Housing) 2009 are met. In this regard, a minimum of one adaptable apartment within the building, is to be provided for the purposes of affordable rental housing for a period of 10 years from the date of the issue of the Occupation Certificate and all accommodation that is to be used as affordable rental housing is to be managed by a registered community housing provider.

Details of the nominated, registered community housing provider are to be provided to Council, **prior to the issue of an Occupation Certificate.**

- 7 **Prior to the issue of a Construction Certificate**, stormwater plans are to be amended to reflect the approved basement layout.
 - 8 **The development shall not be used or occupied until an Occupation Certificate has been issued.**
 - 9 **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).
 - 10 The finishes of all structures and buildings are to be maintained at all times and any graffiti or vandalism immediately removed/repaired.
 - 11 A **Construction Certificate** shall be obtained prior to commencement of any building works.
 - 12 The Construction Certificate plans shall address the following landscape design advisory notes:
 - (a) Avoid vegetation, which conceals the building entrance from the street.
 - (b) Vegetation that impedes the effectiveness of public and private space lighting should be avoided.
 - (c) The use 'green screens' (wall hugging vegetation that cannot be hidden behind) to screen large expanses of fencing all wall to minimise graffiti is encouraged. Caution should be taken to ensure that plant screening does not provide a natural ladder to gain unauthorised access to the building.
 - 13 The basement car parking area shall be provided with the following:
 - (a) A security system must be installed on any pedestrian and vehicle entry/exit points to the car park, including the lift and stairwell, to minimise opportunities for unauthorised access.
 - (b) Signage must be in place to clearly identify exit and access points, the location of lifts and stairwells.
 - (c) All surfaces in the car park should be painted in light coloured paint or finished in light coloured concrete or other material to reflect as much light as possible.
- Advisory Notes:
- All areas of the car park (including lift lobbies, stairwells, garbage rooms and storage areas) must be well-lit, with consistent lighting to prevent shadowing or glare.
 - To ensure users of large car parks are easily able to determine their location, exit and access points, security intercoms and the like appropriate signage it to be included.
 - All potential entrapment points should be avoided. Adequate lighting and mirrors should be used when certain design features are unavoidable
- 14 Pedestrian pathways, laneways and access routes in outdoor public spaces should be provided with appropriate levels of lighting and should be consistent in order to reduce the contrast between shadows and illuminated areas. Lighting should be designed in accordance with AS4282 – Control of the obtrusive effects of outdoor lighting.

15 **Prior to the issue of an Occupation Certificate**, the Principal Certifying Authority shall ensure the following:

- (a) Each individual apartment shall be clearly numbered.
- (b) Unit numbers should be clearly displayed on each level of the building.
- (c) Secure access is to be provided to the main pedestrian entryway/lobby and lift.

16 **Prior to the issue of an Occupation Certificate**, 2.1m high fencing shall be erected along the southern and northern side boundaries behind the front building setback to Garner Street. Such fencing and any retaining walls required shall be constructed entirely at the expense of the persons having the benefit of this consent. Timber retaining walls are not permitted.

The external face of any walls or fences visible from adjacent private or public areas is to be installed and finished to an equal or higher standard and quality than those visible to the occupants of the approved development.

17 A minimum of two (2) apartments shall be constructed as adaptable apartments to meet the requirements for persons with a disability in accordance with the stamped approved plans. The adaptable units shall each be allocated an accessible car parking space compliant with AS 2890.6. **The Construction Certificate must be accompanied by certification** from a person suitably qualified by the Association of Consultants in Access Australia confirming that the adaptable dwellings are capable of being modified, when required by the occupant, to comply with the Australian Housing Standard (AS 4299-2009). A compliance Certificate in this regard shall be provided **prior to the issue of an Occupation Certificate**.

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

- Name of responsible company and relevant contact details.
- Dimensions (height, length, etc.)
- Position and orientation of boom/jib and counter boom/jib
- Length of time that such a crane or structure will be erected on site.

