

PENRITH CITY COUNCIL

NOTICE OF DETERMINATION

DESCRIPTION OF DEVELOPMENT

Application number:	DA18/0678.01
Description of development:	Modification to Approved Seniors Living. Changes to Colours, Fencing, and Height of Roof Configuration to Some Villas
Classification of development:	Class 1a

DETAILS OF THE LAND TO BE DEVELOPED

Legal description:	Lot 3990 DP 1190132
Property address:	3990 Jordan Springs Boulevard, JORDAN SPRINGS NSW 2747

DETAILS OF THE APPLICANT

Name & Address:	Lendlease RI Jordan Springs Holding Pty Ltd Level 14 Tower 3, Exchange Place, 300 Barangaroo Avenue BARANGAROO NSW 2000
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DECISION OF CONSENT AUTHORITY

In accordance with Sections 4.18(1) (a) and 4.55 of the Environmental Planning and Assessment Act 1979, consent is granted subject to the conditions listed in attachment 1.

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

Date from which consent operates	4 March 2019
Date the consent expires	4 March 2024
Date of this decision	16 February 2019 as amended on 3 September 2019 under Section 4.55 of the Environmental Planning and Assessment Act.

POINT OF CONTACT

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

Assessing Officer:	Jane Hetherington
Contact telephone number:	+612 4732 8078

NOTES

Reasons

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

Conditions

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

Certification and advisory notes

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

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

Review of determination

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

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

Appeals in the Land and Environment Court

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

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

Designated development

If the application was for designated development and a written objection was made in respect to the application, the objector can appeal against this decision to the Land and Environment Court within 28 days after the date of this notice.

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

Sydney Western City Planning Panels

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

ATTACHMENT 1: CONDITIONS OF CONSENT

General

- 1 The development must be implemented substantially in accordance with the following plans stamped approved by Council, the application form, the BASIX Certificate No. 936259M and any supporting information received with the application, except as may be amended in red on the attached plans and by the following conditions.

Drawing Title	Drawing No	Prepared By	Dated
Site Plan	AND-28405 (Sheet 2) Issue I	JH Architects	27/06/2018
Building Envelope Plan	AND-28405 Issue I	JH Architects	27/06/2018
Floor Plans	AND-28405 (Sheets 3-7) Issue N	JH Architects	18/07/2019
Elevations	AND-28405 (Sheets 8-10) Issue N	JH Architects	18/07/2019
External Colour Schedule, Fencing, Letterbox and Pergola	AND-28405 (Sheet 18) Issue N	JH Architects	18/07/2019
Stormwater Management Strategy	110487-02	J. Wyndham Prince	14/06/2018
Civil Plans	11048702/ DA101-DA112 (Rev. B)	J. Wyndham Prince	26/10/2018
Waste Management Plan	-	Elephants Foot	07/06/2018

As marked in red on the stamped approved plans, fencing forward of the building line is to not be constructed of solid metal panel and to be of open style design.

As amended on 3 September 2019 under Section 4.55 of the Environmental Planning and Assessment Act 1979.

- 2 A copy of the General Terms of Approval (dated 25 September 2018) issued by the NSW Natural Resource Access Regulator under the *Water Management Act 2000* shall be submitted to the Principal Certifying Authority, before the Construction Certificate can be issued for the same development. A copy of the approval shall be submitted to Penrith City Council with the copy of the Construction Certificate, if Council is not the Principal Certifying Authority.
- 3 This development consent provides for Stage 1 physical works only. A separate development application shall be submitted to Penrith City Council for all works within the approved Stage 2 concept plan which is stamped and approved as part of this consent
- 4 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}.

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

6 A separate development application for the erection of a sign or advertising structure, other than an advertisement listed as exempt development, is to be submitted to Penrith City Council, complying with the requirements of Penrith Development Control Plan-Advertising Signs.

