

PENRITH CITY COUNCIL

MAJOR ASSESSMENT REPORT

Application number:	DA18/0663
Proposed development:	Torrens Title Subdivision x 2 Lots & Construction of Eight (8) Single Storey Seniors Housing Dwellings
Property address:	1 Leonay Parade, LEONAY NSW 2750
Property description:	Lot 1100 DP 1217686
Date received:	6 July 2018
Assessing officer	Kathryn Saunders
Zoning:	RE2 Private Recreation - LEP 2010
Class of building:	Class 1a
Recommendations:	Approve

Executive Summary

Penrith City Council is in receipt of a Development Application (DA) for a two lot Torrens Title subdivision and the construction of eight seniors housing dwellings and associated works at 1a Leonary Parade, Leonay (Leonay Golf Course).

The subject site is zoned RE2 Private Recreation under the provisions of Penrith Local Environmental Plan 2010. Although seniors housing is prohibited under PLEP, development for the purposes of seniors housing (in-fill self-care dwellings) is permitted with development consent under *State* Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004, where a Site Compatibility Certificate is issued by the NSW Department of Planning and Environment. The application was submitted with a Site Compatibility Certificate dated 6 July 2017. This certificate has since lapsed and at the time of writing this report, the applicant is awaiting the issue of a valid Certificate from the Department. Clause 24(2) of the Seniors SEPP states that a consent authority must not consent to a development application in respect of seniors housing unless it is satisfied that the relevant Panel has certified the suitability of the development by the issue of a current site compatibility certificate.

It is therefor recommended that the application be considered by the Panel with the determination deferred upon receipt of the required site compatibility certificate.

The development application was notified, exhibited and advertised in accordance with the Penrith Development Control Plan 2014 and the Regulations from 12 July to 3 August 2018 and was renotified from 13 September to 27 September 2019. During this period, Council received 15 submissions and in accordance with the Local planning Panel Direction issued by the Minister for Planning, the application is referred to the Local Planning Panel for determination.

The proposal is identified as integrated development with the NSW Rural Fire Service (RFS) as the site is bushfire prone. The development application was referred to the RFS and General Terms of Approval and a Bush Fire Safety Authority have been issued as detailed in correspondence dated 27 September 2019.

Key issues identified for the proposed development at the site include:

- Tree and vegetation removal
- Accessibility internally and externally (to bus stop)
- Built form and siting within the low density residential context
- Satisfaction of site suitability matters related to SEPP 55
- Acoustic impacts of the development
- Inadequate stormwater design
- Discrepancies between Water Sensitive Urban Design (WSUD) measures

The applicant was advised of the key issues and in response has provided several sets of amended plans and reports. The resultant development including the design of stormwater and WSUD features, tree removal and retention matters and issues related to site suitability have been resolved and the development assessed as acceptable.

An assessment of the proposed development under Section 4.15 of the Environmental Planning and Assessment Act 1979 has been undertaken as detailed within this report.

Site & Surrounds

The development site is located on the western side of Leonay Parade approximately 150m south of the entrance to Emu Plains Sports and Recreation Club. The development site is part of the broader golf course within the south-eastern corner. The proposed subdivided lot site area is 3,713m² with a frontage of 139.715m to Leonay Parade. To the south is approved townhouses which are under construction.

Further to the south is 'Leo Buring' cottage to the south, which is listed as a local heritage item and the Leonay Public School to the south-east. The broader locality is typically characterised by low density residential housing. The site generally slopes from the southwest towards the north-eastern corner and includes a combination of native and introduced tree species throughout the golf course.

A bus stop directly fronts the site and this route (the 689 loop service) provides access to and from Penrith CBD, Emu Plains Shopping Strip, Lennox Shopping Centre and the Leonay neighbourhood shops. These local and regional centres provide a full range of services and facilities inclusive of shops, commercial services, community facilities, General and specialist medical practitioners. The development site is also within serviced by key road networks i.e. the Western Motorway (M4) 300m to the north.

Proposal

The proposed development seeks consent for the construction of a seniors living development including 8 single storey self contained dwellings attached in pairs with attached garages and ancillary civil, drainage, landscaping and fencing works. The proposal incorporates the following elements:

- Each dwelling includes a family room, living area, 3 bedrooms, a kitchen, a laundry, a bathroom and single attached garage.
- Each dwelling is provided with a patio directly accessible from the living area and porches facing the street.
- Tree removal and retention
- Vehicular access is via single driveways off Leonay Parade.

The development application also proposed a one into two lot subdivision, to excise off the development area from the parent lot. The proposed lot size is 3,713sqm's with a frontage of 139.7m to Leonay Parade.

Background

The applicant attended a pre-lodgement meeting (PL16/0127). Key issues identified at this meeting have been addressed as part of the Development Application.

Plans that apply

- Local Environmental Plan 2010 (Amendment 4)
- Development Control Plan 2014
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004
- State Environmental Planning Policy No 55—Remediation of Land
- 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 (previously Section 79C) of the Environmental Planning and Assessment Act 1979, and having regard to those matters, the following issues have been identified for further consideration:

- **Section 4.46 - Integrated development**

Rural Fire Service

The proposed development is Integrated Development under Section 91 of the *Environmental Planning and Assessment Act 1979* requiring general terms of approval from the NSW Rural Fire Service under Section 100B of the Rural Fires Act 1997 (residential subdivision of bushfire prone land). The RFS assessed the proposed development and raised no objections to the proposal on 29/8/19.

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

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

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 aims to ensure consistency in the implementation of the BASIX scheme throughout the States and achieves its aim by overriding provisions of other environmental planning instruments and development control plans that would otherwise add to, subtract from or modify any obligations arising under the BASIX scheme.

The Policy requires certain kinds of residential development to be accompanied by a list of commitments to be carried out. This application is subject to these requirements as it involves the construction of a dwelling. BASIX Certificate 936189M was submitted with the development application demonstrating compliance with set sustainability targets for water and energy efficiency and thermal comfort and the information submitted with the development application and accompanying BASIX certificate were assessed to satisfy the provisions of the Policy.