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

- Be equipped with medium intensity steady red lighting positioned at the highest point and both ends of the boom/jib and counter boom/jib, such that the lighting will provide an indication of the height of the crane and the radius of the crane boom/jib. Such lighting, is to be on and displayed at all times of the day and night, should be positioned so that when displayed it is visible from all directions.
- When a crane is unattended for an extended period of time ensure the crane's boom is retracted and lowered as far as possible.
- Any encroachment of the crane or its components beyond the boundaries of the subject site shall be the minimum amount required to facilitate construction and access all parts of the construction site.

19 **Prior to the issued 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.

20 **Prior to the issued of an Occupation 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.

- 21 All mechanical ventilation equipment, ducts, air conditioner services and the like shall be shown on the Construction Certificate documentation as being contained within the building. Gutters and down pipes shall be integrated into the architecture of the building. Any plant or unsightly structures installed on the rooftop must be screened from view.
- 22 A final materials and finishes schedule is to be submitted to and approved by the Manager Development Services at Penrith City Council **prior to the issue of a Construction Certificate**.
- 23 Balcony glazing is to be tinted (neutral colour) or otherwise obscure to assist in maintaining privacy. Details are to be shown on the plans submitted for the Construction Certificate.
- 24 Should any "unexpected finds" occur during the excavation and earthworks, including, but not limited to, the identification/finding of contaminated soils, buried building materials, asbestos, odour and/or staining, works are to cease immediately and Council is to be notified. Any such "unexpected finds" shall be addressed by an appropriately qualified environmental consultant.

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

Demolition

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

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

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

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

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

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

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

- 27 Dust suppression techniques are to be employed during demolition to reduce any potential nuisances to surrounding properties.
- 28 Mud and soil from vehicular movements to and from the site must not be deposited on the road.
- 29 Demolition works shall be restricted to the following hours in accordance with the NSW Environment Protection Authority Noise Control Guidelines:
- Mondays to Fridays, 7:00am to 6:00pm
 - Saturdays, 7:00am to 1:00pm if inaudible on neighbouring residential premises, otherwise 8:00am to 1:00pm
 - No demolition work is permitted on Sundays and Public Holidays.

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

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

Environmental Matters

- 30 Erosion and sediment control measures shall be installed **prior to the commencement of works on site** including approved clearing of site vegetation. The erosion and sediment control measures are to be maintained in accordance with the approved erosion and sediment control plan(s) for the development and the Department of Housing's "Managing Urban Stormwater: Soils and Construction" 2004.
- 31 Cut and fill operations on the property are only permitted in conjunction with the building works as detailed on the approved plans and specifications, and shall not extend more than 2 metres past the defined building footprint.

Before any fill material is imported to site, a validation certificate issued by an appropriately qualified person is to be provided to the Principal Certifying Authority. The validation certificate must demonstrate that the fill material is free from contaminants and weeds, that it is suitable for its intended purpose and land use, and that it will not pose an unacceptable risk to human health or the environment.

If Penrith City Council is not the Principal Certifying Authority, a copy of the validation certificate is to be submitted to Council for their reference.

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

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

- 33 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.

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

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

An appropriately qualified person/s (as defined in the Penrith City Council Contaminated Land Development Control Plan) shall:

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

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

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

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

- 35 **Prior to the issue of any Occupation Certificate**, all dwellings within Penrith LGA are required to enter a

formal agreement with Penrith City Council for the utilization of Council's Waste Collection Service. This is to include Council being provided with indemnity against claims for loss or damage.

Note: By entering into an agreement with Council for waste collection, the development will be required to operate in full compliance with Penrith City Council's Waste collection and Processing Contracts for Standard Waste Collection. The provision of Council's waste collection service will not commence until formalisation of the agreement. The original signed copy is to be submitted to Council. The document can be downloaded via the following link:

<https://www.penrithcity.nsw.gov.au/Building-and-Development/Development-Applications/Forms/>

- 36 Prior to the issue of an Occupation Certificate, the developer is to enter into a formal agreement with Penrith City Council for the utilisation of Council's Waste Collection Service. This is to include Council being provided with indemnity against claims for loss or damage.

