

# PENRITH CITY COUNCIL

## NOTICE OF DETERMINATION

### DESCRIPTION OF DEVELOPMENT

Application number:	DA20/0866
Description of development:	Demolition of Existing Structures & Construction of Two (2) Storey & 80 Place Child Care Centre including Basement Car Parking
Classification of development:	Class 9b

### DETAILS OF THE LAND TO BE DEVELOPED

Legal description:	Lot 2 DP 109053
Property address:	170 Derby Street, PENRITH NSW 2750

### DETAILS OF THE APPLICANT

Name & Address:	Montessori Academy 60-70 Parramatta Road SUMMER HILL NSW 2130
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### DECISION OF CONSENT AUTHORITY

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

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

Date from which consent operates	6 August 2021
Date the consent expires	6 August 2026
Date of this decision	19 July 2021

## POINT OF CONTACT

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

Assessing Officer:	Lauren Van Etten
Contact telephone number:	+612 4732 8222

## NOTES

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### **Reasons**

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

### **Conditions**

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

### **Certification and advisory notes**

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

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

### **Review of determination**

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

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

### **Appeals in the Land and Environment Court**

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

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

### **Designated development**

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

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

### **Sydney Western City Planning Panels**

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

# ATTACHMENT 1: CONDITIONS OF CONSENT

## General

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

Drawing Title	Drawing No	Prepared By	Dated
Basement Plan	DA06A	Cullen Feng	26/04/21
Ground Floor Plan	DA07A	Cullen Feng	26/04/21
First Floor Plan	DA08A	Cullen Feng	26/04/21
Roof Plan	DA09A	Cullen Feng	26/04/21
Long and Cross Section	DA10A	Cullen Feng	26/04/21
Elevations	DA11A & DA12A	Cullen Feng	26/04/21
Waste Management Plan	-	Dickens Solutions Pty Ltd	May 2021
Stormwater Concept Plans	D00- D09	Smart Structures Australia	13/05/21
Erosion and Sediment Control Plans	D10-D11	Smart Structures Australia	07/12/20

### Supporting Documentation:

- Geotechnical Investigation Report prepared by Geotech Consultants Australia, dated 15 December 2020
- Arborist Report and additional letter prepared by Bradshaw Consulting Arborists, dated 17 December 2020 and 12 May 2021, respectively
- Acoustic Report prepared by The Acoustic Group, dated 15 December 2020
- Traffic Report prepared by Varga Traffic Planning, dated 15 December 2020
- Plan of Management prepared by Daniella Assad - Montessori Academy, dated 12 April 2021
- Stormwater Quality Report, prepared by Smart Structures Australia, dated 13 May, 2021

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

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

- 3 The business is to be registered with Penrith City Council by completing the "Registration of Premises" form. This form is to be returned to Council prior to the issue of the Occupation Certificate and operation of the business.
- 4 A separate development approval for the erection of a sign or advertising structure, other than an advertisement approved by this consent or listed as exempt development, is to be obtained.
- 5 The approved operating hours are from 7am to 6pm, Mondays to Fridays. Delivery and service vehicles generated by the development are limited to:
- Mondays to Fridays, 7am to 6pm;

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

- 6 A **Construction Certificate** shall be obtained prior to commencement of any building works.
- 7 The child care centre operator is required to obtain an operating licence from the NSW Department of Education and Communities prior to operation of the child care centre. The child care centre is to comply with the requirements of the Education and Care Services National Regulation at all times under the Education and Care Services National Law.
- 8 The elevation and section drawings shall be amended to include a roof ridgeline RL which is no higher than 8.5m above existing ground level. The elevation and roof drawings shall also be amended to halve the number of solar arrays as indicated in red on the stamped approved plans. These plans are to be included in the application for a Construction Certificate to the satisfaction of the Certifying Authority.
- 9 Any fencing and boundary retaining walls required as a result of this development shall be constructed as full cost to the persons benefiting from this consent. Any retaining walls across the site shall be of masonry construction and be to a maximum height of 1.5m within the rear yard area.
- 10 A maximum of 80 children (16 x aged 0-2; 24 x aged 2-3; 40 x aged 3-6) are to be enrolled to attend the premises at any one time.
- 11 Childproof fencing shall be provided to all outdoor play areas, and to the entrance of the child care centre. Details in this regard shall be shown on the Construction Certificate plans.
- 12 The following community safety and crime prevention through environmental design (CPTED) requirements are to be implemented prior to the issue of an Occupation Certificate and/or in perpetuity, as applicable:

