

PENRITH CITY COUNCIL

NOTICE OF DETERMINATION

DEVELOPMENT APPLICATION DETAILS

Application number:	DA21/0623
Description of development:	Construction of Two-Storey Centre-Based Child Care Facility Catering for 103 x Children with Basement Car Parking and Associated Site Works
Classification of development:	Class 9b
Name of Applicant:	Mim Property Pty Ltd

DETAILS OF THE LAND TO BE DEVELOPED

Legal description:	Lot 16 DP 29528 Lot 15 DP 29528
Property address:	32 Park Avenue, KINGSWOOD NSW 2747 31 Park Avenue, KINGSWOOD NSW 2747

DECISION OF CONSENT AUTHORITY

In accordance with Section 4.18(1) (a) of the Environmental Planning and Assessment Act 1979, consent is granted subject to the conditions listed in attachment 1.

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

Decision	Approve
Date from which consent operates	10 March 2022
Date the consent expires	10 March 2027
Date of this decision	28 February 2022

POINT OF CONTACT

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

Assessing Officer:	Lauren Van Etten
Contact telephone number:	+61247328222

NOTES

Reasons

The conditions in the attached schedule have been imposed in accordance with Section 4.17 of the Environmental Planning and Assessment Act 1979 as amended.

Conditions

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

Certification and advisory notes

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

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

Review of determination

The applicant may request Council to review its determination pursuant to Division 8.2 of the Environmental Planning and Assessment Act 1979 within twelve months of receiving this Notice of Determination.

These provisions do not apply to designated development, complying development or crown development pursuant to Section 8.2(2) of the Environmental Planning and Assessment Act 1979.

Appeals in the Land and Environment Court

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

There is no right of appeal to a decision of the Independent Planning Commission or matters relating to a complying development certificate pursuant to clause 8.6(3) of the Environmental Planning and Assessment Act 1979.

Designated development

If the application was for designated development and a written objection was made in respect to the application, the objector can appeal against this decision to the Land and Environment Court within 56 days after the date of this notice.

If the applicant appeals against this decision, objector(s) will be given a notice of the appeal and the objector(s) can apply to the Land and Environment Court within 56 days after the date of this appeal notice to attend the appeal and make submissions at that appeal.

Sydney Western City Planning Panels

If the application was decided by the Sydney Western City Planning Panel, please refer to Section 2.16 of the Environmental Planning and Assessment Act, 1979 (as amended) for any further regulations.

ATTACHMENT 1: CONDITIONS OF CONSENT

General

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

Drawing Title	Drawing No	Prepared By	Dated
Basement Plan	A01	Archidome	12/01/2022
Ground Floor Plan	A02	Archidome	13/01/2022
First Floor Plan	A03	Archidome	13/01/2022
Roof Plan	A04	Archidome	13/01/2022
Section	A05	Archidome	13/01/2022
Section BB	A06	Archidome	13/01/2022
Elevations_01	A07	Archidome	13/01/2022
Elevations_02	A08	Archidome	13/01/2022
Stormwater Management Plan	SW-2011C- Sheets DA-01 to DA-08	Multipro Consultants	30/12/2021

Supporting Documentation:

- Preliminary Site Investigation report prepared by NG Childs and Associates dated 28 October, 2021
 - Arborist Report prepared by Monaco Designs PL, Job No. 5625, dated 16 October 2020
 - Acoustic Report prepared by NG Childs and Associates dated 28 October 2021
 - Access Report prepared by Archidome
 - Traffic Report prepared by Mutipro Consultants Pty Ltd, Report V5, Reference Job 177, dated August 2021
 - EMF, Electrolysis & Stray Current Assessment Report, prepared by NG Childs and Associates dated 28 October 2021
 - Flood Study Report, prepared by Multi Pro Consultants Pty Ltd, Version V6, dated October 2021
 - Plan of Management prepared by Thomas Mithen, dated 24 August 2021.
 - Landscape Plans prepared by Canvas Landscape Architects, dated 28 October 2021 (to be updated prior to issue of the Construction Certificate)
- 2 The conditions listed in Attachment A of Sydney Trains approval dated 8 October 2021 shall be adhered to at all times, noting that additional reporting and approvals are required at various points in time, including prior to issue of the Construction Certificate.
- Evidence is to be provided prior to issue of the Occupation Certificate that Sydney Trains is satisfied that all conditions in Attachment A have been satisfied.
- 3 The development shall not be used or occupied until an Occupation Certificate has been issued.

