

PENRITH CITY COUNCIL

MAJOR ASSESSMENT REPORT

Application number:	DA18/0298.03
Proposed development:	Section 4.55(1A) Modification for Deletion of Requirement for Provision of 10 Car Parking Spaces for Adjoining Serviced Apartments Development - Construction of a Nine (9) Storey Mixed Use Development including Two (2) Ground Floor Commercial Tenancies, 48 Residential Apartments & Ground Floor, Level 1 & Level 2 Car Parking
Property address:	91 Lord Sheffield Circuit, PENRITH NSW 2750
Property description:	Lot 2 DP 1240166
Date received:	7 May 2020
Assessing officer	Kathryn Saunders
Zoning:	Zone B2 Local Centre - LEP 2010
Class of building:	Class 2
Recommendations:	Approve

Executive Summary

Council is in receipt of a 4.55(1A) modification application related to an approved 9 storey mixed use development which is under construction at 15 Engineers Place, Penrith. The site is zoned B2 Local Centre under the Penrith Local Environmental Plan 2010 (PLEP), the proposed modification which proposes the deletion of Condition 21 of DA18/0298, is permissible in the zoning under PLEP as ancillary development associated with the approved mixed use development.

The mixed use development was noted as being permissible in the B4 mixed use zone under PLEP as commercial premises are permissible in the zoning and residential flat buildings are permissible under Schedule 1 Additional Permitted Uses of PLEP 2010 with consent, as part of the assessment of the application under consent no. DA18/0298.

No physical works are proposed as part of the modification application, as the application seeks approval to delete Condition 21 of the consent. Condition 21 requires that 10 car spaces be provided within the development for the use of a neighbouring serviced apartments development and its inclusion originated from when the two allotments were in the same ownership. The original lot has since been the subject of a subdivision into two allotments which are now in separate ownership. The subject site is located on the northern lot and the Quest serviced apartments development is on the southern lot.

The applicant has submitted a cover letter from Varga Traffic Planning outlining the proposal and includes that the serviced apartments development is provided with sufficient parking on site, the traffic study supporting the Quest development proposal notes that the DCP car parking rates within Thornton are maximums, and that based on the serviced apartments model presented by Quest, the car parking needs are met on site.

The applicant also includes that the condition does not consider the implications of the condition, including insurances, liabilities and the need for easements.

Key issues arising from the assessment of the application are as follows:

- Lawfulness of the condition,
- Relationship of the application with adjacent site and consent DA16/0357, and
- Traffic and car parking impacts related to the proposed modification.

The application has been notified to adjoining properties and was exhibited between 3 August and 17 August 2020 in accordance with relevant legislation. One submission was received from the owners of the site to the immediate south which contains the Quest serviced apartments building.

The submission raised that account was had of the availability of 10 future car parking spaces when purchase decisions were being made of the Quest site, and that the applicant's traffic consultant had not adequately represented the need for additional car parking spaces by the Quest development. The submitter has since issued Council with correspondence stating that they will not be pursuing the submission.

The applicant has provided legal advice on the matter, and as a result Council has sought its own legal advice seeking clarity as to the lawfulness of the condition. Council's legal advice did not highlight any issue with the proposal.

Potential parking impacts related to the proposal to delete the condition were assessed by Council. Council's traffic engineers note that the condition should remain and that Quest should utilise the opportunity for additional spaces, noting their initial submission and anecdotal evidence of parking availability within the precinct. Notwithstanding, the unlawfulness of the condition has been confirmed and it is considered that the inability for Quest to use these spaces will not detrimentally impact parking availability in the area, noting the site's close proximity to transport nodes - and that the serviced apartments development is operating without the 10 spaces currently. It is also noted that the information submitted for assessment by the applicant for Quest as part of the original consent, stated that additional spaces were not required by Quest.

An assessment under Section 4.55 and 4.15 of the Environmental Planning and Assessment Act 1979 has been undertaken and the application is recommended for approval, subject to recommended deleted condition. This application is to be determined under delegated authority by Council.

Site & Surrounds

The subject site is a corner allotment located on the northern side of Penrith Railway Station within the Thornton Estate and is known as 15 Engineers Place, Penrith. The site has frontage to Engineers Place and a private lane to the east and north east and has frontage to Lord Sheffield Circuit to the west. A pedestrian only laneway is located along the site's southern boundary which provides access to Engineers Place from Lord Sheffield Circuit.

An 8 storey serviced apartments building operated by Quest is located to the immediate south of the site, which shares its northern boundary with the pedestrian laneway spanning east-west. The pedestrian link will remain in private ownership and will be the shared responsibility of both developments (Quest serviced apartments and the proposed mixed use development).

Development in the vicinity is predominantly newly constructed residential flat buildings, mixed use developments and vacant allotments. Several residential flat buildings are currently under construction along Engineers Place and Lord Sheffield Circuit. Several sites to the immediate north have been approved for residential flat buildings and some instances of ground floor commercial premises have been approved.

The public entry to Penrith Railway Station is located 60metres to the south.

Proposal

The s4.55(1A) modification application seeks approval to delete Condition 21 of consent no. DA18/0298 (as amended).

Condition 21 is as follows:

Ten car parking spaces are to be provided for the use of staff or guests (guest parking by Quest valet only) of the Quest serviced apartments development adjacent. A review of the need for these spaces may be undertaken after 24 months from the issue of the Occupation Certificate for the Quest serviced apartments development (Council development application reference number DA16/0357). If it is determined that the 10 spaces are not being utilised at sufficient capacity, a development application may be lodged to amend or delete this condition.

The Occupation Certificate for the Quest development was issued 21 September 2018. No physical changes to the approved development will result from the deletion of the condition.

Plans that apply

- Local Environmental Plan 2010 (Amendment 4)
- Development Control Plan 2014
- North Penrith Design Guidelines
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- 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

• 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(1A) - Modifications involving minimal environmental impact

The modification application has been assessed in accordance with the matters for consideration under Section 4.55(1A) of the Environmental Planning and Assessment Act 1979, and having regard to those matters, the following issues have been identified for further consideration:

Clause 4.55(1A) of the Act states that a consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:

- (a) it is satisfied that the proposed modification is of minimal environmental impact, and*
- (b) 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*
- (c) it has notified the application in accordance with:
 - (i) the regulations, if the regulations so require, or*
 - (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**
- (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.*

The modification proposes the deletion of Condition 21 of DA18/0298 (as amended). The proposal does not result in any changes to the building, approved set of plans or to the development itself. Council can be satisfied that the proposed modification is of minimal impact and that the development is substantially the same development as that which was approved under DA18/0298.

The modification application was notified and exhibited in accordance with the requirements of the Regulations and one submission was received. The matters raised in the submission have been considered elsewhere in this report. The modification application is considered to be satisfactory and having regard to matters for consideration under clause 4.55 can be supported.

The modification application has also been assessed in accordance with the matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979, with specific matters addressed within the report below.

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

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

The original application under DA18/0298 was accompanied by BASIX Certificate no. 910375M_02 dated 22 March 2018, which confirmed that the development would meet the NSW government's requirements for sustainability. The development application was assessed against the Policy and was found to comply. No changes are proposed which would alter the BASIX commitments, require a new Certificate or which require further assessment of the application against the Policy. The modification application is satisfactory having regard to the Policy.