**(a) Lighting**

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

**(b) Basement Car Parking**

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

**(c) Building Security & Access Control**

- Intercom, code or card locks or similar must be installed for all entries to the building.
- Australian Standard 220 door and window locks must be installed throughout the centre.
- The side access points (gates) must be secured.
- CCTV is to be provided to cover communal public space areas. Cameras must be of sufficient standard to be useful for police in the event of criminal investigations. Lighting must be provided to support cameras at night (alternatively infra-red cameras are recommended). Signage must be displayed to indicate that CCTV cameras are in use.
- A monitored alarm system must be installed.

**(d) Graffiti/Vandalism**

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

**(e) Landscaping**

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

## Demolition

- 13 The existing structures on the subject site are to be demolished as part of the approved work.
- 14 All demolition works are to be conducted in accordance with the provisions of AS 2601-2001 "The Demolition of Structures" and the 'Hazardous Materials Survey' (E20160-1) for 170 Derby Street, Penrith prepared by Geotechnical Consultants Australia dated 9/11/2020. **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**.

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

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

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

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

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

- 16 Dust suppression techniques are to be employed during demolition 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 Demolition works 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 demolition work is permitted on Sundays and Public Holidays.

In the event that the demolition relates to works inside the building that does not involve external walls or the

roof and does not involve the use of equipment that emits noise, then the demolition works are not restricted to the hours stated above.

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

## Heritage/Archaeological relics

19 In order to respect the heritage item nearby, **prior to the issue of a Construction Certificate**, the following design amendments are to be incorporated into the plans and approved by Council:

- The front facade material is to be long lasting pure zinc.
- The front facade is to have refined window geometry - i.e. full height windows, set deeper into the facade.
- The verandah detail shall include clean stainless steel post base junctions.
- The upper floor cladding is to be timber instead of artificial timber - e.g. western red cedar.
- Alternative signage is to be provided, either as a separate small scale sign within the front garden, or via a small scale sign on the front facade - e.g. individual letters placed away from the facade via discrete pins.

## Environmental Matters

20 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.

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

The approved sediment and erosion control measures are to be installed **prior to and maintained throughout the construction phase of the development until the land, that was subject to the works, has been stabilised and grass cover established**. These measures shall ensure that mud and soil from vehicular movements to and from the site does not occur during the construction of the development.

- 21 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, considered and approved by 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,
  - 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.

{Note: 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."}

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.

- 22 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.
- 23 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.

- 24 Noise levels from the premises shall not exceed the relevant noise criteria detailed in the 'Acoustical Assessment Proposed Child Care Centre' (50.5426.R1B:MCC) for 170 Derby Street, Penrith prepared by The Acoustic Group, dated 15/12/2020. The recommendations provided in the approved 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.

- 25 The operating noise level of plant and equipment shall not exceed 5dB(A) above the background noise level when measured at the boundaries of the premises. The provisions of the Protection of the Environment Operations Act 1997 apply to the development, in terms of regulating offensive noise.
- 26 An Unexpected Finds Protocol (the Protocol) is to be developed by an appropriately qualified environmental consultant. Prior to the issue of the Construction Certificate, the Protocol is to be submitted to Council and approved. If Council is not the certifying authority for this development, the report is required to be provided to Penrith City Council for approval.

The Protocol is to address, at minimum, the management of any contamination found on the site during the excavation/construction phase of the development, including at minimum, contaminated soils, groundwater, buried building materials, asbestos, odour and staining.

The above Protocol is to be complied with at all times during the excavation/construction phase of the development.