A satisfactory inspection from an authorised officer of Council's Environmental Health Department is required prior to the issue of the Occupation Certificate. The occupier is to contact the Environmental Health Department to organise an appointment at least 72 hours prior to the requested inspection time.

- 4 The business is to be registered with Penrith City Council by completing the "Registration of Premises" form. This form is to be returned to Council prior to the issuing of the occupation certificate and operation of the business.
- 5 A separate development approval for the erection of a sign or advertising structure, other than an advertisement listed as exempt development, is to be obtained.
- 6 The approved operating hours are from 7am to 6pm, Mondays to Fridays. Staff are permitted on site during the shoulder period being 30 minutes before and after the hours listed above.

Delivery and service vehicles generated by the development are limited to:

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

- 7 A **Construction Certificate** shall be obtained prior to commencement of any building works.
- 8 The child care centre operator is required to obtain an operating licence from the NSW Department of Education and Communities prior to operation of the child care centre. The child care centre is to comply with the requirements of the Education and Care Services National Regulation at all times under the Education and Care Services National Law.
- 9 Any fencing and boundary retaining walls required as a result of this development shall be constructed as full cost to the persons benefiting from this consent. Any retaining walls across the site shall be of masonry construction and be to a maximum height of 1.5m within the rear yard area.
- 10 A maximum of 103 children (18 x aged 0-2; 20 x aged 2-3; 65 x aged 3-6) are to be enrolled to attend the premises at any one time.
- 11 Childproof fencing shall be provided to all outdoor play areas, and to the entrance of the child care centre. Details in this regard shall be shown on the Construction Certificate plans.
- 12 **Prior to the issue of a Construction Certificate**, an updated Stormwater Management Strategy shall be prepared and be submitted to Council's Waterways Officer for approval. The updated strategy shall include details on the proposed water conservation measures as per the requirements of Section 3.1 of Council's WSUD Policy.
- 13 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 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.
 - Lighting must illuminate pedestrian routes, entries into the building, internal and external communal areas such as foyers, lifts and stairwells.
 - 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.
 - All areas of the car park must be well-lit, with consistent lighting to prevent shadowing or glare.
 - 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 building including to restricted staff only areas such as storage and bin rooms.
- Australian Standard 220 – door and window locks must be installed.
- CCTV is to be provided to cover communal public space areas, including the car park entrance. 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.
- A monitored alarm system must be installed.

Wayfinding

- Centre facilities, including entrances to indoor play areas, admin and staff areas, must be clearly signposted and visible from stairwells and lifts, and the well signposted at the street level entrance.

Graffiti/Vandalism

- Graffiti resistant coatings must be used to external surfaces where possible, including signage, retaining walls, boundary fencing (in particular on the reserve facing side) etc.
- Procedures must be in place to ensure the prompt removal and/or repair of graffiti or vandalism to the buildings, fencing, and common areas. This includes reporting incidents to police and/or relevant authorities.

Landscaping

- All vegetation must be regularly pruned to ensure that sight lines are maintained.

Demolition

- 14 Demolition does not form part of the proposed development. A separate approval is required for the demolition of existing structures on the subject site, prior to issue of the Construction Certificate for the approved works subject of this consent.

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

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

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

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

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

Environmental Matters

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

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

Certification that the erosion and sediment control measures have been installed in accordance with the approved erosion and sediment control plan for the development and "Managing Urban Stormwater: Soils and Construction 2004" shall be obtained and issued a minimum 2 days before any other site works are to commence, including earthworks and clearing of the site.

The approved sediment and erosion control measures are to be installed **prior to and maintained throughout the construction phase of the development until the landscaping, driveway and on-site parking areas have been completed for the development.** These measures shall ensure that mud and soil from vehicular movements to and from the site does not occur during the construction of the development.

- 17 Before any works are commenced on site,adequate fencing with star picket and wire fencing shall be installed to ensure that the adjoining area is not disturbed by the construction/demolition works or earthworks.
- 18 No fill material is to be imported to the site without the prior approval of Penrith City Council in accordance with Sydney Regional Environmental Plan No.20 (Hawkesbury- Nepean River) (No.2-1997). No recycling of material for use as fill material shall be carried out on the site without the prior approval of Council.
- 19 Cut and fill operations on the property are only permitted in conjunction with the building works as detailed on the approved plans and specifications, and shall not extend more than 2 metres past the defined building footprint.