7 The conditions imposed by the NSW Rural Fire Service in the Integrated Development consent and in the Bush Fire Safety authority for the said development are to be completed prior to the issue of an Occupation Certificate. This includes the following:-

a) At the commencement of the building works and in perpetuity, the proposed lot 3991 shall be managed as shown in Figure 4 of the Bushfire Assessment Report dated 22 May 2018 prepared by Peterson Bushfire, as follows:

- North up to the property boundary within the area demarcated for Stage 1 as an Inner Protection Area;
- South for a distance of 40 metres as an Inner Protection Area, which includes 25m width within the drainage basin and 15 width within Lot 3991; and
- West for a distance of 36 metres from the proposed building blocks SV1 to SV5 as an Inner Protection Area.

Requirements for an Inner Protection Area are outlined with Section 4.1.3 and appendix 5 of 'Planning for Bush Fire Protection 2006' (PBP) and the NSW Rural Fire Service's document 'Standards for asset protection zones'.

b) A temporary Asset Protection Zone (APZ) of 20 metres is to be provided from the eastern boundary of Stage 1 within the proposed Future Aged Care. APZs associated with the development shall be managed as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones' and shall be extinguished upon commencement of future works within the subject site, but only if the hazard is removed as part of future development.

c) Water, electricity and gas are to comply with section 4.1.3 of 'Planning for Bush Fire Protection 2006'.

d) Public access roads shall comply with section 4.1.3 (1) of 'Planning for Bush Fire Protection 2006'.

- Road(s) shall be two-wheel drive, all weather roads.
- Traffic management devices are constructed to facilitate unobstructed access by emergency services vehicles.
- Non perimeter road widths comply with Table 4.1 in 'Planning for Bush Fire Protection 2006'.
- There is a minimum vertical clearance to a height of 4 metres above the road at all times.
- The capacity of road surfaces and bridges is sufficient to carry fully loaded fire fighting vehicles (approximately 15 tonnes for areas with reticulated water, 28 tonnes or 9 tonnes per axle for all other areas). Bridges clearly indicate load rating.
- Public roads 5.5 to 6.5 metres wide (kerb to kerb) provide parking within parking bays located outside the kerb to kerb space and located services outside of the parking bays to ensure accessibility to reticulated water for fire suppression.
- One way only public access roads are no less than 4 metres wide (kerb to kerb) and provide parking within parking bays located outside the kerb to kerb space. Services are located outside of the parking bays to ensure accessibility to reticulated water for fire suppression.
- Parking bays are a minimum of 2.6 metres wide from kerb to edge of road pavement. No services are located within the parking bays.

- Roll top kerbing is recommended for all internal roads.

e) To aid in the fire fighting activities, an unobstructed pedestrian access to the rear of the property shall be provided and maintained at all times.

f) The proposed turning circle providing access to the subject site from Lakeside Parade should be constructed as per the provisions of A3.3 'Vehicle turning head requirements' Appendix 3 of Planning for Bushfire Protection Draft 2018.

g) Prior to the issue of a Occupation Certificate, a restriction to the land use pursuant to section 88B of the 'Conveyancing Act 1919' of land shall be placed over the proposed Emergency Access identified in Figure 4.5. Lakeside Parade Site Access of the Traffic Impact Assessment, Project No. P3494 Version 004 dated 3 July 2018 prepared by Bitzios Consulting. The name of the authority empowered to release, vary or modify the instrument shall be Penrith Council.

h) Emergency Access road widths shall comply with Table 4.1 in 'Planning for Bush Fire Protection 2006'.

l) A Bush Fire Emergency Management and Evacuation Plan shall be prepared consistent with Development Planning- A Guide to Developing a Bush Fire Emergency Management and Evacuation Plan December 2014 and Australian Standard AS4083- 2010 Planning for Emergencies in Health Care Facilities.

j) New construction for the units within Stage 1 numbered SV1 to SV15 and SV35 to SV51 shall comply with Sections 3 and 5 (BAL 12.5) Australian Standard AS3959-2009 'Construction of buildings in bush fire-prone areas' or NASH Standard (1.7.14 updated) 'National Standard Steel Framed Construction in Bushfire Areas – 2014' as appropriate and section A3.7 Addendum Appendix 3 of 'Planning for Bush Fire Protection 2006'.