As revisions were made to the plans, a revised BASIX Certificate was provided to reflect the amendments. The proposal complies with the Policy.

State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004

Part 1 General

Subdivision

The proposed development includes the subdivision of land which is permitted under Clause 21 of the SEPP.

Part 1A Site Compatibility Certificates

The development is proposed under the provisions of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004, which applies to the subject land by virtue of Clause 25(4)(a) as a Site Compatibility Certificate (SCC) was issued over the site dated 6 July 2017. This certificate however has lapsed.

The applicant is awaiting the issue of a new valid Site Compatibility Certificate (SCC) to be issued from the Department and as such, it is recommended that the application be considered by the Panel with a formal determination possible upon receipt of the SCC.

Clause 24(1)a(i) specifies that there is a requirement for a site compatibility certificate to accompany a development if seniors housing is not permitted with consent within that land zone, but adjoins land that is zoned primarily for urban purposes.

Schedule 1 of the issued Site Compatibility Certificate (now expired) states the project description as:

"To permit ten self-care seniors housing dwellings"

The development is categorised as "self-contained dwellings", more specifically "whether attached to

another dwelling or not, housing seniors or people with a disability, where private facilities for significant cooking, sleeping and washing are included in the dwelling or part of the building".

Given the above, the development satisfies the requirements of Clause 4(1), 4(5), 23 & 24 of the SEPP and is permitted with development consent, subject to receipt of the valid SCC.

Part 2 Site-Related Requirements

The proposal is in accordance with the provisions of the SEPP for seniors serviced self care housing, as detailed below.

Clause 26 – Location and Access to Facilities

The residents of the proposed development will have access, by a suitable access pathway, to a bus stop which is located approximately 150m north of the development site. The 689 operates from this bus stop on weekdays and weekends providing transport to Lennox Centro Shopping Centre, Nepean Shopping Centre and Penrith Central Business District. These destinations provide shops, retail and commercial services, recreational facilities, community services and the practice of a general medical practitioner. The development proposes the use of an approved footpath along the frontage of the site (the western side of Leonay Parade) that is approved under the DA for townhouses directly to the south to service the townhouses and provide a direct, convenient and safe path of travel for the occupants. While another DA approved this path, recommended conditions of consent will still require the footpath to be finalised prior to the issue of the Occupation Certificate for this development.

27 Bush Fire Prone Land

A consent authority must not consent to a development application made pursuant to this Chapter to carry out development on bush fire prone land unless the consent authority is satisfied that the development complies with the requirements of the document titled Planning for Bush Fire Protection and consider the means of access to and egress from the general location and other relevant matters. It is noted that the area subject to development and subdivision is not in fact shown as bushfire prone land, this clause does not technically apply. However, given a portion of the golf course is bushfire prone approximately 400m north-west, the Rural Fire Services were consulted and provided General Terms of Approval.

Clause 28 Water and Sewer

The site is currently occupied by a registered club to which water and sewer are both available. As such, it is considered that the development will be connected to a reticulated water system and have adequate facilities for the removal of sewerage. Relevant conditions of consent will require a Section 73 Certificate prior to the issue of a Construction Certificate for the development.

Part 3 Design Requirements

Clause 30 - Site Analysis

In accordance with Clause 30 of the Seniors Housing SEPP, a site analysis was undertaken and is submitted with the application. The information about the site and its surrounds identified on the site analysis has been taken into account in the design of the development in conjunction with the submitted survey and architectural plans.

The built form character of the area is a mix of one and two store residential dwellings of mixed architectural styles with no uniform pattern. The siting and design was revised throughout the development from 8 detached dwellings to 4x 2attached dwellings. This change was made to address Council's concerns regarding tree retention within the front setback in particular and to enable sufficient areas for additional landscaping consistent with the established garden setting of the locality.

The attached dwellings remain distinctive given their varying layouts, the tree retention surrounding them and the retention of physical breaks between the built forms, some of which retain views to flora on the golf course i.e. between Unit 2 and 3. The development has incorporated a range of architectural measures to ensure that the development will positively contribute to the residential character of Leonay Parade and the surrounding locality. The proposed increased landscaping treatment around the perimeter of the development will enhance the proposal and make sure there is a harmonious fit with the existing residential landscape setting and the adjoining golf course.

Clause 31- Design of in-fill Self-Care Housing

In accordance with Clause 31 of the Seniors Housing SEPP, the design of the proposed development must have consideration of the provisions of the Seniors Living Policy: Urban Design Guideline for Infill Development. The proposal is considered compliant with the relevant provisions within the guidelines.

Clause 33- Neighbourhood Amenity and Streetscape

It is considered that the proposed development will create an attractive residential development, which is environmentally sympathetic with the surrounding character. The design is considered to address the design principles set out in Clause 33 of the Seniors Housing SEPP, with particular discussion regarding the location's character already discussed in relation to Clause 30 and with further discussion regarding existing and propose vegetation detailed below.

Clause 33 states that developments shall embody planting that is in sympathy with, but not necessarily the same as, other planting in the streetscape, and retain, wherever reasonable, major existing trees.

Initially, concerns were raised with the quality and quantity of landscaping provided across the development site as all trees were proposed to be removed. Given the context of the development being within a particularly leafy suburb of the Penrith LGA this is an important aspect of the development and will assist in ensuring the development is compatible with the surrounding area. The applicant then submitted a revised design indicating many trees to be retained along the street frontage, the northern side setback and within the rear setback. This plan was reviewed by Council's arborist and supported. A recommended condition of consent will ensure the arborist report is amended to reflect the tree retention plan submitted.

In addition, a revised landscaped plan was submitted stating that the planting design is to provide a mix of native and exotic species. Council's Landscape Architect reviewed the plan and noted the proposal is sympathetic with planting within the area, with the exception of a few trees that are not endemic to the area nor drought hardy. Alternative species were recommended as a condition of consent. Further, as the landscape plan was inconsistent with the tree retention shown on the architectural plans submitted, a recommended condition of consent will require an amended landscape plan with the nominated species to be submitted to Council prior to the issue of an Occupation Certificate which is reflective of the tree retention as shown on the architectural plans.