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

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

{Note: Penrith Contaminated Land Development Control Plan 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, soilscience, 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."}

- 20 Where a building is to take place on any land that is to be filled, such filling is to be compacted in accordance with AS3798-1996. Certification is to be submitted to the Principal Certifying Authority by a

Geotechnical Engineer verifying that the work has been undertaken prior to the commencement of the construction of any building.

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

- 21 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.
- 22 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.

- 23 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.
- 24 Noise levels from the premises shall not exceed the relevant noise criteria detailed in the acoustic report prepared by NG Childs and Associates dated 19 August 2021, reference number CA/21/172/2002. The provisions of the Protection of the Environment Operations Act 1997 apply to the development, in terms of regulating offensive noise.
- 25 Should any unexpected finds in relation to land contamination be found during the excavation of the site, works are to immediately cease and the Certifying Authority and Penrith City Council are to be notified. An investigation is to be undertaken by an appropriately qualified and practicing environmental consultant in accordance with SEPP55. Works will not be able to commence until the site is cleared by the environmental consultant and the Certifying Authority and Penrith City Council are notified.
- 26 Within three months of the Occupation Certificate being issued, an acoustic report is to be undertaken by a suitably qualified and practicing person and is to be submitted to Penrith City Council's Environmental Management Officer for assessment. The acoustic report is to determine the actual noise emitted from the premises and whether it meets the acoustic requirements. Should the actual noise emitted not meet the acoustic requirements outlined in the acoustic reports, mitigation measures to be installed on the premises are to be outlined, including:
 - their location;
 - materials for construction; and
 - the noise levels to be achieved by the installation of these further mitigation measures
- 27 The recommendations in sections 8.5 and 9.2 of the Preliminary Site Investigation report prepared by NG Childs and Associates dated 28 October, 2021 are to be implemented during construction.
- 28 Prior to the issue of the Construction Certificate, an acoustic report prepared by a suitably qualified and practicing person is to be submitted to Penrith City Council's Environmental Management Officer for

assessment and approval. The acoustic report is to be prepared in accordance with the Interim Construction Noise Guideline and is to detail:

- Acoustic impacts on neighbouring premises;
- Should rock breaking be required, any additional noise impacts from this activity;
- Any mitigation measures required to minimise the noise impacts from the construction of the premises.

Should rock breaking be required during the excavation of the site, a vibration report is to be submitted to Penrith City Council's Environmental Management Team for assessment and approval. The vibration report is to be prepared by a suitably qualified and practicing person in accordance with the Department of Environment and Conservation NSW "Assessing Vibration: a technical guideline".

29 Prior to the issue of the Construction Certificate, an acoustic report prepared by a suitably qualified and practicing person is to be submitted to Penrith City Council's Environmental Management Officer for assessment and approval. The acoustic report is to be prepared in accordance with the Noise Policy for Industry and is to detail:

- The noise impacts of all mechanical services (the mechanical plant is to be selected and specified in this report) to be installed on the premises. This includes, but is not limited to any air conditioners, mechanical ventilation (for the bin room, car park or kitchen), roller doors to the car park and lift motor.
- Any mitigation measures required to be installed to alleviate the noise impacts to the neighbouring premises.

BCA Issues

30 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).

31 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.

Health Matters and OSSM installations

32 A detailed plan showing the information below must be submitted to and approved by Council's Environmental Health Officer prior to the issue of the Construction Certificate:

- Details of the finish of the walls and ceiling (note acoustic panels not permitted in food preparation areas);
- Details and location of coving to all floor wall joins;
- Details and location of shelving to the storage area for food and packaging;
- Construction material of shelving indicating lowest shelf at least 150mm above ground level;
- Details of materials used on benches in kitchen
- Reference to the construction of the premises being in accordance with the Australian New Zealand Food Standards Code, Food Safety Standard 3.2.3 "Food Premises and Equipment" and the AS 4674 – 2004 "Design, Construction and Fit Out of Food Premises";
- Hand wash facilities fitted with a hands free operation warm water through a common spout
- Location of separate sink for (a) washing of vegetables and fruit (b) hand washing (c) washing (required) and sanitizing sinks (if no dishwasher)
- Location of any floor wastes and hose connectors (if being installed) and/ or cleaners sink (may be in cleaners room or laundry);
- Details and location of all equipment in the kitchen including, but not limited to ovens, fridges, freezers, dishwasher etc.;
- Location of personal staff storage area
- Any fluorescent light fittings being fitted with a smooth faced diffuser and identified on the plan;
- Location and information of mechanical ventilation for dishwasher / oven / stove in accordance with Section 2.5.2 of AS 4674 – 2004 "Design, Construction and Fit Out of Food Premises";
- Location of any bottle preparation area including hand wash basin details.