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

9 **Prior to the issue of a Construction Certificate**, the design recommendations of the Accessibility Report, prepared by Accessibility Solutions and dated 3 July 2018 shall be incorporated into the construction plans.

Prior to the issue of an Occupation Certificate, the works shall be certified accordingly by a suitably qualified access consultant.

10 **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.

11 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.

12 **Prior to the issue of an Occupation Certificate**, a restriction to user and positive covenant shall be registered on the title of the property advising that Council's domestic waste fee will be charged to residents in addition to any private contact fees.

13 Based on the recommendations provided by the Office and Environment and Heritage (OEH) in their referral response dated 16 November 2018, the development shall comply with the following:

- **Prior to any works**, adequate fencing is to be installed to capture builders waste and rubbish and to ensure no rubbish enters the Regional Park. The developer must budget for any clean up that may occur due to builder's rubbish entering the park during any phase of the construction.
- **Prior to any works**, a clearly visible works boundary will need to be installed for the duration of construction. This is to ensure there is no damage to the Regional Park during work on the development site.
- **Prior to any works**, adequate fencing is to be installed, to ensure that kangaroos and emus from the Regional Park cannot escape into urban areas or the development site.
- **Prior to the issue of a Construction Certificate**, the design and maintenance of the stormwater inlet at the northern end of the Secret Garden Dam is to be submitted to and approved OEH.
- **Prior to the issue of a Construction Certificate**, the design of the permanent fencing to be located between the development site and Wianamatta Regional Park is to be submitted to and approved by OEH. This permanent fencing is to be erected **prior to the issue of a Occupation Certificate**.
- Any works on National Parks and Wildlife Service land need to be quantified and approved by OEH prior to the commencement of any such works.
- The proposed works shall not affect the integrity of the Secret Garden Dam wall.
- No asset protection zones (APZ) are permitted to extent into land zoned Regional Park or land to be dedicated as Regional Park without separate approval of OEH.

14 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**.

Heritage/Archaeological relics

15 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

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

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

- 18 No fill material is to be imported to the site without the prior approval of Penrith City Council in accordance with Sydney Regional Environmental Plan No.20 (Hawkesbury- Nepean River) (No.2-1997). No recycling of material for use as fill material shall be carried out on the site without the prior approval of Council.
- 19 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.
- 20 Noise levels from and within the premises shall not exceed the relevant noise criteria detailed in the Acoustic Assessment for Development Application Lot 3991 Jordan Springs Boulevard, Jordan Springs prepared by Renzo Tonin and Associates dated 27th April 2018, reference: TK212-01F04 Acoustic Report for DA - Lot 3991 (r1). 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.

- 21 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.

- 22 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, soils 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.”}

- 23 The soil salinity management measures outlined within the Western Precinct Plan must be implemented during construction.
- 24 The development shall be carried out in accordance with the procedures set out in the Western Precinct Contamination Management Plan (URS 2008 Contamination Management Plan, Western Precinct Development Phase dated 7 July 2008, ref: 4321 7287) and the conditions and procedures set out in the Site Audit Statements relating to the Western Precinct.
- 25 A soil erosion and sediment control plan, prepared in accordance with Landcom's "Managing Urban Stormwater: Soils and Construction" 2004, shall be submitted for consideration and approval with the Construction Certificate application.

(Note: Visit www.urbangrowth.nsw.gov.au to obtain a copy of the publication.)

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

- 26 All mechanical plant and equipment is to comply with the noise criteria outlined in The Acoustic Assessment for Development application Lot 3991 Jordan Springs Boulevard, Jordan Springs (dated: 27 April 2018, reference: TK212-01F04 Acoustic Report for DA - Lot 3991 (r1)).

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

Prior to the issue of the Occupation Certificate, a Compliance Certificate is to be submitted to and approved by Council. The Certificate is to outline that all plant and equipment have been installed to comply with the above information and the established noise criteria. Should the Compliance Certificate identify any non-compliance issues, the Certificate is to provide suitable recommendations for mitigation of those issues.

Any mitigation works are to be undertaken within thirty (30) days from the date of notice from Council, unless otherwise specified.