State Environmental Planning Policy No 55—Remediation of Land

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

The approved serviced apartments development located at the southern end of the site was accompanied by an Environmental Site Assessment prepared by Presna dated January 2016, which applied to the whole Lot (proposed Lot 1 and Lot 2) including the subject site. The Report included an analysis of site investigations including the results from 10 test pits and soil sampled from existing soil stockpiles. It was concluded that the potential for significant contamination associated with the historical and current use of the site was low; and that the natural soil across the site was considered to be Virgin Excavated Natural Material.

The original development application under DA18/0298, was submitted with an Addendum to the Environmental Site Assessment Report for the Environmental Site Assessment undertaken at Lot 3008, Lord Sheffield Circuit, Penrith NSW, dated 20 February 2018. The addendum concluded that the site is suitable for mixed use shop top housing development.

Further, a review of Council's records did not identify that the site has been occupied by any potentially contaminating developments or uses (since its approval for subdivision under the Major Projects approval). The proposed modification application does not propose any physical works and is satisfactory having regard to the Policy.

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

An assessment was undertaken of the development under DA18/0298, against the relevant criteria within the State Environmental Planning Policy No. 65—Design Quality of Residential Apartment Development and the proposal was found to be satisfactory, subject to the recommended conditions of consent. The proposal was also considered to be acceptable when assessed against the nine Design Quality Principles of Schedule 1.

The development remains satisfactory having regard the Policy and the Apartment Design Guide. The proposed deletion of Condition 21, does not result in any physical changes to the built form which remains consistent with that which was approved and is acceptable.

Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

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

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

Local Environmental Plan 2010 (Amendment 4)

Provision	Compliance
Clause 1.2 Aims of the plan	Complies
Clause 2.3 Permissibility	Complies
Clause 2.3 Zone objectives	Complies
Clause 2.5 Additional permitted uses for particular land	Complies
Clause 4.3 Height of buildings	N/A
Clause 4.4 Floor Space Ratio	N/A
Clause 7.1 Earthworks	N/A
Clause 7.4 Sustainable development	Complies
Clause 7.7 Servicing	Complies
Clause 7.8 Active street frontages	Complies
Clause 8.2 Sun access	N/A
Clause 8.4 Design excellence	Complies

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

Draft Environment State Environmental Planning Policy

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

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

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

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

Draft Remediation of Land SEPP

The Department of Planning and Environment has announced a Draft Remediation of Land SEPP, which will repeal and replace the current State Environmental Planning Policy No. 55—Remediation of Land. The proposed new land remediation SEPP will:

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

It is also proposed that it will transfer the requirements to consider contamination when rezoning land to a direction under Section 9.1 of the Environmental Planning and Assessment Act 1979. The proposal is not inconsistent with the provisions of this draft instrument.

Planning Proposal - Phase 1 Review of Penrith LEP 2010

The Phase 1 amendments to the Penrith LEP were on exhibition between 1 May - 29 May 2020 and include alterations to lot sizes in residential zones, alterations to permissible uses in identified areas, changes in the zoning of particular allotments and minor housekeeping amendments. The amendments sought do not impact the subject application.

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

Development Control Plan 2014

Provision	Compliance
DCP Principles	Complies
C1 Site Planning and Design Principles	Complies - see Appendix - Development Control Plan Compliance
C2 Vegetation Management	Complies
C3 Water Management	Complies
C4 Land Management	Complies
C5 Waste Management	Complies - see Appendix - Development Control Plan Compliance
C6 Landscape Design	Complies
C7 Culture and Heritage	Complies
C8 Public Domain	Complies - see Appendix - Development Control Plan Compliance
C9 Advertising and Signage	Complies - see Appendix - Development Control Plan Compliance
C10 Transport, Access and Parking	Complies - see Appendix - Development Control Plan Compliance
C11 Subdivision	N/A
C12 Noise and Vibration	Complies
C13 Infrastructure and Services	Complies
D2.1 Single Dwellings	N/A
D2.2. Dual Occupancies	N/A
D2.3 Secondary Dwellings	N/A
D2.4 Multi Dwelling Housing	N/A
D2.5 Residential Flat Buildings	Complies
D2.6 Non Residential Developments	N/A
D3.1. Bulky Good Retailing	N/A
D3.2. Sex Services Premises	N/A
D3.3. Restricted Premises	N/A

North Penrith Design Guidelines

Provision	Compliance
North Penrith Design Guidelines	Complies - see Appendix - Development Control Plan Compliance

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

There are no planning agreements in place that apply to this modification application.

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

The proposal is assessed to comply with the applicable requirements of the Regulations. The application was notified and exhibited in accordance with the Penrith DCP and Council's Community Participation Strategy.

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

Likely impacts - Traffic and Parking

The proposal to delete Condition 21 of consent DA18/0298 is not considered to result in any detrimental traffic and car parking impacts in the locality. Quest serviced apartments have been operational for over 24 months and there are limited instances of complaints or incidences related to parking provision related to the operations of Quest during this time. It is advised through Council's traffic engineering section, that Quest serviced apartments had issued requests to Council, which were successful, related to the installation of regulatory signage on Lord Sheffield Circuit which provides an area for set down and check in, as Quest had received complaints from customers that there was nowhere to stop in order to allow them to check in and then have access to Quest's own carpark.

It is not considered that the provision of additional car parking spaces within the podium of another building would resolve this issue practically and it is also noted that Quest are not offering the valet service that was to accompany the utilisation of spaces within the subject site.

Notwithstanding the above, Council's legal advice raises no issue with the proposal to delete the condition, being the subject of this modification application and as such, the application is recommended for approval.

There are no physical changes to the works approved under DA18/0298 and as such, the likely impacts of the development as modified, are unchanged and are considered acceptable.

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

The site is considered to be suitable.

Section 4.15(1)(d) Any Submissions

Community Consultation

The modification application was notified to nearby and adjoining properties and was exhibited between 3 August and 17 August 2020. One submission was received in objection.

The submission received was on behalf of the neighbouring Quest serviced apartments development, who raised the following summarised matters:

- It was represented during out due diligence period prior to acquisition that additional parking would be provided,
- There was no consultation with us from the applicant and there was no consultation with the Manager for Quest to ascertain their needs or understand their business model,
- The majority of our guests drive to the complex and to their work and we are aware and constantly monitor guest complaints in regard to the hotel not being able to meet guest's expectations of availability of parking,
- The timing of the photographs in the applicant's application don't account for the periods before 8.30am and after 6.00pm when the car park is full.
- The previous owner agreed to ensure that the possibility of spaces in the new development would be maintained if the sites changed ownership.

The submitter has since informed Council that they will no longer be pursuing the submission.

With regard to the above matters the following is noted that:

- The condition wording does not establish that the full 10 spaces, or any spaces, must be provided in the absence of the relevant reports and their findings,
- It is acknowledged that the applicant has not adequately liaised with Quest's management in relation to operational parking needs and that the photos were taken at times when most visitors would be out for the day, and during a pandemic shut down where visitor numbers are low. However, Council's legal team have reviewed the condition raise no objection to the proposal to delete the condition. On this basis, Council will not be seeking further amendments to the traffic study - as further consideration of this aspect is not required.
- The Title and registered plan of subdivision does not impose any restriction or right benefiting the Quest site, in relation to the wording of Condition 21.