No fit out works shall commence on the site will be granted until after the above plan has been supplied to Council and Council has advised the Certifying Authority in writing that it is satisfactory.

Utility Services

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

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

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

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

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

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

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

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

Construction

- 36 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 is 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.

37 Prior to the commencement of construction works:

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

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

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

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

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

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

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

38 A revised waste management plan shall be submitted to Penrith City Council for consideration and approval prior to the issue of a Construction Certificate.

The waste management plan shall be prepared in accordance with the Waste Planning Development Control Plan (2004), and shall address all waste materials likely to result from the proposed development, with details of the estimated waste volumes, onsite storage and management, proposed re-use of materials, designated waste contractors, recycling outlet and / or landfill site.

The approved waste management plan must be implemented on-site and adhered to throughout all stages of the development including demolition, with supporting documentation / receipts retained in order to verify the recycling and disposal of materials in accordance with the approved plan.

39 The rainwater tank(s) is to be:

- erected on a self-supporting base in the approved location on the property in accordance with the stamped-approved site plans for the development,
- structurally sound and constructed in accordance with AS/NZS 3500 1.2- 1998: National Plumbing and Drainage - Water Supply - Acceptable Solutions,
- fully enclosed and all openings sealed to prevent access by mosquitoes,

- fitted with a first flush device,
- fitted with a trickle system to top up from mains water,
- provided with an air gap, and
- installed by a licensed plumber in accordance with Sydney Water's "Plumbing requirements Information for rainwater tank suppliers and plumbers April 2003" and the NSW Code of Practice: Plumbing and Drainage.

Additionally, the following are to be provided:

- A back flow prevention device shall be provided at the water meter in accordance with Sydney Water requirements.
- In the event of a power failure, a back up supply of mains water shall be provided to at least one toilet in the dwelling.
- The rainwater tank(s) and associated piping is to be labelled 'Rainwater - Not for Drinking' in accordance with Sydney Water requirements.
- The rainwater tank and pipework is to be painted in colours matching the external finishes of the dwelling and is to be of non-reflective finish.
- The overflow for the rainwater tank is to be connected into the existing stormwater disposal system on the site.

40 Before a rainwater tank(s) can be used, a certificate or suitable document is to be submitted to the Principal Certifying Authority stating that the rainwater tank has been installed in accordance with:

- the Manufacturer's Specifications, and
- Sydney Water and NSW Health requirements.

This certificate or documentation is to be provided by the licensed plumber who installed the rainwater tank on the property, and is to be submitted prior to the issue of the Occupation Certificate.

41 The catchment area (for the rainwater tank) includes the parts of the roof of the dwelling(s) from which water is collected and includes gutters. To ensure a safe supply of water:

- roof catchment areas must be kept clear of overhanging vegetation,
- gutters must have sufficient fall to downpipes to prevent pooling of water,
- overflow, discharge from bleed off pipes from roof mounted appliances such as airconditioners, hot water services and solar heaters must not discharge into the rainwater catchment area,
- for roofs containing lead based, tar based or asbestos material the tank supply must not be connected to drinking, bathing and gardening tap water outlets,
- appropriate measures must be installed to prevent foreign materials from contaminating the water which enters the rainwater tank.

42 The rainwater tank supply must not be connected to drinking and bathing water tap outlets.

43 The rainwater tank pump must not exceed 5dBA above ambient background noise level at the nearest residential property boundary. The provisions of the Protection of the Environment Operations Act 1997 apply to the development, in terms of regulating offensive noise.

Engineering

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

- 45 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 or Subdivision Works 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 Asset Management Department on 4732 7777 or visit Penrith City Council's website for more information.

- 46 Prior to the issue of any Construction Certificate or Subdivision Works Certificate, a Section 138 Roads Act application, including payment of application and inspection fees together with any applicable bonds, 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 (including temporary construction work zones and tower crane operation)
- e) The placement of hoardings, structures, containers, waste skips, signs etc. in the road reserve
- f) Temporary construction access
- g) Temporary ground anchors (for basement construction)

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 Asset Management Department on 4732 7777 or visit Penrith City Council's website for more information.