27 Prior to the issue of Construction Certificate and disturbance of site, the applicant is to submit a detailed Cumberland Plain Land Snail Management Plan to Penrith City Council for review by the Senior Biodiversity Officer. The plan must be prepared by a qualified ecologist with a demonstrated knowledge of the biology of Cumberland Plain Land Snail *Meridolum corneovirens*. The Cumberland Plain Land Snail Management Plan is to contain the following:

- The plan must be prepared in accordance with the NSW Biodiversity Conservation Act 2016, the NSW Saving our Species program, management: Site-managed species and Office of Environment and Heritage's Policy for the Translocation of Threatened Fauna in NSW (2001).
- Prior to any disturbance to the subject site, a targeted search for Cumberland Plain Land Snail *Meridolum corneovirens*, is to be conducted. Any Cumberland Plain Land Snails found during this process are to be relocated to a nearby site in the Wianamatta Regional Park approved by Council containing Cumberland Plain Woodland with appropriate habitat.
- The plan must include provisions for pre- and during construction activities.

28 As per the recommendations in the Pre-Clearance Report, dated the 11 of December 2018, prepared by Cumberland Ecology, Trees identified for removal are to be agitated first and then lowered to the ground slowly when felling to allow any resident fauna time to escape and to ensure they aren't crushed by falling trees and branches. This replaces the need for pre-clearing hollow survey and inspection. This is to be done under the supervision of a qualified ecologist.

.Any fauna found are to be relocated. Should juveniles be contained within the affected tree then clearing is to be delayed until juveniles have vacated. WIRES are to be contacted in the case of any injured fauna.

29 All native trees with a trunk DBH (diameter at breast height) greater than 30cm that are scheduled for removal are to be stockpiled and transported for reuse in the following manner in the

-All logs and branches greater than 30cm in diameter are to be trimmed into 2-4m lengths. No foliage material may remain on the logs and branches. Root balls and soil are to be removed.

- These logs are to be transported, delivered and installed under the guidance of a professional bush regenerator, by the applicant and at the applicants cost, to a site to be determined through the consultation with Katie Littlejohn (Manager, Cumberland Area Greater Sydney Branch) National Parks and Wildlife Service, Office of Environment and Heritage.

- Three (3) weeks prior to tree felling, the applicant is to contact Katie Littlejohn on 02 4580 2704 or 0419 753 789 or Katie.Littlejohn@environment.nsw.gov.au to arrange a suitable time for logs to be delivered. Exact location of delivery within the Regional Park will be confirmed on contact.

- Receipts of works are to be retained for council records.

BCA Issues

30 All aspects of the building design shall comply with the applicable performance requirements of the Building Code of Australia so as to achieve and maintain acceptable standards of structural sufficiency, safety (including fire safety), health and amenity for the on-going benefit of the community. Compliance with the performance requirements can only be achieved by:

(a) complying with the deemed to satisfy provisions, or

(b) formulating an alternative solution which:

- complies with the performance requirements, or
- is shown to be at least equivalent to the deemed to satisfy provision, or

(c) a combination of (a) and (b).

Utility Services

31 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.

32 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.

33 **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

34 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.

35 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.

36 A completed waste management plan shall be submitted to Penrith City Council for consideration and approval. Council must approve the plan before a Construction Certificate can be issued for the approved development.

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

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

37 **Prior to the issue of an Occupation Certificate**, clothes drying facilities are to be positioned and screened from public view.

38 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

- 39 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.
- 40 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.

- 41 **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 lead in utilities and stormwater (including stormwater connection to Penrith City Council roads and other Penrith City Council owned drainage)
 - d) Road occupancy or road closures
 - e) The placement of hoardings, structures, containers, waster skips, signs etc. in the road reserve
 - f) Temporary construction access

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

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

Note:

- a) Where Penrith City Council is the Certifying Authority for the development, the Roads Act approval for the above works may be issued concurrently with the Construction Certificate.
- b) Separate approvals may also be required from the Roads and Maritime Services for classified roads.
- c) All works associated with the Roads Act approval must be completed prior to the issue of any Occupation Certificate.
- d) On completion of any awning over the road reserve, a certificate from a 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

42 Prior to the issue of any Construction Certificate, the Certifying Authority shall ensure that a Section 138 Roads Act application, including payment of application and inspection fees, has been lodged with, and approved by Penrith City Council (being the Roads Authority under the Roads Act), for associated road and drainage works to construct a new intersection, including provision of a right turn bay, in Jordan Springs Boulevard at the intersection with Road No 1.