It is for the above reasoning that the application is recommended for Approval. The submitter was informed of the recommendation of this report in correspondence issued 6 November 2020.

Referrals

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

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

Building Surveyor

The modification application was not referred to Council's building surveyor owing to the minor nature of the proposal. The building surveyor's recommendation and conditions included here are copied over from the original consent, as these remain relevant.

Community Safety Officer

This modification application was not referred to Council's Community Safety officer due to the minor nature of the proposal. The recommendation and conditions included here are copied over from the original consent, as these remain relevant.

Development Engineer

Council's Development Engineer had originally raised issues with the development being able to provide adequate sight lines in accordance with Figure 3.3, AS 2890.1. These issues were satisfactorily resolved as part of the assessment of DA18/0298 which was approved with conditions. The conditions in relation to this matter remain unchanged.

This modification application was not referred to Council's development engineers owing to the minor nature of the proposal. The engineers recommendation and conditions included here are copied over from the original consent, as these remain relevant.

Environmental - Environmental management

This modification application was not referred to Council's environmental health team owing to the minor nature of the proposal. The recommendation and conditions included here are copied over from the original consent, as these remain relevant.

Environmental - Waterways

This modification application was not referred to Council's Waterways team owing to the minor nature of the proposal. The recommendation and conditions included here are copied over from the original consent, as these remain relevant.

Traffic Engineer

Matters raised in non-support of the proposal by Council's Traffic Engineer were taken into consideration as part of the assessment of the application. Traffic raised that it was Council's position that the 10 spaces were required for Quest to operate. It was also raised that Quest had approached Council to assist in providing an area along the frontage of the site for set down and check in purposes, and that Council's Local Traffic Committee has recently agreed that signage be installed to effect this arrangement.

Traffic raised also that the traffic study provided by the applicant was undertaken during the pandemic lockdown and as such not representative of the normal operational carpark usage.

As has been detailed in this assessment the consent condition requiring 10 spaces to be provided for the use of the Quest Serviced Apartments has been reviewed by Council's legal team and no objections are raised, should Council seek to support the proposal, and as such the request to delete the condition can be supported.

Additionally, the Title and registered plan of subdivision do not include and notation or benefit applying the condition, and Quest has been operating for 24 months without the 10 spaces, with limited parking issues arising, with the exception of the set down space, which would not be practically resolved by the addition of spaces located in the podium of another building.

Waste Services

The modification application was not referred to Council's waste unit due to the minor nature of the proposal. The recommendation and conditions included here are copied over from the original consent, as these remain relevant.

Section 4.15(1)(e)The public interest

The likely impacts of the proposed condition deletion have been assessed as acceptable. The proposed development, as modified will not generate any significant issues of public interest and the modification application is recommended for Approval.

Section 94 - Developer Contributions Plans

Condition C4 of MP10-0075 (as amended) and Condition B8 of MP10-0078 (as amended) set out the rates for development contributions for residential dwellings within the Thornton Estate, consistent with the Ministerial Cap for Section 94 (now section 7.11) plans. The Conditions state that:

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

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

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

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

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

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

Based on the above requirements, the following development contributions for district open space facilities (as indexed) are applicable:

- 48 dwellings x \$1,869 = \$89,869.00 (as may be indexed).

A condition of consent was included under DA18/0298 to require the payment of this contribution prior to the issue of a Construction Certificate. The condition will be carried over from the original consent as it remains relevant.

Conclusion

The modification application has been assessed against the relevant environmental planning instruments, strategies and policies, including Penrith LEP 2010 and Penrith DCP 2014, including Part B - North Penrith. The proposal is found to satisfy the aims and objectives of these policies.

The modification application is worthy of support, subject to the recommended condition deletion.

Recommendation

That modification application DA18/0298.03 for the deletion of Condition 21 of DA18/0298 related to an approved mixed use development at 15 Engineers Place, be approved, subject to the attached amended condition set.

CONDITIONS

General

1 A001

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

Architectural plans prepared by DKO Architecture			
Drawing No.	Description	Revision	Date
TP200	Ground Floor Plan	E	02/08/2018
TP201	Level 1	E	02/08/2018
TP202	Level 2	D	02/08/2018
TP203	Level 3	E	02/08/2018
TP204	Level 4	E	02/08/2018
TP205	Level 5	E	02/08/2018
TP206	Level 6	E	02/08/2018
TP207	Level 7	E	02/08/2018
TP208	Level 8	E	02/08/2018
TP209	Roof	D	02/08/2018
TP300	West Elevation 1	D	02/08/2018
TP301	West Elevation 1	D	02/08/2018
TP302	North Elevation 1	D	02/08/2018
TP303	East Elevation 2	E	02/08/2018
TP304	South Elevation	D	02/08/2018
TP305	Section 1	C	02/08/2018
TP306	Section 2	D	02/08/2018
TP307	Section 3	D	02/08/2018
TP308	Façade Detail Section	A	02/08/2018
TP309	Commercial Carpark Clearance	A	02/08/2018
TP405	Materials Board 1 and External Finishes Legend	D	30/05/2018
TP406	Materials Board 2 and External Finishes Legend	D	30/05/2018
-	Materials and Finishes Board (photographed)	-	-
Landscape Plans Prepared by Urbis & Public Art Strategy Prepared by Guppy Associates			
Drawing No.	Description	Revision	Date
-	Landscape Design Statement	-	30 May 2018
-	Design Response	-	30 May 2018
-	Plant Establishment and Maintenance	-	30 May 2018
-	Ground Level/Through Link Landscape Plan - Option 2	-	30 May 2018
-	Level 1 Landscape Plan	-	30 May 2018
-	Level 2 Landscape Plan	-	30 May 2018
-	Level 3 Podium Landscape Plan	-	30 May 2018
-	Typical Landscape Sections - Scale 1:50@A3	-	30 May 2018
-	Precedent Imagery	-	30 May 2018
-	Indicative Planting Strategy and Palette	-	30 May 2018
-	Indicative Planting Palette	-	30 May 2018
-	Materials Strategy	-	30 May 2018
-	Typical Landscape Details - Scale 1:20@A3	-	30 May 2018
-	Engineers Place Public Art Plan	V3	15 May 2018
Stormwater Plans Prepared By SCG Engineering Value & Traffic Plans prepared by GTA Consultants			
Drawing No.	Description	Revision	Date
18-534-01	Civil Stormwater Development Application Report by AT&L	01	March 2018
DAC101	Cover Sheet, Notes, Legends and Drawing List	A	20-03-18
DAC103	Typical Section	A	20-03-18

DAC105	Site Works and Stormwater Drainage	A	20-03-18
DAC110	Sediment and Erosion and Control Plan	A	20-03-18
DAC111	Sediment and Erosion and Control Details	A	20-03-18
03-01	Ground Level Carpark Compliance Review, Sheet 01 of 06	P5	31 May 2018
03-02	Basement Level 01 Carpark Compliance Review, Sheet 02 of 06 (reference to basement is noted as an error)	P5	31 May 2018
03-03	Basement Level 02 Carpark Compliance Review, Sheet 03 of 06 (reference to basement is noted as an error)	P5	31 May 2018
03-04	Vertical Clearance Assessment, Sheet 04 of 06	P5	31 May 2018
03-05	Ground Level Swept Path Assessment, Sheet 06 of 06	P5	31 May 2018