Note: By entering into an agreement with Council for waste collection, the development will be required to operate in full compliance with Penrith City Council's Waste Collection and Processing Contracts for Standard Waste Collection. The provision of Council's waste collection service will not commence until formalisation of the agreement.

BCA Issues

- 37 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.

- 38 All aspects of the building design shall comply with the applicable performance requirements of the Building Code of Australia so as to achieve and maintain acceptable standards of structural sufficiency, safety (including fire safety), health and amenity for the on-going benefit of the community. Compliance with the performance requirements can only be achieved by:
- (a) complying with the deemed to satisfy provisions, or
 - (b) formulating an alternative solution which:
 - complies with the performance requirements, or
 - is shown to be at least equivalent to the deemed to satisfy provision, or
 - (c) a combination of (a) and (b).

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

Utility Services

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

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

- 40 **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 required to service the development, Penrith City Council must be consulted over the proposed location of the substation before the Construction Certificate for the development is issued, as the location of the substation may impact on other services and building, driveway or landscape design already approved by Council. An application to modify the development under Section 96 of the Environmental planning and Assessment Act 1979 may be required with regard to amendments to the landscape, building or waste services design to accommodate a substation.

Confirmation is to be provided to Penrith City Council that a blast wall or similar structure is not required.

- 41 **Prior to the issue of a Construction Certificate**, the Principal Certifying Authority shall be satisfied that telecommunications infrastructure may be installed to service the premises which complies with the following:

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

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

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

- 42 **Prior to the issue of a Construction Certificate, Penrith City Council must be consulted over the proposed location of the hydrant booster. Details must be provided to Penrith City Council to confirm the location, material and design dimensions of any heat shield required.**

Construction

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

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

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

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

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

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

44 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.

45 Clothes drying facilities are to be positioned and screened from public view.

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

- Mondays to Fridays, 7:00am to 6:00pm
- Saturdays, 7:00am to 1:00pm if inaudible on neighbouring residential premises, otherwise 8:00am to 1:00pm
- No work is permitted on Sundays and Public Holidays.

Other construction works carried out inside a building 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

- 47 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.
- 48 An Infrastructure Restoration Bond is to be lodged with Penrith City Council for development involving works around Penrith City Council's Public Infrastructure Assets. The bond is to be lodged with Penrith City Council prior to the issue of any Construction Certificate. The bond and applicable fees are in accordance with Council's adopted Fees and Charges.

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

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

- 49 Prior to the issue of any Construction Certificate, a Section 138 Roads Act application, including payment of application and inspection fees, shall be lodged and approved by Penrith City Council (being the Roads Authority for any works required in a public road). These works may include but are not limited to the following:
- (a) Vehicular crossings (including kerb reinstatement of redundant vehicular crossings)
 - (b) Concrete footpaths and or cycleways
 - (c) Road opening for utilities and stormwater (including stormwater connection to Penrith City Council roads and other Penrith City Council owned drainage)
 - (d) Road occupancy or road closures
 - (e) The placement of hoardings, structures, containers, waster skips, signs, etc in the road reserve
 - (f) Temporary construction access

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

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

Note:

- (a) Where Penrith City Council is the Certifying Authority for the development, the Roads Act approval for the above works may be issued concurrently with the Construction Certificate.
 - (b) All works associated with the Roads Act approval must be completed prior to the issue of any Occupation Certificate.
- 50 **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 a stormwater kerb inlet pit and pipe drainage works in Putland Street.

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.

- 51 The stormwater management system shall be provided generally in accordance with the concept plan/s lodged for development approval, prepared by Umbrella Civil, reference number UMB160085.SW.DA, sheets 101-107, revision B, dated 23/11/2016.

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

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

- 52 **Prior to the issue of any Construction Certificate**, the Certifying Authority shall ensure that the stormwater drainage system for the basement car park has been designed in accordance with the requirements for pumped systems in AS 3500.3 (or as amended) (Plumbing and Drainage – Stormwater Drainage).
- 53 Prior to the issue of any Construction Certificate, the Certifying Authority shall ensure that the foundations of proposed structures adjoining the drainage and/ or services easement have been designed clear of the zone of influence.
- 54 Prior to the issue of any Construction Certificate, the Certifying Authority shall ensure that:
- a) The crest in the access ramp to the basement car park is a minimum of RL 300mm above the top of kerb.