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

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

Note:

- a) Where Penrith City Council is the Certifying Authority for the development the Roads Act approval for the above works may be issued concurrently with the Construction Certificate.
- b) Separate approvals may also be required from the Roads and Maritime Services for classified roads.
- c) All works associated with the Roads Act approval must be completed prior to the issue of any Occupation Certificate.

43 Prior to the issue of any Construction Certificate, the Principal Certifying Authority and/or Certifying Authority shall ensure that an application under Section 68 of the Local Government Act, including payment of application and inspection fees, has been lodged with, and approved by Penrith City Council for provision of a stormwater drainage line through the site that is to service the adjoining residential subdivision to the west in Lot 3990 DP 1190132 as approved in development consent DA18/0655.

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

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

Note:

- a) All works associated with the S68 Local Government Act Approval must be completed prior to the issue of any Occupation Certificate.

44 A Construction Certificate is to be approved by the Certifying Authority for the provision of engineering works (road, drainage, earthworks)

Prior to the issue of any Construction Certificate, the Certifying Authority shall ensure that engineering plans are consistent with the stamped approved concept plan/s prepared by J Wyndham Prince, reference number 11048702, sheets DA101-DA112, revision B, dated 26.10.2018, and that all engineering works have been designed 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.

The engineering works may include but are not limited to the following:

- Public and private roads
- Storm water management (quantity and quality)
- Interallotment drainage
- Private access driveways
- Sediment and erosion control measures
- Flood control measures
- Overland flow paths
- Traffic facilities
- Earthworks
- Bridges, culverts, retaining walls and other structures
- Landscaping and embellishment works

The Construction Certificate must be supported by engineering plans, calculations, specifications and any certification relied upon.

The Construction Certificate shall also include full details for construction of the lead in road to service the development (Road No 1).

Note:

- a) Council's Development Engineering Department can provide this service. Contact Penrith City Council's Development Engineering Department on (02) 4732 7777 or visit Penrith City Council's website for more information.

45 Prior to the issue of any Construction Certificate, the Certifying Authority shall ensure that the proposed roads have been designed in accordance with Penrith City Council's Design Guidelines for Engineering Works for Subdivisions and Developments, Engineering Construction Specification for Civil Works and the following criteria:

Road No.	ESA
1	5 x 10 ⁵

3	5 x 10 ⁴
Driveway No's 1, 2, 3 & 4	5 x 10 ⁴

A copy of the pavement design prepared and certified by a suitably qualified geotechnical engineer must accompany the application for Construction Certificate.

- 46 A Stage 3 (detailed design) Road Safety Audit (RSA) shall be undertaken in accordance with Austroads Guide to Road Safety Part 6: Road Safety Audit on the proposed roadworks by an accredited auditor who is independent of the design consultant. A copy of the RSA shall accompany the design plans submitted with the Construction Certificate or Roads Act application.

Prior to the issue of the Construction Certificate or Section 138 Roads Act approval, the Certifying Authority shall ensure that the recommendations of the RSA have been considered in the final design, through review of the Road Safety Audit Checklist, including Findings, Recommendations and Corrective Actions.

A copy of the Road Safety Audit shall be submitted to Penrith City Council by the applicant or Certifying Authority for information purposes.

- 47 **Prior to the issue of any Construction Certificate**, the Certifying Authority shall ensure that all habitable floor levels are located 0.5m above the 1% AEP top water level of the adjoining water body / dam and east-west channel. Full details are to be submitted with the construction certificate for any building works.

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

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

- 50 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.