Reports

- Report on Geotechnical Investigation, Project 85755.00, dated December 2016, Revision 0, prepared by Douglas Partners
- Operational Waste Management Plan prepared by Elephants Foot, dated 20/03/2018, Revision A
- Access Assessment Report, prepared by BCA Logic dated 20 March 2018
- BASIX Certificate No. 910375M_02 issued 22 March 2018
- BCA Assessment Report, prepared by Blackett Maguire & Goldsmith, Revision 1 dated 23.03.2018
- Operational Waste Management Plan, prepared by Elephants Foot, dated 20/03/2018
- Noise Impact Assessment, prepared by Acoustic Logic dated 22/05/2018, Revision 1
- Transport Impact Assessment, prepared by GTA Consultants, dated 22/03/18, Revision B

2 [A001 M - Special \(Signage Strategy\)](#)

Prior to the issue of an Occupation Certificate, a signage strategy shall be submitted to Council for approval in accordance with Clause E11.8.4.13 of Penrith Development Control Plan 2014. The strategy is to:

- identify the preferred locations and quantum of all building identification and business identification signage;
- include a palette of preferred materials, signage types and graphic style;
- outline any illumination requirements and/or restrictions so as to consider its impact on adjacent properties and uses;
- promote a high quality, co-ordinated approach to signage within the Village Centre and minimise visual clutter;
- include details of any way-finding signage.

3 A001A Special (Design Amendments)

Prior to the issue of a Construction Certificate, the following amendments to the ground floor plan are required to be submitted to and approved by Penrith City Council:

(a) The kerb in front (south) of the waste collection bay is to be splayed to allow a forward out vehicle movement that is clear of the pedestrian through-site link as marked in red on the stamped approved ground floor plan (refer plan TP200 Revision E dated 05/08/2018).

(b) Two bollards are to be installed at the southern end of the waste collection bay as marked in red on the stamped approved ground floor plan (refer plan TP200 Revision E dated 05/08/2018).

Prior to the issue of an Occupation Certificate, the Principal Certifying Authority is to ensure that the following design amendments have been incorporated/installed:

(c) Louvres or a similar high quality screening solution is to be incorporated/installed behind the window openings of the level 1 and level 2 carparks and is to be designed/oriented to reduce the impact of noise, headlights and lighting emanating from the upper level carparks. Louvres (or other design response) shall be recessive in colour and is to be designed and fixed such that the high quality external design of the building is not impacted, DKO are to provide their endorsement.

(d) The ground floor residential chute room is to be provided with a linear track device for the 1100L bins, a hose and water supply and the floor of the room is to be graded to a drainage point which is connected to the sewer. The bin wash bay is to be bunded and all walls are to be finished with a smooth, water proof surface to allow for cleaning and the bin wash bay floor is to be drained to a floor waste which is connected to the sewer.

(e) Warning lights and convex mirrors are to be installed within the carpark and waste bay areas as detailed on the stamped approved traffic plans dated 31 May 2018, Issue P5, prepared by GTA Consultants.

(f) Integrated under awning lighting is to be provided along the Lord Sheffield Circuit elevation.

4 A001C Special (Waste rooms)

The Principal Certifying Authority is to ensure that the design and building requirements of the garbage rooms as recommended with the Elephants Foot Operational Waste Management Plan (Page 14), dated 20/03/218 are constructed as described, **prior to the issue of an Occupation Certificate**.

5 A001D Special (Major Projects Approval - Compliance)

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

6 A001DA Special (Cranes)

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

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

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

- Be equipped with medium intensity steady red lighting positioned at the highest point and both ends of the boom/jib and counter boom/jib, such that the lighting will provide an indication of the height of the crane and the radius of the crane boom/jib. Such lighting, which should be displayed at all times of the day and night, should be positioned so that when displayed it is visible from all directions.
- When a crane is unattended for an extended period of time ensure the crane's boom is retracted and lowered as far as possible.
- No part of the crane or structure shall extend beyond the boundaries of the subject development site unless approved by Penrith City Council in consultation with the Nepean Blue Mountains Local Health District. Any encroachment beyond the boundaries of the subject site shall be the minimum amount required to facilitate construction and access all parts of the construction site.

7 **A001E Special (Unexpected Finds)**

Should any "unexpected finds" occur during site excavation and earthworks, including, but not limited to, the identification/finding of contaminated soils, buried building materials, asbestos, odour and/or staining, works are to cease immediately and Council notified. Any such "unexpected finds" shall be addressed by an appropriately qualified environmental consultant.

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

8 **A001F - Special - Waste**

Prior to the issue of an Occupation Certificate and in perpetuity, the development shall comply with the following requirements in relation to waste collection infrastructure:

(a) The residential bin storage room and bulky waste room will need to be lockable through an abloy key device to restrict access only to the building caretaker/manager and Council's waste collection staff.

Advisory notes:

1. The property owner or agent acting for the owner shall arrange for the commencement of a domestic waste service with Council. The service is to be arranged no earlier than two days **prior to occupancy** and no later than two days after occupancy of the development. All requirements of Council's domestic collection service must be complied with at all times. Please telephone Council on (02) 4732 7615 for the commencement of waste services.

2. Access to the bulky waste room shall be restricted to Council and the building manager and shall be provided with an access doorway with a width of 1.8m minimum. Residents are to arrange access with the building manager for the storage of bulky waste prior to collection.

3. Commercial and residential bin storage and waste areas are to be kept clean and tidy.

4. Commercial waste is not to be placed in residential waste bins. The commercial bin room is to be kept secure and access is to be provided for the commercial tenants only.

5. The residential bin room, bulky waste and chute rooms and the commercial bin room are to be clearly sign posted to ensure waste is not co-mingled.

9 **A001F - Special (Adaptable units and accessible car spaces)**

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

The Construction Certificate application must be accompanied by certification from a person suitably qualified by the Association of Consultants in Access Australia confirming that the adaptable dwellings are capable of being modified, when required by the occupant, to comply with the Australian Housing Standard (AS 4299-2009). A Compliance Certificate in this regard, shall be provided **prior to the issue of an Occupation Certificate**.

10 **A001G - Special (Waste Collection)**

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.

Commercial waste collection at the site will not be undertaken by Penrith City Council. Commercial waste collection is to occur outside of those times when Council is conducting its residential collection for the building (estimated times are Monday to Friday 5am to 12 Midday). Commercial tenants are to liaise with Council prior to confirming waste contracts for commercial collection to ensure collection times do not clash with Council's residential waste service.

Note:

(a) 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.

11 [A001J - Special \(Travel Plan\)](#)

In accordance with the Schedule 3 of the Statement of Commitments attached to the Major Projects Approval No. MP10-0075, evidence of the preparation of a Transport Access Guide document, that is to be made available to residents of the development, is to be provided to the Principal Certifying Authority **prior to the issue of the Occupation Certificate**.

12 [A001k - Special \(Design verification OC\)](#)

Prior to the issue of an Occupation Certificate, a design verification statement from a qualified designer shall be submitted. The design verification statement shall verify that the development achieves the design quality shown in the approved Construction Certificate plans and specifications, having regard to the design quality principles set out in Part 2 of State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development.