Details prepared by a qualified person, demonstrating compliance with these requirements, shall form part of any Construction Certificate issued.

- 55 Prior to the issue of any Construction Certificate, the Certifying Authority shall ensure that vehicular access, circulation, manoeuvring, pedestrian and parking areas associated with the subject development are in accordance with AS 2890.1, AS 2890.2, AS 2890.6 and Penrith City Council's Development Control Plan.
- 56 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 be limited to; 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 and shall ensure that adequate parking is provided for the development and not severely impacted by the construction of this development.

The CTMP 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, the current Australian Standards, and the 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.

- 57 Prior to the issue of a Roads Act Approval, a Performance Bond is to be lodged with Penrith City Council for drainage works in Putland Street.

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.

- 58 Prior to commencement of works, sediment and erosion control measures shall be installed in accordance with the approved Construction Certificate and to ensure compliance with the *Protection of the Environment Operations Act 1997*.

The erosion and sediment control measures shall remain in place and be maintained until all disturbed areas have been rehabilitated and stabilised.

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

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

Note:

(a) A copy of the Traffic Control Plan shall accompany the Notice of Commencement to Penrith City Council.

(b) Traffic control measures may require road occupancy / road closure approvals issued under Section 138 of the Roads Act by Penrith City Council prior to the issue of a Construction Certificate.

- 60 Upon completion of all works in the road reserve, all verge areas fronting and within the development are to be turfed. The turf shall extend from the back of kerb to the property boundary, with the exception of concrete footpaths, service lids or other infrastructure which is not to be turfed over. Turf laid up to concrete footpaths, service lids or other infrastructure shall finish flush with the edge.
- 61 Prior to the issue of any Occupation Certificate, the Principal Certifying Authority shall ensure that all works associated with a Section 138 Roads Act approval or Section 68 Local Government Act approval have been inspected and signed off by Penrith City Council.
- 62 **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.

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

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

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

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

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

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

65 Prior to the issue of any Occupation Certificate, directional signage and linemarking shall be installed indicating directional movements and the location of resident parking to the satisfaction of the Principal Certifying Authority.

66 Prior to the issue of an Occupation Certificate, a Maintenance Bond is to be lodged with Penrith City Council for drainage works in Putland Street. 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 Engineering Services Department on (02) 4732 7777 for further information relating to bond requirements.

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

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

68 Prior to the issue of a Construction Certificate, the Certifying Authority shall ensure that a Geotechnical investigation, report and strategy has been conducted to ensure stability of the Council infrastructure and surrounding developments. The geotechnical investigation, report and strategy shall comply with the recommendations contained in the technical direction GTD 2012/001 prepared by the Road and Maritime Services, as amended.

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

Prior to the issue of any Construction Certificate for internal works associated with the development, the site must be serviced by a legal point of discharge including any required infrastructure drainage works. The drainage works may include inter-allotment drainage construction and upgrades and / or road drainage extensions located on land owned by others.

- 69 (a) All car parking and manoeuvring must be in accordance with AS 2890.1-2004; AS 2890.6-2009 and Council's requirements.
(b) All vehicles are to enter and exit in a forward direction.
(c) The ramp to the basement car park is to be fitted with an appropriately placed access-point traffic light system and convex mirror/s to ensure that vehicles do not simultaneously traverse the basement ramp in opposing directions. Signage is required indicating that vehicle headlights are to be switched on when entering or exiting via the ramp. The traffic light system and convex mirrors are to be maintained in good working order and in perpetuity, for the life of the development.
(d) The required sight lines around driveway entrances are not to be compromised by landscaping, fencing, signage or other obstructions.
(e) All car spaces are to be line marked and dedicated for the parking of vehicles only and not to be used for storage of materials and/or waste materials, etc.
- 70 **Prior to the issue of a Construction Certificate**, the Certifying Authority shall ensure that the maximum width of the vehicular crossover located within Council's Road Reserve is 6.0m.
- 71 **Prior to the issue of a Construction Certificate**, the Certifying Authority shall ensure that details for implementation of the basement access point traffic light system are shown on plans. Plans are also to show details of advisory signage requiring drivers to turn on their headlights upon entry into the basement.
- 72 **Prior to the issue of a Construction Certificate**, an easement for drainage and overland flow a minimum of 2.0m wide shall be provided over Strata Plan 13260 (No. 20 Putland Street) and evidence of registration of the easement with Land and Property Information (LPI) shall be submitted to Penrith City Council. The easement width shall be in accordance with Penrith City Council's adopted Design Guidelines.