Clause 34 - Visual and Acoustic Privacy

The proposed development has been designed to maintain visual and acoustic privacy within the development. The layout of buildings across the site, design of the buildings themselves and the provision of tree retention and landscaping will ensure that privacy within the development and onto adjoining properties is maintained. Design solutions include appropriate building setbacks, dwelling layouts, placement and sizes of window openings, screening and location and landscaping.

Clause 35- Solar Access and Design for Climate

The design and siting of the proposed development will provide adequate daylight access to the proposed dwelling living areas and private open spaces. Orientation of proposed internal living areas and open space areas has been incorporated to maximise solar access.

Clause 36 - Stormwater

Impervious surfaces have been minimised where possible to reduce the impact from stormwater. Site stormwater will be drained as shown on the submitted stormwater drainage plans.

Clause 37 - Crime Prevention

Fencing will be constructed along the boundary of the Seniors Housing Development and to areas of private open space to provide an appropriate level of safety and security to residents. The new golf course boundary will also be fenced and afforded security.

Clause 38 - Accessibility

The proposed development allows for obvious and safe pedestrian links from the site that provide access to the proposed bus stop 150m north along Leonay Parade. The landscape plan does not show a pedestrian path from the development to bus stop and will be requested within the revised plan required as a condition of consent. The proposed pathway is provided to ensure equitable access for seniors to proposed public transport that will provide access to services detailed in Clause 26 of the Seniors SEPP.

Clause 39 - Waste Management

Waste and recycling facilities can be provided in accordance with Council's requirements.

Clause 40 - Development Standards

The Seniors SEPP contains general development standards relating to minimum site size, site frontage and building height (Clause 40), which must be complied with for all developments, and development standards specifically for self-contained dwellings (Clause 41), which must also be complied with. Compliance with Clause 40 of the SEPP is demonstrated in the table below.

Design Requirements	Proposal
(2) Site size: The size of the site must be at least 1,000 square metres	The resultant subdivided lot size will be 3713m ²
(3) Site frontage The site frontage must be at least 20 metres wide measured at the building line.	The site frontage is 139m.
(4) Height in zones where residential flat buildings are not permitted. If the development is proposed in a residential zone where residential flat buildings are not permitted: (a) the height of all buildings in the proposed development must be 8 metres or less, and (b) a building that is adjacent to a boundary of the site (being the site, not only of that particular development, but also of any other associated development to which this Policy applies) must be not more than 2 storeys in height, and (c) a building located in the rear 25% area of the site must not exceed 1 storey in height.	The site is not located within a residential zone and therefore this provision is not applicable notwithstanding the proposed height of the building complies with the issued Site Compatibility Certificate. It is however noted that a revised Certificate is being pursued with the Department of Planning.

Clause 41 - Standards for Hostel and Self Contained Dwellings

The development complies with the requirements of Clause 41 and Schedule 3 of the SEPP. Recommended conditions of the consent will ensure compliance with these requirements. In accordance with Clause 41 of the Seniors SEPP the proposal is required to meet accessibility standards. The Access Report requested as a condition of consent will be required to specifically address the standards specified within Schedule 3 of the Seniors SEPP.

Development standards that cannot be used as grounds to refuse consent

The SEPP provides a number of standards that cannot be used to refuse development consent. It is noted that this report recommends approval of the subject development application and the development complies with all of the development standards, including building height, density and scale, landscaped area, deep soil zones, solar access, private open space and car parking.

Clause 50 - Standards for self-contained dwellings that cannot be used to refuse development Consent

The proposed development complies with the standards that cannot be used by councils to refuse development consent for self-contained dwellings as set out in Clause 50 of the Seniors SEPP.

TABLE FOR CLAUSE 50

Development Standard	Required	Proposed
Building Height	8m or less (ground to ceiling)	The dwellings are single storey.
Density Scale	Floor Space Ratio 0.5:1 or less	Complies Whilst there is no FSR control for the site, the proposal will increase the existing FSR to 0.43: 1. The overall site FSR will not exceed 0.5:1

Landscaped Area	Minimum 15% of area of site (160 x 35m ² = 5,600m ²)	Over 2000m ² is provided as landscaped area, which covers more than over 50% of the site area.
Deep Soil Zone:	Minimum 15% of area of site	Complies Over 50 % of the development area is provided for deep soil planting
	Minimum two thirds to be preferably located at rear of site	Complies
	Minimum dimension 3m	Complies
Solar Access	70% of living areas & main open space is to receive a minimum of 2 hours direct sunlight between 9am-3pm, mid winter.	Complies
Private Open Space	Ground Level	Complies
	Minimum 15m ² per dwelling	Complies
	One area minimum 3m x 3m, accessible from living area	Complies
	Upper level/s	NA
	1 bedroom: Minimum 6m ² Minimum dimensions 2m	Complies
	2 or more bedrooms: Minimum 10m ² Minimum dimensions 2m	Complies
	Minimum 0.5 parking spaces	Complies. The proposal includes 2 spaces per dwelling, one within a garage and one stacked space within the driveway.

Visitor Parking

There are no explicit numeric requirements for visitor parking under the SEPP.

State Environmental Planning Policy No 55—Remediation of Land

SEPP 55 aims to provide a framework for the assessment, management and remediation of contaminated land throughout the State. Clause 7 of SEPP 55 prevents consent authorities from consenting to a development unless it has considered whether the land is contaminated and is satisfied that the land is suitable (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out.

The application was supported by an Environmental Site Assessment prepared by Envirotech (dated 3 December 2018, REF-18-7058-A). The area of investigation consisted of a small portion of area at the southern portion of the site, the area was occupied by trees and underlying soil which consisted of suspected fill. There was a risk that contaminants associated with the potential fill material included: Heavy Metals, BTEX, Phenols, TRH, PAH, and OC/OP Pesticides. Though not particularly addressed in the report, current site activities may have impacted on the suitability of the land, however this would have been addressed through this assessment.

Based on the available information, a targeted sampling plan was considered most appropriate to provide sufficient characterisation data. A total of six test pits were nominated across the area of investigation. Soil chemical concentrations were below the thresholds of the adopted human health and ecological assessment criteria for residential land use as specified under the NEPM (2013).