13 [A001K - Special \(Design Verification CC\)](#)

Prior to the issue of a Construction Certificate, a design verification statement from a qualified designer shall be submitted. The design verification statement shall verify that the Construction Certificate plans and specifications achieve or improve the design quality of the development for which development consent was granted, having regard to the design quality principles set out in Part 2 of State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development.

14 [A001L - Special \(Materials & Finishes\)](#)

A Final Schedule of Materials and Finishes is to be submitted to and approved by the Manager Development Services at Penrith City Council prior to the issue of the Construction Certificate. Roof surface material is to be nominated.

15 [A001N Special \(Through link\)](#)

No external roller shutters, bars or similar structures are permitted to be installed on the ground floor glazing of the commercial tenancies.

16 [A001o Special \(CPTED gates and graffiti\)](#)

The following Crime Prevention Through Environmental Design matters are to be incorporated in the design of the building:

- (a) User/sensor electronic security gates/doors shall be installed at the carpark entrances/exits.
- (b) Each individual apartment is to be clearly numbered and each level of the building is to be easily identifiable when viewed from the lift.
- (c) Glazing to the ground floor entry lobby is to be clear and unobscured to allow a view to the street.
- (d) CCTV is to be installed along the frontage of the site to Lord Sheffield Circuit and along the rear of the site in the location of the ground floor commercial vehicle entry point.

17 [A001P Special \(CPTED - Lighting\)](#)

Car parking and vehicle access points, pedestrian pathways, lobby areas, stairwells, garbage rooms, laneways and pedestrian access routes in outdoor public spaces should be lit to the minimum of Australian Standard 1158 and the following design requirements:

- (a) Lighting is to be consistent in order to reduce the contrast between shadows and illuminated areas.
- (b) Lighting is to be designed in accordance with AS 4282 - Control of the obtrusive effects of outdoor lighting.

Advisory Notes:

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

18 [A004 - Through-Site Link](#)

1. Prior to the issue of any Occupation Certificate, detailed design plans for the through-site link are to be submitted to and approved by Penrith City Council in consultation with the Landscape Architect Supervisor - Design and Projects at Penrith City Council and are to include the following details:

- (a) A set of **detailed design plans** including sections, levels, paving, drainage, kerb, gutter and pram ramp details,
- (b) The design details of all fixtures and street furnishings,
- (c) A Lighting Plan. CCTV is to be installed within the through-site link and camera locations are to be noted on lighting plans.
- (d) A Detailed Public Art Plan and Design Development documentation, in accordance with the stamped approved Engineers Place Public Art Plan V3 dated 15 May 2018, prepared by Guppy Associates Management.

The submitted set of plans are to be of an appropriate scale and are to be fully dimensioned.

2. Prior to the issue of any Occupation Certificate, the through site link is to be installed and finished in accordance with these endorsed set of detailed plans, to the satisfaction of the Manager of Development Services at Penrith City Council.

As modified on 29 March 2018 under Section 4.55(1A) of the Environmental Planning & Assessment Act 1979 under DA18/0298.02.

19 [A005 - Through link](#)

Suitable and safe pedestrian access to Penrith Railway Station via the through-site link is to be maintained throughout construction works related to the site, unless otherwise approved by Council.

20 [A006 - BCA Home Building Act](#)

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

21 [A007 - Quest valet spaces](#)

Deleted on 13 November 2020 under Section 4.55(1A) of the Environmental Planning & Assessment Act 1979 under DA18/0298.03.

22 [A011 - Engineering Works DCP](#)

All civil engineering construction works shall be carried out substantially in accordance with Penrith City Council's Engineering Works Development Control Plan and accompanying Guidelines for Engineering Works for Subdivisions and Developments Part 2 - Construction.

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

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

24 [A020 - Carparking](#)

A minimum of 5 apartments shall be constructed as adaptable units to meet the requirements for persons with a disability in accordance with the approved plans. These units shall be allocated an accessible car space (one per unit) in compliance with AS 2890.6.

25 [A021 - Car spaces](#)

All ground floor car parking spaces are to be allocated to the commercial tenancies.

26 [A022 - Line Marking](#)

Prior to the issue of a Construction Certificate, the applicant shall provide a concept line marking and signage plan to the Manager of Development Services at Penrith City Council. The plan shall include the following:

- (a) All line marking and signage along the service lane;
- (b) Left turn only arrow and/or signage for residential vehicles existing the level 1 and 2 carpark;
- (c) Right turn only arrows and/or signage for vehicle exiting the Quest Services apartments building;
- (d) Left and right turn movements will be available for vehicles exiting Stage 1 basement carpark;
- (e) All directional and parking signage along the lane as modified or required to facilitate the development as approved; and
- (f) The provision of regulatory signage labelled "No Parking - Waste, Delivery and Removalist Vehicles Excepted" (R5-445 or R5-447 modified) is required to be installed along the loading bay.

The final Line Marking and Signage Plan is to be submitted to and approved by Penrith City Council and shall be endorsed by Council's Local Traffic Committee. Please note that the Committee meets monthly. All approved and endorsed signage and line marking is to be undertaken and/or installed, **prior to the issue of an Occupation Certificate**.

27 [A023 - Sensor Gates](#)

User/sensor electronic security gates shall be installed at carpark entrance/exits.

28 [A028 - Acoustic Treatment](#)

The surface treatment of all car parking areas is to be a brushed or matt surface to reduce the impact of noise from the turning movements of vehicles.

29 [A039 - Graffiti](#)

The finishes of all structures and buildings are to be maintained at all times and any graffiti or vandalism immediately removed/repared.

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

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

31 [A Special \(Dilap\)](#)

Prior to the issue of a Construction Certificate, a Civil Dilapidation Report is to be prepared and submitted to Penrith City Council. The report shall detail in photographs, the quality of the existing pavement, kerb and gutter, landscaping, street trees and any other civil infrastructure immediately adjacent to the site, likely to be damaged as a result of construction works at the subject site.

Prior to the issue of an Occupation Certificate, an addendum to the Dilapidation Report is to be provided to Penrith City Council, which details the same areas surrounding the site and shall identify any areas damaged as a result of construction. All damage is to be reported and rectified to Council's satisfaction prior to the issue of the Occupation Certificate.

32 [A Special \(Screening of Plant\)](#)

All roof mounted plant, ducting or services infrastructure shall be screened from view. No approval is granted for the installation of ducting, conduit, plant or services infrastructure on the external facades of the building, unless it is indicated on the stamped approved plans.

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

Prior to the issue of a Construction Certificate, the Certifying Authority shall ensure the proposed development is compatible with the stormwater treatment recommendations of the North Penrith Stages 2B - 3B Water Cycle Management Strategy Report Incorporating Water Sensitive Urban Design Techniques prepared by J. Wyndham Prince, reference 9470Rpt1B, dated 17 October 2012.

Details on the location and sizing of rainwater tanks for the proposed development, including harvested rainwater reuse information, is to be submitted to Council **prior to the issue of a Construction Certificate** in line with the requirements of Council's Water Sensitive Urban Design Policy 2013.

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

A detailed Soil and Water Management Strategy is to be submitted at the Construction Certificate stage that details how the wetland and central water feature will be protected during the building construction stages.