Note:

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

- 47 The stormwater management system shall be consistent with the plan/s lodged for development approval, prepared by Multipro, reference number SW-2011C-DA-02 to SW-2011C-DA-08, revision C, dated 30.12.2021.

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

The On-site Stormwater Detention (OSD) system shall be designed to ensure post developed stormwater discharge from the site does not exceed pre-developed discharge flows.

In addition, a Maintenance and operation manual which outlined maintenance requirements, shall be prepared for the stormwater treatment measures.

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

- 48 Prior to the issue of any Construction Certificate or Subdivision Works Certificate, the Certifier shall ensure that the stormwater drainage system for the basement car park has been designed in accordance with the requirements for pumped systems in AS3500.3 Plumbing and Drainage – Stormwater Drainage.
- 49 Prior to the issue of any Construction Certificate, the Certifier shall ensure that the habitable ground floor level is at a minimum of **RL 38.35m** AHD (0.3m freeboard above the Top Water Level of 38.05m AHD of the On-site Stormwater Detention system).
- 50 Prior to the issue of any Construction Certificate or Subdivision Works Certificate, the Certifier shall ensure that the proposed development is compatible with the recommendations of the Flood Study Report prepared by Multipro, revision V6, dated October 2021.
- 51 Prior to the issue of any Construction Certificate or Subdivision Works Certificate, the Certifier shall ensure that vehicular access, circulation, manoeuvring, pedestrian and parking areas associated with the subject development are in accordance with Penrith City Council's Development Control Plan, AS2890.1, AS2890.2 and AS2890.6.
- 52 Prior to commencement of any works associated with the development, sediment and erosion control measures shall be installed in accordance with the approved Construction Certificate or Subdivision Works Certificate and to ensure compliance with the Protection of the Environment Operations Act 1997 and Managing Urban Stormwater series from the Office of Environment and Heritage.

The erosion and sediment control measures shall remain in place and be maintained until all disturbed areas have been rehabilitated and stabilised.
- 53 Prior to commencement of any works associated with the development, a Traffic Control Plan, including details for pedestrian management, shall be prepared in accordance with AS1742.3 Traffic Control Devices for Works on Roads and the Transport for NSW (TfNSW) publication Traffic Control at Worksites, and certified by an appropriately accredited TfNSW 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 copy of the Traffic Control Plan shall accompany the Notice of Commencement to Penrith City Council.
- 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 any Construction Certificate or Subdivision Works Certificate.

54 A certificate by a registered surveyor verifying that all habitable floor levels are at or above RL 38.35m AHD (Top Water Level of OSD basin + 0.3m freeboard) shall be submitted upon completion of the building to that level. No further construction of the building is to be carried out until approval to proceed is issued by the Principal Certifier.

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

56 Prior to the issue of an Occupation Certificate, the Principal Certifier shall ensure that all works associated with a S138 Roads Act approval have been inspected and signed off by Penrith City Council.

57 Prior to the issue of any Occupation Certificate, Works As Executed drawings, final operation and maintenance management plans and any other compliance documentation for the stormwater management system shall be submitted to the Principal Certifier in accordance with Penrith City Council's Engineering Construction Specification for Civil Works, Stormwater Drainage Specification for Building Developments and WSUD Technical Guidelines.

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 Penrith City Council is not the Principal Certifier.

58 Prior to the issue of any Occupation Certificate, the Principal Certifier 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 or Subdivision Works Certificate and the requirements of this consent;
- have met the design intent with regard to any construction variations to the approved design, and;
- 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.

59 Prior to the issue of any Occupation Certificate, a restriction on the use of land and positive covenant relating to the:

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

shall be registered on the title of the property. The restriction on the use of land and positive covenant shall be in Penrith City Council's standard wording as detailed in Council's Stormwater Specification for Building Developments - Appendix F.

- 60 Prior to the issue of any Occupation Certificate, directional signage and line marking shall be installed indicating directional movements and the location of customer parking to the satisfaction of the Principal Certifier.
- 61 The stormwater management system 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.