Although the sampling density used for the assessment did not comply with the EPAs Sampling Design Guidelines, appropriate justification for the reduced number of samples was included and deemed satisfactory by Council's Environmental Health Officer.

Having regard to the above, it is considered that the site is suitable for the proposed development and therefore a further assessment report regarding remediation of the land is not considered necessary in this circumstance.

Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

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

The proposal is in accordance with the general planning considerations set out in SREP 20 as well as relevant specific planning policies and related recommended strategies contained in SREP 20. In particular, provision will be made for adequate erosion and sediment control measures. Council's Development Engineers have reviewed the application and subject to recommended conditions of consent relating to stormwater, erosion and sediment controls have no objections to the proposal.

Local Environmental Plan 2010 (Amendment 4)

Provision	Compliance
Clause 2.3 Permissibility	Does not comply - See discussion
Clause 2.3 Zone objectives	Complies - See discussion
Clause 7.1 Earthworks	Complies
Clause 7.4 Sustainable development	Complies - See discussion
Clause 7.6 Salinity	Complies
Clause 7.7 Servicing	Complies

Clause 2.3 Permissibility

The subject site is zoned RE2 Private Recreation under the provisions of *Penrith Local Environmental Plan 2010* and development for the purposes of seniors housing (serviced self-care housing) is permitted with development consent under *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* where a Site Compatibility Certificate is issued by the NSW Department of Planning & Environment.

Clause 2.3 Zone objectives

The objectives of the RE2 zone are as follows:

- To enable land to be used for private open space or recreational purposes.
- To provide a range of recreational settings and activities and compatible land uses.
- To protect and enhance the natural environment for recreational purposes.

The proposed seniors housing development will provide a land use that is permitted with development consent under *SEPP (Housing for Seniors or People with a Disability) 2004* and will provide seniors housing that can take advantage of existing and future services, facilities and open space areas within the recreation zoned land.

Additionally, the vast majority of the site will continue to be utilised as a golf club with minimal vegetation removal warranted. Therefore this proposal is consistent with the zone objectives.

Clause 7.4 Sustainable development

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

Development Control Plan 2014

Provision	Compliance
C1 Site Planning and Design Principles	Complies
C2 Vegetation Management	Complies
C3 Water Management	Complies
C4 Land Management	Complies
C5 Waste Management	Complies
C6 Landscape Design	Complies
C7 Culture and Heritage	N/A
C8 Public Domain	N/A
C9 Advertising and Signage	N/A
C10 Transport, Access and Parking	Complies
C11 Subdivision	Complies
C12 Noise and Vibration	Complies
C13 Infrastructure and Services	Complies

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

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

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

Local Character

As previously stated, the built form character of the area is a mix of one and two store residential dwellings of mixed architectural styles with no uniform pattern. The attached dwellings remain distinctive given their

varying layouts, the tree retention surrounding them and the retention of physical breaks between the built forms, some of which retain views to flora i.e. between Unit 2 and 3. The development has incorporated a range of architectural measures to ensure that the development will positively contribute to the residential character of Leonay Parade and the surrounding locality.

Accessibility

The application has not been accompanied by an Access Report which provides a review of the proposed development with regard to relevant accessibility requirements and standards. A recommended condition of consent will ensure that such a report is provided prior to the issue of a Construction Certificate to ensure all dwellings satisfactorily achieve compliance with the access provisions of the BCA and Seniors Living SEPP. A number of design features have been incorporated into each apartment and other features will be capable of being retrofitted depending on the ultimate user's requirements.

Biodiversity Impacts

Although the site is mapped as River Flat Eucalypt Forest, the vegetation consists of planted trees for landscaping and no understorey at all. Council's Biodiversity Officer reviewed the flora and fauna report submitted and concurs that the vegetation does not meet the definition of this endangered vegetation community. Many of the trees within the subject site and affected by the development are native, however as they are planted it is considered acceptable that those removed can be adequately replaced so long as native plantings make up the bulk of the new landscape plan. This has not yet been demonstrated however a recommended condition of consent can require the landscape plan to be revised and submitted for approval prior to the issue of a Construction Certificate.

Acoustic Impacts

A noise assessment report was provided with the application. Council's Environmental Health Officer noted that the report did not consider impacts from the maintenance shed's activities and the golf club's function activities at night. Subsequently, a revised Acoustic Assessment was submitted and demonstrated that the noise generated from the proposal will be negligible once attenuation recommendations are put into place to the closest residential receivers. The Assessment also states that the proposed development is predicted to comply with the relevant noise goals providing the recommendations provided in Section 6 and 7 are adhered to. Council's Environmental Management Officer reviewed this information and raised no objections subject to conditions that require the recommendations to be implemented.

Water Quality and Quantity Treatment

Initially, there were discrepancies between the WSUD Strategy, MUSIC modeling, and concept plans and no electronic MUSIC model has been provided for review. Thereafter amended information was submitted which Council's Waterways Officer provided no objection to subject to certain special condition and red pen amendments. More specifically, as there are still no vegetation details provided on the Stormwater Concept Plans for the raingardens, and the extended detention depth was incorrect in the cross-section, the stormwater plans are to be amended in red pen prior to stamping approved. In addition, the cross-section details of the 4 raingardens must be amended showing all site specific levels (i.e. inlet, outlet, etc.) prior to Construction Certificate. A condition has been provided in this regard.

Regarding stormwater impacts (water quantity treatment), the proposal to drain stormwater from the site is to discharge into the street drainage system via the kerb and gutter. The maximum discharge to the kerb at any single point shall be 25L/s for 10% AEP storm event. Hydraulic calculations were required to demonstrate compliance with this requirement. In addition, the location of the kerb outlet for the stormwater discharge was amended and located within the site frontage and laid across the road verge at an angle no less 45 degrees to the kerb line in the direction of flow in the gutter. Council's Development Engineers reviewed the amended plans and raised no objections subject to standard conditions of consent.

Social and Economic Impacts

The proposal poses no potential adverse social or economic impacts. The proposed development is in close proximity to services and public transport options, providing the community with a serviced seniors facility to cater for seniors and their families.