35 [A Special CPTED Requirements](#)

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

Lighting

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

Basement Car Parking

- A security system must be installed on any pedestrian and vehicle entry/exit points to the car park, including the lift and stairwell, to minimise opportunities for unauthorised access.
- Car park surfaces including walls and ceilings are to be light coloured with details included with the **Construction Certificate** application.

Building Security & Access Control

- Intercom, code or card locks or similar must be installed for all entries to the buildings including the car park.
- Australian Standard 220 – door and window locks must be installed in all dwellings.
- CCTV is to be provided to cover communal public space areas. Cameras must be of sufficient standard to be useful for police in the event of criminal investigations. Lighting must be provided to support cameras at night (alternatively infra-red cameras are recommended). Signage must be displayed to indicate that CCTV cameras are in use.

Graffiti/Vandalism

- Graffiti resistant coatings must be used for external surfaces where possible, including for signage, outdoor furniture and surfaces etc.

Advisory Notes:

(a) Procedures must be in place to ensure the prompt removal and/or repair of graffiti or vandalism to the buildings and common areas. This includes reporting incidents to police and/or relevant authorities.

(b) All areas of the car park must be well-lit, with consistent lighting to prevent shadowing or glare.

Heritage/Archaeological relics

36 [C003 - Uncovering relics](#)

If any archaeological relics are uncovered during the course of the work no further work shall be undertaken until further directed by Penrith City Council or the NSW Heritage Office.

The applicant is advised that depending on the possible significance of the relics, an archaeological assessment and an excavation permit under the *Heritage Act 1977* may be required before any further work can be recommenced in that area of the site.

Environmental Matters

37 [D001 - Implement approved sediment& erosion control measures](#)

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

38 [D004 - Dust](#)

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

39 [D005 - Mud/Soil](#)

Mud and soil from vehicular movements to and from the site during construction, must not be deposited on the roadway.

40 [D009 - Covering of waste storage area](#)

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

41 **D010 – Appropriate disposal of excavated or other waste**

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

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

All receipts and supporting documentation must be retained in order to verify lawful disposal of materials and are to be made available to Penrith City Council on request.

42 **D013 - Approved noise level 1**

Noise levels from the premises shall not exceed the relevant noise criteria detailed in Noise Impact Assessment, Lot 3008, Lord Sheffield Circuit, North Penrith prepared by Acoustic Logic dated 22 May 2018. The recommendations provided in the above-mentioned acoustic report shall be implemented and incorporated into the design and construction of the development, and shall be shown on plans accompanying the Construction Certificate application. A certificate is to be obtained from a qualified acoustic consultant certifying that the building has been constructed to meet the noise criteria in accordance with the approved acoustic report. This certificate is to be submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

The provisions of the Protection of the Environment Operations Act 1997 apply to the development, in terms of regulating offensive noise.

43 **D014 - Plant and equipment noise**

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

44 D06A – Approval for bulk earthworks/major filling operations (Use for bulk earthworks/ major filling operations)

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

- state the legal property description of the fill material source site,
- be prepared by an appropriately qualified person (as defined in Penrith Development Control Plan 2014) with consideration of all relevant guidelines (e.g. EPA, ANZECC, NH&MRC), standards, planning instruments and legislation,
- clearly indicate the legal property description of the fill material source site,
- provide details of the volume of fill material to be used in the filling operations,
- provide a classification of the fill material to be imported to the site in accordance with the Environment Protection Authority's "Environmental Guidelines: Assessment, Classification & Management of Non-Liquid Wastes" 1997, and
- (based on the fill classification) determine whether the fill material is suitable for its intended purpose and land use and whether the fill material will or will not pose an unacceptable risk to human health or the environment.

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.")

45 D Special - Waste Collection Agreement

The current on-waste infrastructure provided within the development is to be built in accordance with configurations specified in the plans labelled 'Ground Floor' and dated 05/06/18 on ECM. On-site waste infrastructure permissible to change only in accordance with conditions stipulated by Councils Waste Service department.

46 **D Special - waste other**

The following waste management requirements must be complied with and details of compliance demonstrated to Council **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, ground floor roller door) are to be locked through Councils 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.
- The provision of regulatory signage labelled "No Parking - Waste and Removalist Vehicles Excepted" (R5-445 or R5-447 modified) is required to be installed along the proposed loading bay to accommodate Councils 10.5m Heavy Rigid Waste Collection Vehicle (22.5m long loading bay). A sign plan is to be submitted identifying the location of the parking restrictions to be endorsed by Council's Local Traffic Committee and adopted by Council prior to implementation.
- The chute room to be designed/provide infrastructure in accordance with section 3.5.1 of the 'Residential Flat Building Waste Management' Guideline document.
- The waste collection room to be designed/provide infrastructure in accordance with section 3.5.2 of the 'Residential Flat Building Waste Management' Guideline document.
- The bulky household waste collection room to be designed/provide infrastructure in accordance with section 3.5.3 of the 'Residential Flat Building Waste Management' Guideline document.

47 **D Special (Wash areas connected to sewer)**

Prior to the issue of a Construction Certificate, the Principal Certifying Authority is to ensure that all areas provided for bin washing are to be appropriately bunded and are to be provided with a floor waste, connected to the sewer. At no time is wastewater from the washing areas to enter the stormwater drainage system.

48 **D Special BLANK**

Prior to issue of the Construction Certificate, further details on the type and location of all mechanical plant and equipment associated with the development is to be provided to Council for consideration and approval. Suitable data and information on the noise impacts associated with this plant and equipment is to be reviewed by an acoustic consultant and written correspondence is to be supplied to demonstrate compliance with the established noise criteria.

49 **D Special BLANK**

In the event of a complaint being received by Council, regarding headlights from vehicles or lighting from the car park, the owner/manager of the building may be required by Council to arrange for an Environmental Investigation and report prepared by an appropriately qualified professional in order to provide mitigation measures to reduce light spill and/or nuisance to neighbours.

50 **D Special BLANK**

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

- For the internal movement of 1100L bins a bin tug device is required to be provided and stored within the development in accordance with section 3.6 of the 'Residential Flat Building Guideline' document. Device specifications, use and operational requirements are required to be submitted to Council for approval
 - The developer is to enter into a formal agreement with Penrith City Council for the utilisation of Councils Waste Collection Service. This is to include Council being provided with indemnity against claims for loss and damage.
- Note: By entering into an agreement with Council for Waste Collection, the development will be required to operate in full compliance with Penrith City Councils Waste Collection and Processing Contracts for Standard Waste Collection. The provision of Councils waste collection service will not commence until formalisation of the agreement.

51 **D Special BLANK**

Councils bin infrastructure and collection service will be provided/commenced for the development upon the completion of all on-site waste collection infrastructure and the attainment of an Occupation Certificate.

BCA Issues

52 [E006 - Disabled access and facilities](#)

Access and sanitary facilities for persons with disabilities are to be provided and maintained in accordance with the requirements of the Building Code of Australia and AS 1428 "Design for Access and Mobility". Details of compliance are to be provided in the relevant plans and specifications accompanying the Construction Certificate application.

53 [E009 - Annual fire safety-essential fire safety \(Class 2-9 buildings\)](#)

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

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

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

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.