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

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

Note:

- a) A copy of the Traffic Control Plan shall accompany the Notice of Commencement to Penrith City Council.
- b) Traffic control measures may require road occupancy / road closure approvals issued under Section 138 of the Roads Act by Penrith City Council prior to the issue of a Construction Certificate.

52 Works shall not commence until:

- a Construction Certificate has been issued,
- a Principal Certifying Authority has been appointed for the project, and
- any other matters prescribed in the development consent for the subdivision and the Environmental Planning and Assessment Act and Regulation have been complied with.

A Notice of Commencement of works is to be submitted to Penrith City Council five (5) days prior to commencement of engineering works or clearing associated with the subdivision.

53 A certificate by a registered surveyor verifying that all habitable floor levels are 0.5m above the 1% AEP top water level of the adjoining water body / dam and east-west channel shall be submitted upon completion of the building to that level. No further construction of the building is to be carried out until approval to proceed is issued by the Principal Certifying Authority.

54 Street lighting is to be provided for all new and existing streets within the proposed development to Penrith City Council's standards.

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

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

56 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.

57 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.

58 **Prior to the issue of any Occupation Certificate**, the Principal Certifying Authority shall ensure that all

works associated with a S138 Roads Act approval or S68 Local Government Act approval have been inspected and signed off by Penrith City Council.

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

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

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

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

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

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

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

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

- 62 **Prior to the issue of any Occupation Certificate** and installation of regulatory / advisory linemarking and signage, plans are to be lodged with Penrith City Council and approved by the Local Traffic Committee.

Notes:

- a) Contact Penrith City Council's Engineering Services Department on (02) 4732 7777 for further information on this process.
- b) Allow eight (8) weeks for approval by the Local Traffic Committee.
- c) Applicable fees are indicated in Council's adopted Fees and Charges

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

- 64 **Prior to the issue of an Occupation Certificate**, an application for proposed street names must be lodged with and approved by Penrith City Council and the signs erected on-site.

The proposed names must be in accordance with Penrith City Council's Street Naming Policy.

Notes:

- a) Contact Penrith City Council's Engineering Services Department on (02) 4732 7777 for advice regarding the application process and applicable fees.
- b) Allow eight (8) weeks for notification, advertising and approval.

- 65 Prior to the issue of an Occupation Certificate, a bond for the final layer of outstanding asphalt works (AC Bond) for Road No 1 is to be lodged with Penrith City Council.

The final layer of asphalt on all roads shall not to be placed without the written consent of Penrith City Council (consent will generally be provided when 80% of the housing within the subdivision has been completed).

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

Note:

- a) Contact Penrith City Council's Engineering Services Department on (02) 4732 7777 for further information relating to bond requirements.

- 66 Prior to the issue of any Occupation Certificate a Maintenance Bond is to be lodged with Penrith City Council for roadworks in Jordan Springs Boulevard, partial construction of Road No 1 and drainage works to service the residential development to the west.

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

Note:

- a) Contact Penrith City Council's Engineering Services Department on (02) 4732 7777 for further information relating to bond requirements.

- 67 **Prior to the issue of an Occupation Certificate**, the following compliance documentation shall be submitted to the Principal Certifying Authority. A copy of the following documentation shall be provided to Penrith City Council where Penrith City Council is not the Principal Certifying Authority:

- a) Works As Executed (WAE) drawings of all civil works. The WAE drawings shall be marked in red on copies of the stamped Construction Certificate drawings signed, certified and dated by a registered surveyor or the design engineer. The WAE drawings shall be prepared in accordance with Penrith City Council's Engineering Construction Specification for Civil Works.

- b) The WAE drawings shall clearly indicate the 1% Annual Exceedance Probability flood lines (local and mainstream flooding).