Safety

Concerns were raised during the assessment in relation to the implications of the proposed development upon the golf course, as well as how residents will be protected from the modified golf course layout. While the modified golf course is separate to the subject application, a recommended condition of consent will require that any golf course components made redundant by the subject application or in close proximity to the subject development shall become inoperable prior to the issue of an Occupation Certificate.

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

The proposed development has been considered suitable for the site in accordance with the previously issued Site Compatibility Certificate. The proposed design, layout and overall built form is appropriate for the site and responds to both the character of the locality.

Further, the Director-General has issued a current Site Compatibility Certificate for the proposed development. For this certificate to be issued the Director-General must be of the opinion that the site of the proposed development is suitable for more intensive development and is compatible with the surrounding environment.

Section 4.15(1)(d) Any Submissions

Community Consultation

The development application was advertised in the local newspaper and notified to owners and occupiers of adjoining and nearby properties pursuant to the requirements of the Regulations and in accordance with Council's Development Control Plan. Affected property owners and occupiers were notified in the surrounding area and invited to make a submission on the proposal during the exhibition period from 12 July and 3 August 2018 and the re-notification period of 13 September to 27 September 2019. During this period, Council received ten (10) submissions in response in opposition to the application and five (5) in favour of the application.

Submissions

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

<i>Issue Raised</i>	<i>Comments</i>
<i>Traffic - Leonay Parade is a busy road and this development will add to congestion.</i>	<i>Council's Traffic Engineers have assessed the development and raise no objections to the proposal. The proposed traffic generation is minimal and will not impact on the local road network.</i>
<i>Tree Retention</i>	<p><i>The proposal was redesigned to ensure tree retention as far as reasonably possible, including large trees within the front setback as well as the Crepe Myrtles via consolidated driveways. Further, the revised design allows for the retention of trees within the northern side setback and along the rear.</i></p> <p><i>It is noted that an arborist report was submitted and Council's Tree Management Officer did support the removal of certain trees, particularly within the front setback due to poor health.</i></p>

<p><i>Incompatibility of dwellings with low density character of the area.</i></p>	<p><i>The built form character of the area is a mix of one and two storey residential dwellings of mixed ages and architectural styles with no uniform pattern. The siting and design was revised throughout the development from 8 detached dwellings to 4 x 2 attached dwellings. This change was made to redesign and retain existing trees within the front, side and rear setback and enable sufficient areas for additional landscaping consistent with the established garden setting of the locality.</i></p> <p><i>In addition, the attached dwellings remain distinctive given their varying layouts, the tree retention surrounding them and the retention of physical breaks between the built forms, some of which retain views to flora on the golf course i.e. between Unit 2 and 3. The development has incorporated a range of architectural measures to ensure that the development will positively contribute to the residential character of Leonay Parade and the surrounding locality.</i></p>
<p><i>Access to Public Transport</i></p>	<p><i>The residents of the proposed development will have access, by a suitable access pathway, to a bus stop which is located approximately 150m north of the development site.</i></p> <p><i>The development proposes the use of an approved footpath along the frontage of the site (the western side of Leonay Parade) that is approved to service the townhouses and provide a direct, convenient and safe path of travel for the occupants. As such, recommended conditions of consent will require the footpath to be finalised prior to the issue of the Occupation Certificate for this development.</i></p>
<p><i>Fencing to protect occupants from golf course.</i></p>	<p><i>Although fencing was not shown on the landscape plan, prior to the issue of a Construction Certificate a Landscape a Fencing Plan shall be submitted to, and approved by the Manager of Development Services at Penrith City Council. Fencing must respond to the interface between the seniors development and the golf club uses.</i></p>
<p><i>Floor Plans</i></p>	<p><i>Floor Plans were submitted with the application however cannot be publicly due to the Freedom of Information Act. The site plan and elevations are however publicly available on the DA Tracking Service.</i></p>
<p><i>Parking Requirements including Visitor Parking</i></p>	<p><i>Clause 50 of the SEPP requires 0.5 spaces per bedroom. Each dwelling has 3 bedrooms and shared driveways as they are attached in pairs of two. Therefore, with a garage and stacked space available for each unit, in this configuration, there is the provision of 3 spaces and 1 visitor space for each paired unit, which complies with the SEPP. Therefore, no parking is to rely upon the street which is in fact too narrow for parking in any case.</i></p>
<p><i>Evacuation Routes Concern</i></p>	<p><i>Leonay Pde has a flood free evacuation route to the M4 should there be a flood event up to and including the 1%AEP.</i></p>

Referrals

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

Referral Body	Comments Received
Building Surveyor	No objections - subject to conditions
Development Engineer	No objections - subject to conditions
Environmental - Environmental management	No objections - subject to conditions
Environmental - Waterways	No objections - subject to conditions
Environmental - Biodiversity	No objections - subject to conditions
Waste Services	No objections - subject to conditions
Traffic Engineer	No objection subject to conditions
Tree Management Officer	No objections - subject to conditions

Section 4.15(1)(e)The public interest

The site is suitable for the proposed development. The proposed development is permissible with consent and the proposal meets the aims and objectives of the relevant environmental planning instruments. Internal departments of Council and external agencies such as the Rural Fire Services provided General Terms of Approval. The development proposal will provide for a public benefit in terms of catering for the needs of an aging population. For these reasons, the proposal is in the public interest.

Section 94 - Developer Contributions Plans

The following Section 94 calculations apply to the proposed development.

Calculation for Seniors Living Development x 160 units

Open Space

No. of units	x	Rate	-	Credit for existing dwelling/s	Contribution rate
8	x	1.5	-	0	12

City wide

No. of units	x	Rate	-	Credit for existing dwelling/s	Contribution rate
8	x	1.5	-	0	12

AMOUNT

S.94 Contribution Plan	Contribution Rate x Calculation rate	Total
	12 x \$1.994	\$23,928
District Open Space		
Local Open Space	12 x \$ 721	\$8,652
	NET TOTAL	\$32,580

Conclusion

The proposed development is in accordance with the relevant provisions of the environmental planning instruments and Development Control Plan pertaining to the land. The proposed development is unlikely to have a negative impact on the surrounding environment through the appropriate conditioning of the development consent.