54 [E01A - BCA compliance for Class 2-9](#)

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

55 [G002 - Section 73 \(not for](#)

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

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

56 [G004 - Integral Energy](#)

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

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

57 **G006 -**

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

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

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

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

58 **G Special (Fire Hyd Boost)**

Prior to the issue of a Construction Certificate, Penrith City Council must be consulted should the proposed location of the fire hydrant booster vary from the location as shown on the stamped approved plans.

Construction

59 **H001 - Stamped plans and erection of site notice**

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

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

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

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

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

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

60 H002 - All forms of construction

Prior to the commencement of construction works:

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

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

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

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

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

(d) If the work involved in the erection or construction 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.

61 H041 - Hours of work (other devt)

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

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

Other construction works carried out inside a building/tenancy 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

62 K101 - Works at no cost to Council

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

63 K201 - Infrastructure Bond

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

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

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

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

Prior to the issue of any Construction Certificate, a Section 138 Roads Act application, including payment of application and inspection fees, shall be lodged with 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, waste 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) 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.
- (d) On completion of any awning over the road reserve, a certificate from a practicing structural engineer certifying the structural adequacy of the awning is to be submitted to Council before Council will inspect the works and issue its final approval under the Roads Act

65 K210 - Stormwater Management

The stormwater management system shall be provided generally in accordance with the concept plan/s lodged for development approval, prepared by AT&L Civil Engineers, reference number 18-534, revision A, dated 20/03/2018.

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.

66 K214 - Flooding – Floor levels

Prior to the issue of any Construction Certificate, the Certifying Authority shall ensure that all habitable floor levels are in accordance with the stamped approved plans with a minimum floor level of RL 25.90m AHD (standard flood level + 0.5m freeboard).

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

Prior to the issue of any Construction Certificate, the Certifying Authority shall ensure that vehicular access, circulation, manoeuvring and pedestrian and parking areas associated with the subject development are in accordance with AS 2890.1, AS 2890.2, AS 2890.6 and Penrith Development Control Plan 2014.

68 **K224 - Construction Traffic Management Plan**

Prior to the commencement of any works on-site (including demolition works) or prior to the issue of any Construction Certificate, whichever occurs first, a Construction Traffic Management Plan (CTMP) shall be submitted to Council for approval. The CTMP shall be prepared in accordance with Council's Engineering Construction Specification for Civil Works. The CTMP shall be prepared by a suitably qualified consultant with appropriate training and certification from the Roads & Maritime Services (RMS), and in accordance with Council's Engineering Construction Specification for Civil Works. Approval of the CTMP may require approval of the Local Traffic Committee.

69 **K301 - Sediment & Erosion Control**

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

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

70 **K302 - Traffic Control Plan**

Prior to commencement of any works associated with the development, a Traffic Control Plan, including details for pedestrian management, shall be prepared in accordance with AS 1742.3 "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.

71 **K403 - Major Filling/ Earthworks**

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.

72 **K406 - Underground Services**

All existing (aerial) and proposed services for the development, including those across the frontage of the development are to be located or relocated underground in accordance with the relevant authorities regulations and standards.

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

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

74 [K502 - Works as executed – General and Compliance Documentation](#)

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

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

75 [K503 - Stormwater Compliance](#)

Prior to the issue of an 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.

76 [K504 - Stormwater Compliance](#)

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

a) Stormwater management systems

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

77 [K511 - Directional signage](#)

Prior to the issue of any Occupation Certificate, the Principal Certifying Authority must ensure that directional signage and linemarking is installed along the service lane, as per the Final Signage and Line Making Plan endorsed by Penrith City Council.

78 [K601 - Stormwater Management system operation and maintenance](#)

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

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

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

All car parking, manoeuvring and access must be in accordance with AS2890.1-2004; AS2890.6-2009 and Council's requirements.

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

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

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

All car parking spaces are to be dedicated for the parking of vehicles only and not used for storage of materials, products, waste materials or the like. Access to individual residential storage spaces is to be maintained at all times.

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

Subleasing of car parking spaces is not permitted by this consent.

Landscaping

83 L001 - General

All landscape works are to be constructed in accordance with the stamped approved plans prepared by Urbis and Appendix F5, Clause 2.9 of Penrith Council's Development Control Plan 2014.

Landscaping shall be maintained:

- in accordance with the approved plans, 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.

84 L002 - Landscape construction

The approved landscaping for the site must be constructed by a suitably qualified and experienced landscape architect. Landscaping is to be installed and maintained in accordance with the stamped approved plans.

85 L003 - Report requirement

The following series of reports relating to landscaping are to be submitted to the nominated consent authority at the appropriate time periods as listed below. These reports shall be prepared by a qualified landscape architect.

(a) Implementation Report

Upon completion of the landscape works associated with the development **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.

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.

(b) Plant Establishment and Maintenance Report

Six months after the issue of the Occupation Certificate, a Plant Establishment and Maintenance Report is to be submitted to Penrith City Council in consultation with the Landscape Architect Supervisor - Design and Projects at Penrith City Council, certifying that the landscape works are still in accordance with the development consent and the plant material is alive and thriving. The report is to be prepared by a qualified Horticulturalist and shall evaluate the success and failure of planter landscaping around the above-ground carpark levels.

(c) Landscaping Review

A review of the level 1 and 2 landscaping is to be provided to the Manager of Development Services at Penrith City Council, **24 months after the issue of the Occupation Certificate**. The review is to be prepared by a qualified landscaping consultant and is to detail the health and status of all planting and is to provide recommendations if required with regard to the continued success and vitality of the carpark screen planting.

Should the landscaping and planting proposed to screen the level 1 and level 2 carpark openings fail or be unsuccessful such that the design and building façade planting, as approved is not achieved, an alternative solution to screen the carpark openings is to be adopted in consultation with Penrith City Council.

86 L005 - Planting of plant

All plant material associated with the construction of approved landscaping is to be planted in accordance with the Tree Planting Specification prescribed in Penrith Council's Landscape Development Control Plan.

87 L006 - Aust Standard

All landscape works are to meet industry best practice and the following relevant Australian Standards:

- AS 4419 Soils for Landscaping and Garden Use,
- AS 4454 Composts, Soil Conditioners and Mulches, and
- AS 4373 Pruning of Amenity Trees.

88 L007 - Tree protection measures—no TMP with DA

All street trees are required to be retained and protected throughout construction, in accordance with the minimum tree protection standards prescribed in Part F, Appendix F5 of Penrith Development Control Plan 2014.

89 L012 - Existing landscaping (for existing development)

The Principal Certifying Authority is to ensure all street trees adjacent the development have been retained and are in good health prior to the issue of the Occupation Certificate. Where street trees have been damaged or destroyed by construction or site works, the street trees are to be replaced like-for like in consultation with Council, at no cost to Council.

Development Contributions

90 N001 - Section 94 contribution (District Open Space)

This condition is imposed in accordance with Penrith City Council's Development Contributions Plan for District Open Space as required under Major Projects Approval No. MP10-0075 (as amended). Based on the current rates detailed in the accompanying schedule attached to this Notice, \$89,712.00 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 development contributions plan and conditions of the Major Projects Approval No. MP10-0075. The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule and under major projects approval No. MP10-0075. Council should be contacted prior to payment to ascertain the rate for the current quarterly period.

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

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

Payment of Fees

91 P001 - Costs

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

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

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

Certification

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

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

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

The Principal Certifying Authority shall submit to Council an "Appointment of Principal Certifying Authority" in accordance with Section 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.