Alternatively, Penrith City Council may accept a lesser width drainage easement down to a minimum width of 1m, subject to provision of a long section and scaled cross sections of the pipeline at various locations along the drainage easement, detailing the following:

- (a) Proposed drainage easement width;
- (b) Details of any existing surface features and locations and depths;
- (c) Proposed pipeline size, location and depth;
- (d) The gradient of the pipeline complies with Table 6.3.4 of AS 3500.3:2015;
- (e) The minimum pipe cover complies with Table 6.2.5 of AS 3500.3:2015;
- (f) The pipe trench complies with the zone of influence of any buildings or structures as per Section 6.2.8 and Figure 6.2.8 of AS 3500.3:2015.

Full details with regard to the easement are to be submitted to Penrith City Council for approval prior to the issue of a Construction Certificate.

Landscaping

- 73 All landscape works are to be constructed in accordance with the amended approved landscape plans required to be submitted as part of this consent and Appendix F5, Section 2.9 Landscape Technical Specifications of the Penrith Development Control Plan 2014.

Landscaping shall be maintained:

- in accordance with the amended approved plans required by this consent, and
- in a healthy state, and in perpetuity by the existing or future owners and occupiers of the property.

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

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

i. Implementation Report

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

- 76 All plant material associated with the construction of approved landscaping is to be planted in accordance with Appendix F5, Section 2.9, Landscape Technical Specifications of the Penrith Development Control Plan 2014.
- 77 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.
- 78 All trees that are required to be retained as part of the proposal, including the tree marked as no. 2 in the submitted Arborist's Assessment, are to be protected in accordance with best practice and the applicable sections of AS 4970-2009 Protection of Trees on Development Sites.

Advice is to be sought from an appropriately qualified and experienced arborist with regard to the construction impact on tree no. 2 (as referenced in the submitted Arborist's Assessment). Should the impacts of the development be such that tree no. 2 cannot be reasonably retained, owner's consent must be sought to remove the tree. Should the tree be removed in consultation with the owner of the land, a replacement species of a similar mature height and canopy spread shall be planted in a comparable location.

- 79 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.

Section 94

- 80 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, \$3,922.00 is to be paid to Penrith City Council prior to a Construction Certificate being issued for this development (the rates are subject to quarterly reviews).

If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted Section 94 plan. The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule. Council should be contacted prior to payment to ascertain the rate for the current quarterly period. The Section 94 invoice accompanying this consent should accompany the contribution payment. The Cultural Facilities Development Contributions Plan may be inspected at Council's Civic Centre, 601 High Street, Penrith and is also available on Council's website.

- 81 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, \$39,229.00 is to be paid to Council prior to a Construction Certificate being issued for this development (the rates are subject to quarterly reviews). If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted Section 94 plan. The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule.

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

- 82 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, \$14,191.00 is to be paid to Penrith City Council prior to a Construction Certificate being issued for this development (the rates are subject to quarterly reviews). If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted Section 94 plan. The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule.

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

Certification

- 83 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.

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

The Certificate shall not be issued if any conditions of this consent, but not the conditions relating to the operation of the development, are outstanding. A copy of the Occupation Certificate and all necessary documentation supporting the issue of the Certificate is to be submitted to Penrith City Council, if Council is not the Principal Certifying Authority.

SIGNATURE

Name:	Kathryn Saunders
Signature:	

For the Development Services Manager