The proposed development has been assessed against the relevant heads of consideration contained in Section 2.12 and 2.15 (previously Section 23G), Section 4.46 (previously Section 91) and Section 4.15 (previously 79C) of the Environmental Planning and Assessment Act 1979 and has been found to be satisfactory. The site is suitable for the proposed development and the proposal is in the public interest. The proposal is therefore worthy of support, subject to the conditions of consent.

Recommendation

That DA18/0663 for the Torrens Title Subdivision x 2 Lots and Construction of Eight (8) Seniors Housing Dwellings & Associated Works at 1a Leonay Parade, Leonay be approved subject to the attached conditions and upon receipt of a replacement and suitable site compatibility certificate from the NSW Department of Planning and Environment.

CONDITIONS

General

1 **A001**

The development must be implemented substantially in accordance with the plan numbers tabled below and stamped approved by Council, the application form, BASIX Certificate No. 658431M, and the General Terms of Agreement issued by the Rural Fire Service dated 27 September 2019, and any supporting information received with the application, except as may be amended in red on the attached plans and by the following conditions.

The development is to be carried out in accordance with the requirements imposed on determination (listed in Schedule 2) of the Site Compatibility Certificate dated 22 June 2020, issued by the Sydney Western City Planning Panel for the development.

Drawing	Drawing Ref	Revision	Prepared By	Dated
Subdivision Plan	19110-C3	-	Vince Morgan	06-09-18
Site & Ground Floor Plan	A01	G	PreTech Pty Ltd	06-12-19
Elevations	A03	D	PreTech Pty Ltd	06-12-19
Elevations	A04	D	PreTech Pty Ltd	06-12-19
Stormwater Concept Design	SW301	A	SGC	10.9.18

2 [A002 - Plan Amendments Prior to CC](#)

1. **Prior to the issue of a Construction Certificate**, architectural and landscape plans are to be amended and are to be endorsed by the Manager of Development Services at Penrith City Council as follows:

- (a) To delete the formalised waste bin storage areas for all units and any related bin storage decking and bin screen walls.
- (b) Rainwater tanks are not positioned in front of window openings.
- (c) The north and south facing decks attached to the side elevations of Units 1, 2 and 3 are to be reduced in width (minimum 2m from boundary fencing) to allow side boundary plantings and to ensure privacy between units is protected.
- (d) The materials and finishes schedule is to be amended to detail that the proposed roofs of each dwelling are constructed of a light colour so as to reduce heat loading. The colour material of the roofs are to be nominated on plans.
- (e) A final set of landscape plans and documentation is to be submitted which details 'two for one' replacement tree planting on the lots, and which is to have had regard to the final endorsed arboricultural report, the requirements of Schedule 2 of the issued site compatibility certificate, and which correlates with other landscape related conditions of this consent.

All plans and documents are to correlate.

3. A final fencing layout plan is to be provided to and endorsed by Penrith City Council. A copy of the endorsed plans are to be provided to the Principal Certifying Authority **prior to the issue of a Construction Certificate**. The fencing layout plan is to include fencing materials, locations and heights and is to include details of protective netting or fencing between the golf course and the approved residential dwellings.

4. A final set of stormwater and civil design plans are to be provided to and endorsed by Penrith City Council **prior to the issue of a Construction Certificate**. Amended plans are to correlate with the final endorsed set of architectural and landscape plans.

3 [A008 - Works to BCA requirements \(Always apply to building works\)](#)

The 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 1989.

{Note: Residential building includes alterations and additions to a dwelling, and structures associated with a dwelling house/dwelling such as a carport, garage, shed, rural shed, swimming pool and the like}.

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

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

5 [A038 - LIGHTING LOCATIONS](#)

Prior to the issue of an Occupation Certificate, a lighting system shall be installed for the development to provide uniform lighting across common areas and driveways. Exterior lighting shall be located and directed in such a manner so as not to create a nuisance to surrounding land uses. The lighting shall be the minimum level of illumination necessary for safe operation. The lighting shall be in accordance with AS 4282 "Control of the obtrusive effects of outdoor lighting" (1997).

6 [A039 - Graffiti](#)

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

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

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

8 A Special

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 counterboom/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 counterboom/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 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.

9 A Special - Final materials and finishes schedule

Prior to the issue of a Construction Certificate, a final materials and finishes schedule is to be submitted to and approved by Penrith City Council.

10 A Special (Golf Course Modifications)

Prior to the issue of an Occupation Certificate, any golf course components made redundant by the subject application, or in close proximity to the proposed development, shall become inoperable.

11 A Special (SEPP - Restriction on title)

In accordance with Clause 18 of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004, a restriction as to user must be registered against the title of the property on which the development is to be carried out, in accordance with Section 88E of the *Conveyancing Act 1919*, limiting the use of any accommodation to which the development relates to the kinds of people referred to in subclause (1) of Clause 18. The restriction shall be registered on the land title **prior to the issue of an Occupation Certificate**.

12 A Special (SEPP detailed design requirements)

Prior to the issue of a Construction Certificate, documentation shall be submitted to, and approved by, the principal certifying authority demonstrating compliance with the requirements of Schedule 3 of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004.

13 A Special (SEPP requirements for occupants)

In accordance with Clause 18 of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004, the development can only be occupied by the following people:

- (a) seniors or people who have a disability,
- (b) people who live within the same household with seniors or people who have a disability,
- (c) staff employed to assist in the administration of and provision of services to housing provided under this Policy.

14 A Special Condition (BLANK)

Prior to the issue of a Construction Certificate the Certifying Authority shall ensure that the stormwater plans are amended to include site specific cross-section details for each of the four raingardens including all levels (e.g. inlet, outlet, grates etc.).

Demolition

15 [B002 - AS FOR DEMOLITION AND DISPOSAL TO APPROVED LANDFILL SITE](#)

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

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

16 [B003 - ASBESTOS](#)

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 portaloos 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 Environmental Protection Authority to receive asbestos wastes.