94 Q05F - Occupation Certificate for Class10

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

Appendix - Development Control Plan Compliance

Development Control Plan 2014

Part C - City-wide Controls

The proposal has been assessed against the applicable provisions of the Penrith DCP 2014 in particular those under Part C, City Wide Controls and is found to be compliant. Compliance with particular section is discussed below.

C10 Transport Access and Parking

The proposal has been assessed against the provisions of this Section and is found to be acceptable. Compliance with particular clauses is detailed below.

Clause 10.1 Transport and Land Use

The DCP requires that public transport use is to be enhanced by providing good pedestrian connections from places of residence or employment to transport networks or nodes. The development as approved under DA18/0298 will facilitate access to Penrith Railway Station through the provision of a through-site link spanning along the southern elevation of the building and complies with the DCP in this respect. The proposal to delete a condition requiring 10 spaces within the development to be provided for the use of Quest customers will not impact the ability of the development to remain consistent with the objectives of the clause.

Clause 10.5 Parking Access and Driveways

The parking rates of this section do not apply to the subject site. Refer to discussion under Part E11 of the Penrith DCP. An assessment of the development against the general controls of Clause 10.5 is provided below.

Clause 10.5 (3)(a) states that on-site parking for residential developments including the residential component in a mixed use development, is to be accommodated wholly within a basement parking area unless the applicant can demonstrate to Council's satisfaction that the site's unique conditions prevent parking from being located in a basement. The development proposal as was assessed under DA18/0298 adequately addressed the impacts related to the proposed podium parking at levels 1 and 2, in that planting was included as a feature of the development within the window openings to the parking levels. The development application was also accompanied by a design competition waiver issued by the NSW Government Architect, and design excellence was endorsed by Council's project specific urban design panel.

The number of car parking spaces and their layout, which were approved under DA18/0298 will not change as a result of the proposed deletion of Condition 21.

It is noted that a similar Condition was imposed on the Quest serviced apartments consent (DA16/0357). The owner of the Quest development has advised that they will no longer be pursuing their submission in objection to the proposed modification, and as the condition is found to be unlawful, it is assessed to be unnecessary to encourage an amendment to consent no. DA16/0357 (the Quest consent), to delete the similar condition.

Further, the registered plan of subdivision and the land Title for the subject site do not include any right to car parking spaces within the subject development, which benefits the Quest site.

Refer to additional parking discussions under the North Penrith section of this report.

North Penrith Design Guidelines

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

Clause 11.8.2.1 Vision

The proposed amendment to delete a condition related to car parking will not alter the original approval which was found that the proposal complies with the vision statements expressed within the clause. The development remains well designed and will contribute to active spaces within the Estate.

Clause 11.8.3.3 Building Envelopes

There are no changes proposed to the approved building envelope.

Clause 11.8.3.10 Specific Provisions - Residential Flat Buildings

Objectives of the Clause include to establish high quality residential flat developments that have a good level of amenity. The proposed modification to the consent will not result in any physical changes to the development which complies with the minimum site requirement of 650sqm's.

The following car parking rates override those rates outlined within Section C10 Transport, Access and Parking of the DCP:

Required Rate	Proposed	Complies/Discussion
<p>Car Parking 1-2 Bedrooms = 1 x space per dwelling 3+ Bedrooms = 2 x spaces per dwelling</p> <p>[48 units proposed (12 x 1bed, 35 x 2 bed and 1 x3bed)] 48 rooms total</p>	<p>49 Residential spaces are required.</p>	<p>Complies. 61 proposed including 3 accessible.</p> <p>It is noted that, it was agreed the operator of the adjacent serviced apartments development at the time of the assessment of the original development application under DA18/0298, 10 car parking spaces were to be provided for the use of their valet attendant. The arrangement resulted in the inclusion of Condition 21.</p> <p>Condition 6 of consent DA16/... was also applied and states that a review of the need for these spaces may be undertaken 24 months from the issue of the Occupation Certificate for the serviced apartments building; which time the condition may be reviewed.</p> <p>The proposal to delete Condition 21 of the consent is supported for the following reasons:</p> <ul style="list-style-type: none"> - Council's legal advice confirms that the Council can support the requirement. - Documentation submitted with the original Quest development application confirms that additional spaces are not required for the operational needs of the serviced apartments development. - Car parking rates within the Thornton Estate are maximums not minimums and thus the car parking provision proposed for each development remains compliant. - The Quest serviced apartments are currently operating without

Required Rate	Proposed	Complies/Discussion
		<p>use of the 10 spaces within the subject site (which is under construction), without detriment impacts on surrounding streets noting that a request was made to Council's Local Traffic Committee requesting signage be installed along Lord Sheffield Circuit to provide for a set down area for check in.</p> <p>- Quest is currently not operating with the use of valet - which will be required should Condition 1 remain and be taken up by Quest</p> <p>- The title and registered plan and subdivision do not provide any rights or benefits to the subject site or its parking.</p> <p>- The addition of 10 car parking spaces for the residents of the subject site will assist in provision of car parking for residents of the development and potentially prevent some on street parking utilisation by residents.</p> <p>Council's traffic engineer does not support the proposed deletion of the condition for reasons including that the original Quest DA was approved with a set down area for guests, and that the applicant's traffic assessment of the need for additional car parking was carried out in the period of time when the COVID 19 pandemic shutdown was applicable.</p> <p>The concerns of the traffic engineer are noted although can be overcome issues related to the practicality of the condition, Quest's decision not to make use of a valet service or the change in land ownership resulting from subdivision of the original lot. Quest has not assessed that the deletion of the condition will be detrimental to the precinct or result in detrimental impacts in the local area.</p>
Visitor Parking - On street	No visitor spaces required.	N/A.

Required Rate	Proposed	Complies/Discussion
Commercial parking	The development is required to provide a minimum of 1 car space per each 75sqm's of commercial/retail floor area. 487sqm's of commercial space is proposed. 6 spaces are required.	Does not comply. Justification was provided, and was accepted as part of the assessment of DA18/0298. No changes are proposed to commercial car parking.

Compliance with building frontage characteristics is detailed below:

Frontage Type	Characteristics (Control)	Discussion
Awnings	<ul style="list-style-type: none"> - Continuous and intermittent awnings required as per Figure E11.50. - To be solid element (not glazed), at an angle of 90 degrees to the wall (i.e. not angled upwards). 	<p>Complies. No changes are proposed as part of this modification application.</p> <p>The approved awning was less than 3m in width how was considered to be relative to the width of the street below and provides adequate area for street trees.</p>
Street Frontage Type	<ul style="list-style-type: none"> - Glazed entries to commercial and residential lobbies occupying less than 50% of the street frontage. - Active office uses, such as reception, if visible from the street. 	Complies. No changes are proposed as part of this modification application.
Other	<ul style="list-style-type: none"> - Main building entry points should be clearly visible from primary street frontages. - Provide clearly separate and distinguishable commercial and residential entries. - Provide multiple entrances for large developments. 	Complies. No changes are proposed as part of this modification application.
	<ul style="list-style-type: none"> - Car parking above ground level is to have a minimum floor to ceiling height of 2.8m to allow for future adaption. 	Does not comply. Justification was provided and was accepted as part of the assessment of DA18/0298. changes are proposed to floor to ceiling heights.