- 62 All car parking and manoeuvring areas must be in accordance with AS 2890.1-2004, AS 2890.6-2009 and Council's requirements. Car park ramp headroom clearances including at grade transitions and car park aisle widths, column locations and clearances (including in accordance with AS 2890.1, Figures 5.1 and 5.2) must be compliant with the above.
- 63 The required sight lines around the driveway entrances are not to be obstructed by landscaping, fencing or signage. Sight distance requirements must be in accordance with AS 2890.1 and / or AS 2890.2, Figure 3.2 Access driveways and Figure 3.3 Minimum sight lines for pedestrian safety.
- 64 All car spaces and access areas are to be dedicated for the parking of vehicles only and not to be used for storage of materials, products, waste materials, etc.
- 65 All vehicles are to enter and leave the site in a forward direction.
- 66 The sub-leasing of car parking spaces is not permitted by this consent.
- 67 Signage indicating the location of staff/visitor parking is required at the driveway entrance.
- 68 Prior to the issue of a Construction Certificate, the Certifier shall ensure the architectural plans and landscape plans are amended to be consistent with the revised engineering plans by Multipro, revision C, dated 30-12-2021 with regards to the following items:
1. Levels and drainage of the rear playground area. The playground shall grade away from the building with surface flows captured by the drainage pits proposed in the engineering plans.
 2. The location and extent of the amended On-site Stormwater Detention basins OSD1 (above ground) and OSD2 (below ground).
 3. The level of the habitable ground floor is at a minimum of RL 38.35m AHD (Top Water Level of the OSD system + 0.3m freeboard).

Landscaping

69 **Prior to the issue of a Construction Certificate**, a revised landscape plan shall be submitted to and approved by Council to incorporate the following details:

- Reflect the amended approved Architectural Plans;
- Shade structures are not to extend beyond the basement footprint, to ensure the setbacks allow for canopy cover;
- The driveway colour is to be a medium to light brown to reduce heat absorption;
- The materials proposed for any shade structures and any proposed slide shall be included in accordance with AS 4685 'Playground equipment and surfacing'; Part 0: Development, installation, inspection, maintenance and operation; and
- Two street trees are to be incorporated in accordance with Council's Street and Park Tree Management Plan Appendix: Small Tree Species.

All landscape works are to be constructed in accordance with the landscape plans, approved by conditions within this consent and required to be updated prior to the issue of the Construction Certificate to reflect the amended building design, and the relevant provisions of Penrith 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.

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

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

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

72 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 Development Control Plan 2014.

73 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.

74 No trees are to be removed, ringbarked, cut, topped or lopped or wilfully destroyed (other than those within the proposed building footprint or as shown on the approved plans) without the prior consent of Penrith City

Council and in accordance with Council's Tree Preservation Order and Policy.

- 75 An arborist with a minimum AQF (Australian Qualification Framework) Level 5 shall be engaged for the duration of the approved works to implement and comply with the measures within the approved Tree Protection Plan (Specification) and Drawing.
- 76 **Prior to the commencement of any works**, a project arborist with a minimum AQF (Australian Qualification Framework) Level 5 shall be engaged to prepare a Tree Protection Plan (Specification) and Drawing in accordance with AS 4970 - 2009 to appropriately retain and protect the hedge on the adjoining reserve to the west of the site.

The completed Tree Protection Plan (Specification) and Drawing is to be provided to the Penrith City Council's Tree Management Officer for approval prior to the commencement of any works.

The approved plan and its protection measures shall be in place prior to demolition commencing and a copy of the plan shall be retained on site at all times.

Section 94

- 77 This condition is imposed in accordance with Penrith City Council's Section 7.12 Development Contributions Plan for Non-Residential Development. Based on the current rates detailed in the accompanying schedule attached to this Notice, \$28,011.115 is to be paid to Penrith City Council prior to a Construction Certificate being issued for this development (the rates are subject to quarterly reviews). If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted Section 7.12 plan.

The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule. Council should be contacted prior to payment to ascertain the rate for the current quarterly period. The Section 7.12 invoice accompanying this consent should accompany the contribution payment. The Section 7.12 Development Contributions Plan for Non-Residential Development may be inspected at Council's Civic Centre, 601 High Street, Penrith.

Note: The timing of contributions payable may be otherwise affected in accordance with Planning Circular PS20-003 dated 3 July 2020 and the associated NSW Government Ministerial Direction - Infrastructure Contributions.

In addition, given that the proposed cost of carrying out the development is greater than \$750,000, a cost summary report is provided by a quantity surveyor who is a registered member of the Australian Institute of Quantity Surveyors in accordance with Section 3.2.3 of Council's Section 7.12 Contributions Plan for Non-Residential Development. The cost summary report is also required prior to the issue of a Construction Certificate.

Certification

- 78 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.

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

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

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

SIGNATURE

Name:	Lauren Van Etten
Signature:	

For the Development Services Manager