17 [B004 - Dust](#)

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

18 [B005 - Mud/Soil](#)

Mud and soil from vehicular movements to and from the site must not be deposited on the road.

19 [B006 - Hours of work](#)

Demolition works will 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 demolition work is permitted on Sundays and Public Holidays.

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

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

Heritage/Archaeological relics

20 [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

21 [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.

22 **D005 – No filling without prior approval (may need to add D006)**

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.

23 **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.

24 **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.

25 **D013 - Approved noise level 1**

Noise levels from the premises shall not exceed the relevant noise criteria detailed in "Acoustic Assessment 1a Leonay Parade, Leonay NSW 2750" prepared by Envirotech dated 13th March 2019, reference number: REP-18-7068-A1. 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.

26 **D026 - Liquid wastes**

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

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

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

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

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

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

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

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

{Note: Penrith 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, 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."}

28 D 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 the State Environmental Planning Policy 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.

BCA Issues

29 E001 - BCA compliance

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).

30 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.

31 E Special (BLANK)

The external walls of the building including attachments must comply with the relevant requirements of the National Construction Code (NCC). Prior to the issue of a Construction Certificate and Occupation Certificate the Certifying Authority and Principal Certifying Authority must:

(a) Be satisfied that suitable evidence is provided to demonstrate that the products and systems proposed for use or used in the construction of external walls including finishes and claddings such as synthetic or aluminium composite panels comply with the relevant requirements of the NCC; and

(b) Ensure that the documentation relied upon in the approval processes include an appropriate level of detail to demonstrate compliance with the NCC as proposed and as built.

32 E Special (BLANK)

Prior to the issue of a Construction Certificate, an Accessibility Report shall be submitted to and approved by Council. The report shall detail the development's compliance with the Building Code of Australia, Disability (Access to Premises - Buildings) Standards 2010, AS 1428 and AS 4299 and any relevant requirements of Schedule 3 of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004.

Utility Services

33 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 an Occupation Certificate**.

34 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 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 **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.

Construction

36 **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.

37 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 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 H033 – Clothes line

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

39 H037 - Safe supply of water from catchment areas (Also impose H036, H038 & H039)

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 air conditioners, 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.

40 H038 - Connection of rainwater tank supply (Also impose H036, H037 & H039)

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

41 H039 - Rainwater tank pumps (Also impose H036, H037 & H038)

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.

42 [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 and do not involve the use of equipment that emits noise are not restricted to the construction hours stated above.

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

Engineering

43 [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.

44 [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.

45 [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 applications, including payment of application and inspection fees, shall be lodged and approved by Penrith City Council (being the Roads Authority for any works required in a public road). These works may include but are not limited to the following:

- a) Vehicular crossings (including kerb reinstatement of redundant vehicular crossings)
- b) Concrete footpaths and or cycleways
- c) Road opening for utilities and stormwater (including stormwater connection to Penrith City Council roads and other Penrith City Council owned drainage)
- d) Road occupancy or road closures
- e) The placement of hoardings, structures, containers, 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 or Subdivision Certificate as applicable.
- d) On completion of any awning over the road reserve, a certificate from a practising 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

46 [K209 - Stormwater Concept Plan](#)

The stormwater management system shall be provided generally in accordance with the concept plan/s lodged for development approval, prepared by SGC Consulting Engineers reference 20180063, drawings SW100 to SW402 revision A dated 10 September 2018 **as amended in red**.

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

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

47 [K210 - Stormwater Management](#)

The stormwater management system shall be provided generally in accordance with the concept plan/s lodged for development approval, prepared by SGC, reference number 20180063 - SW100-SW402, revision A, dated 10.09.2018.

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.

48 **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, pedestrian and parking areas associated with the subject development are in accordance with AS 2890.1, AS2890.2, AS2890.6 and Penrith City Council's Development Control Plan.

49 **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.

50 **K405 - Turf to Verge**

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

51 **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.

52 **K503 - Works as executed – General and Compliance Documentation**

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

An original set of Works As Executed drawings and copies of the final operation and maintenance management plans and compliance documentation shall also be submitted to Penrith City Council with notification of the issue of the Occupation and / or Subdivision (Strata) Certificate where Penrith City Council is not the Principal Certifying Authority.

53 **K504 - Stormwater Compliance**

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

a) Stormwater management systems (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.

54 **K505 - Restriction as to User and Positive Covenant**

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

a) Stormwater management systems (Water sensitive urban design)

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

55 **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.

56 [K Special - Sightlines compliance](#)

Prior to the issue of an Occupation Certificate the Principal Certifying Authority is to ensure that the plans, including landscaping plans, comply with the requirements set out in AS 2890.1 Figure 3.2 - Sight Distance Requirements at Access Driveways and Figure 3.3 - Minimum Sight Lines for Pedestrian Safety.

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

Prior to the issue of any Construction Certificate the Certifying Authority shall ensure that a S138 Roads Act application, including the payment of application and inspection fees, has been lodged with, and approved by Penrith City Council (being the Roads Authority under the Roads Act), for provision of path paving works on the western side of Leonay Parade.

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

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

Note: 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. Separate Approvals may also be required from the Roads and Maritime Service for classified roads.

All works associated with the Roads Act approval must be completed prior to the issue of any Occupation Certificate or Subdivision Certificate as applicable.

58 [K Special \(Seniors SEPP Access requirements\)](#)

Prior to the issue of any Occupation Certificate and in accordance with the requirements of the State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 for a suitable access pathway, Principal Certifying Authority is to ensure that a 1.5 metre wide concrete footpath, with maximum cross fall of 2.5% is installed and completed, along Leonay Parade across the frontage of the site spanning to the nearest bus stop with shelter, close to the Emu Plains Sporting & Recreation Club entry, and that a 1.5m wide concrete footpath, with maximum cross fall of 2.5% is installed and completed, in accordance with Council's civil specifications, which spans from the western side of the existing pedestrian crossing (south of the site) to the southern end of paving across the site's frontage.

Suitable documentation is to be provided to the PCA confirming that the paving is generally compliant with the overall average gradients specified in State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004.