- c) The WAE drawings shall be accompanied by plans indicating the depth of cut / fill for the entire development site. The survey information is required to show surface levels and site contours at 0.5m intervals. All levels are to be shown to AHD.
- d) CCTV footage in DVD format to Penrith City Council's requirements and a report in "SEWRAT" format for all drainage as identified as Council's future assets. Any damage that is identified is to be rectified in consultation with Penrith City Council.
- e) A copy of all documentation, reports and manuals required by Section 2.6 of Penrith City Council's WSUD Technical Guidelines for handover of stormwater management facilities to Penrith City Council.
- f) Surveyor's Certificate certifying that all pipes and services are located wholly within the property or within appropriate easements and that no services encroach boundaries, private or public lands.
- g) Documentation for all road pavement materials used demonstrating compliance with Penrith City Council's Engineering Construction Specification for Civil Works.
- h) A Geotechnical Report certifying that all earthworks and road formation have been completed in accordance with AS3798 and Penrith City Council's Design Guidelines and Construction specifications. The report shall include:
 - Compaction reports for road pavement construction
 - Compaction reports for bulk earthworks and lot regarding.
 - Soil classification for all residential lots
 - Statement of Compliance
- i) Structural Engineer's construction certification of all structures
- j) A slope junction plan for interallotment drainage lines indicating distances to boundaries and depths.
- k) Soil testing for each lot to be classified according to AS2870 "Residential Slabs and Footings".

68 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.

69 Prior to the issue of any Construction Certificate, the Certifying Authority shall ensure the following:

1. The intersection of Jordan Springs Boulevard and Access Road, Access Road with central pedestrian refuge median at Jordan Springs Boulevard and intersection of Access Road and Proposed Residential Village Internal Road is designed to Council requirements.
2. Regulatory signage to be provided in accordance with Local Traffic Committee requirements.
3. Provision of Bus Shelters at existing Bus Stop ID 2747410 and Bus Stop ID 2747379 on the respective northern and southern sides of Jordan Springs Boulevard, west of Lakeside Parade, to Council's requirements.

Prior to the issue of any Occupation Certificate the Principal Certifying Authority shall ensure that the works required by this condition are complete and seek Council's written confirmation that it is satisfied the works have been completed to Council's satisfaction.

- 70 **Prior to the issue of a Construction Certificate**, the Certifying Authority shall ensure that 150mm high upright kerb & gutter is provided along the western side of Road No 3 from the intersection of Road No 1 up to Chainage 105. Full details are to be submitted with the construction certificate.
- 71 Prior to the commencement of any internal roadworks, the proposed drainage pipeline to be located within a drainage easement servicing the residential subdivision to the west, is to be constructed to the satisfaction of Penrith City Council.
- 72 **Prior to the issue of any Occupation Certificate**, the lead in road (Road No 1) to service the development is to be constructed to the satisfaction of Penrith City Council and dedicated as a public road.

Landscaping

- 73 All landscape works are to be constructed in accordance with the approved landscape plan and 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.

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

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.

- 76 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.

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

78 **Prior to the issue of a Construction Certificate**, an amended landscape plan is to be submitted to and approved by Council. The amended landscape plan is to incorporate the following:

a) Additional villa garden typologies correlating to the various villa typologies.

b) Additional landscaping the four laneway heads (adjacent to Jordan Springs Boulevard). The landscaping treatment should replicate the landscaping provided on the northern side of Jordan Springs Boulevard.

c) Additional landscaping adjacent to the main access point, to minimise the visual impact of the car parking area.

d) Additional trees should be provided on the internal roads, approximately 8m apart.

e) Amended species to provide a greater number and diversity of species native to the Cumberland Plain.

f) *Lophostemon confertus* (Brush Box) to be removed and *Melaleuca amplifolia* to be replaced with *Eucalyptus amplifolia*.

79 **Prior to the issue of a Construction Certificate**, details of the 'future entry statement' along Jordan Springs Boulevard at the north-western corner of the site are to be submitted to and approved by Council.

80 **Prior to the issue of a Construction Certificate**, details of the fencing along the northern boundary is to be submitted to and approved by Council. The private open space fencing adjacent to Jordan Springs Boulevard is to be consistent with the fencing provided along the northern side of Jordan Springs Boulevard i.e. masonry bottom with wooden slates at the top.

Certification

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

82 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 development.

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

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

SIGNATURE

Name:	Jane Hetherington
Signature:	

For the Development Services Manager