Landscaping

59 [L000 Landscape Design](#)

Prior to the issue of a Construction Certificate a revised Arborist statement is to be prepared by a suitably qualified and experienced landscape professional shall be submitted to, and approved by, Council. This statement shall detail which trees are to be retained and removed, the impacts and how impacts will be managed, and be consistent with the revised tree retention plan and revised landscape plan required as a condition of this consent.

60 [L001 - General](#)

All landscape works are to be constructed in accordance with Appendix F5, Section 2.9 Landscape Technical Specifications of the Penrith Development Control Plan 2014.

Landscaping shall be maintained:

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

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

61 [L002 - Landscape construction](#)

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

62 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 suitably qualified and experienced landscape professional.

i. Implementation Report

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

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

ii. Maintenance Report

On the first anniversary of the date of the Occupation Certificate issued for the development, a Landscape Maintenance Report is to be submitted to Penrith City Council certifying that the landscape works are still in accordance with the development consent and the plant material is alive and thriving.

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

iii. 3 Year Landscaping Report

Three years after an Occupation Certificate was issued for the development, a suitably qualified and experienced landscape professional shall prepare a Landscaping Report for Council's consideration and approval, certifying to one of the following:

- (a) The landscaping on site has matured and is in accordance with the original landscape approval.
- (b) The landscaping on site has not matured in accordance with the original design philosophy and requires significant restoration.

In this case, restoration plans are to be submitted to Council for its consideration and approval. The approved plans shall be implemented at the expense of the property owners.

63 L005 - Planting of plant

All plant material associated with the construction of approved landscaping is to be planted in accordance with Appendix F5, Landscape Technical Specifications of the Penrith Development Control Plan 2014.

64 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.

65 L007 - Tree protectionmeasures–no TMPwith DA

All trees that are required to be retained as part of the development are to be protected in accordance with the minimum tree protection standards prescribed in Council's Development Control Plan 2014 and Australian Standards, Protection of trees on development sites, AS 4970 -2009.

66 L Special (BLANK)

Prior to the issue of an Occupation Certificate, an ongoing Tree Management Plan (TMP) shall be submitted. The TMP shall detail how the retained trees on the site will be managed and cared for in the long-term. The recommendations of the TMP shall be implemented in perpetuity

67 [L Special \(BLANK\)](#)

Prior to the issue of a Construction Certificate, a Landscape Design Report, a Tree Replacement and Retention Plan and a Fencing Plan shall be submitted to, and approved by the Manager of Development Services at Penrith City Council.

The Report and Plan are to be prepared by a suitably qualified and experienced landscape professional and must include the retention of trees and is to ensure an increase in native planting diversity from the following suggestions: *Melaleuca bracteata* revolution green/gold, *Angophora floribunda* or *Acacia melanoxylon*. The landscape design must identify retained trees and their species, and shall ensure that more trees are being planted than are being removed. Trees planted are to be a minimum 75L pot size and are to be planted **prior to the issue of the Occupation Certificate**. Plans must include details of all perimeter fencing to be installed. Fencing must respond to the interface between the seniors development and the golf club uses. Any fencing forward of the front building alignment shall be in accordance with Council's requirements for fences within Section D2.5.18 of the DCP 2014. In addition, mail box design is to be submitted on the landscape plans.

The revised plans and reports shall be consistent with each other and also correlate with the revised arborist's and stormwater report. All plant species shall be clearly nominated.

Subdivision

68 [M008 - Subdivision Certificate requirements](#)

Prior to the issue of the Subdivision Certificate, the following is to be submitted:

An original plan of subdivision and two (2) copies of the plan. The plan of subdivision must indicate, where relevant -

- All drainage easements, rights of way, restrictions and covenants.
- All proposed dedications of roads/drainage/public reserve, which are to be undertaken at no cost to Penrith City Council.

The following information is to be shown on one (1) copy of the plan.

- The location of all buildings and/or other permanent improvements shall comply with any statutory boundary clearances or setbacks as defined by the Building Code of Australia and Council's resolutions.
- All existing services are wholly contained within the lot served and/or covered by an appropriate easement.

Prior to lodgement of the Subdivision Certificate Application, street address numbering must be obtained/approved by Penrith City Council's Rates Team. Proposed street addresses can be forwarded to council@penrith.city for approval.

69 [M014 - Surveyors certificate](#)

A Surveyors Certificate is to be lodged with the application for a Subdivision Certificate that certifies that all pipes and services are located wholly within the property or within appropriate easements and that no services encroach boundaries.

Development Contributions

70 [N001 - Section 94 contribution \(apply separate condition for each Contribution Plan\)](#)

This condition is imposed in accordance with Penrith City Council's Section 94 Contributions Plan for Local Open Space. Based on the current rates detailed in the accompanying schedule attached to this Notice, \$8,652.00 is to be paid to Council prior to a Construction Certificate being issued for this development (the rates are subject to quarterly reviews). If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted Section 94 plan. The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule.

Council should be contacted prior to payment to ascertain the rate for the current quarterly period. The S94 invoice accompanying this consent should accompany the contribution payment. The Section 94 Contributions Plan for Local Open Space may be inspected at Council's Civic Centre, 601 High Street, Penrith.

71 **N001 - Section 94 contribution (apply separate condition for each Contribution Plan)**

This condition is imposed in accordance with Penrith City Council's Section 94 Contributions Plan for District Open Space. Based on the current rates detailed in the accompanying schedule attached to this Notice, \$23,928.00 is to be paid to Council prior to a Construction Certificate being issued for this development (the rates are subject to quarterly reviews). If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted Section 94 plan. The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule.

Council should be contacted prior to payment to ascertain the rate for the current quarterly period. The S94 invoice accompanying this consent should accompany the contribution payment. The Section 94 Contributions Plan for District Open Space may be inspected at Council's Civic Centre, 601 High Street, Penrith.

Payment of Fees

72 **P001 - Costs**

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

73 **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

74 **Q008 - Subdivision Certificate**

A Subdivision Certificate is to be obtained prior to the release of the linen plan of subdivision. The Subdivision Certificate will not be issued if any of the conditions in this consent are outstanding.

75 **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.

76 **Q05F - Occupation Certificate**

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

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.