## BCA Issues

- 27 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).
- 28 The owner of a building, to which an essential fire safety measure is applicable, shall provide Penrith City Council with an annual fire safety statement for the building. The annual fire safety statement for a building must:
- (a) deal with each essential fire safety measure in the building premises, and
  - (b) be given:
    - within 12 months after the last such statement was given, or
    - if no such statement has previously been given, within 12 months after a final fire safety certificate was first issued for the building.
- As soon as practicable after the annual fire safety statement is issued, the owner of the building to which the statement relates:
- must also provide a copy of the statement (together with a copy of the current fire safety schedule) to the Commissioner of New South Wales Fire Brigades, and
  - prominently display a copy of the statement (together with a copy of the current fire safety schedule) in the building.
- 29 **Prior to the issue of a Construction Certificate**, the Accessibility Report shall be revised to reflect the approved design and 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 the Discrimination Disability Act 1992.

## Health Matters and OSSM installations

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

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

## Utility Services

- 32 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](http://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.

- 33 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.

- 34 **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

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

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

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

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

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

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

36 Prior to the commencement of construction works:

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

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

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

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

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

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

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

37 The rainwater tank(s) is to be:

- erected on a self-supporting base in the approved location on the property in accordance with the stamped-approved site plans for the development,
- structurally sound and constructed in accordance with AS/NZS 3500 1.2- 1998: National Plumbing and Drainage - Water Supply - Acceptable Solutions,
- fully enclosed and all openings sealed to prevent access by mosquitoes,
- fitted with a first flush device,
- fitted with a trickle system to top up from mains water,
- provided with an air gap, and
- installed by a licensed plumber in accordance with Sydney Water's "Plumbing requirements Information for rainwater tank suppliers and plumbers April 2003" and the NSW Code of Practice: Plumbing and Drainage.

Additionally, the following are to be provided:

- A back flow prevention device shall be provided at the water meter in accordance with Sydney Water requirements.

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

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

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

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

- 38 The catchment area (for the rainwater tank) includes the parts of the roof of the dwelling(s) from which water is collected and includes gutters. To ensure a safe supply of water:
- roof catchment areas must be kept clear of overhanging vegetation,
  - gutters must have sufficient fall to downpipes to prevent pooling of water,
  - overflow, discharge from bleed off pipes from roof mounted appliances such as airconditioners, hot water services and solar heaters must not discharge into the rainwater catchment area,
  - for roofs containing lead based, tar based or asbestos material the tank supply must not be connected to drinking, bathing and gardening tap water outlets,
  - appropriate measures must be installed to prevent foreign materials from contaminating the water which enters the rainwater tank.
- 39 The rainwater tank supply must not be connected to drinking and bathing water tap outlets.
- 40 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.
- 41 Construction 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 that do not involve the use of equipment that emits noise are not restricted to the construction hours stated above.
- The provisions of the Protection of the Environment Operations Act 1997 in regulating offensive noise also apply to all construction works.

## Engineering

- 42 All roadworks, stormwater drainage works, signage, line marking, associated civil works and dedications required to effect the consented development shall be undertaken by the applicant at no cost to Penrith City Council.
- 43 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 Asset Management Department on 4732 7777 or visit Penrith City Council's website for more information.

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

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

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

### Note:

- Where Penrith City Council is the Certifier for the development, the Roads Act approval for the above works may be issued concurrently with the Construction Certificate.
- Separate approval may be required from Transport for NSW for classified roads.
- All works associated with the Roads Act approval must be completed prior to the issue of any Occupation Certificate as applicable.
- 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.

- 45 The stormwater management system shall be consistent with plan/s lodged for development approval, prepared by Smart Structures Australia, reference number 200325, revision B, dated 13 May 2021.

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

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

- 46 Prior to the issue of any Construction Certificate, the Certifier shall ensure that the stormwater drainage system for the basement car park has been designed in accordance with the requirements for pumped systems in AS 3500.3 Plumbing and Drainage – Stormwater Drainage.

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

- 48 Prior to the issue of a Construction Certificate, a geotechnical investigation report and strategy shall be submitted to the Certifier to ensure the stability of any adjoining Council owned infrastructure and surrounding developments. The geotechnical investigation, report and strategy shall comply with the recommendations contained in the technical direction GTD 2012/001 prepared by the Roads and Maritime Services.

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

- 50 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 Prior to the issue of any Occupation Certificate, the Principal Certifier shall ensure that all works associated with a Section 138 Roads Act approval have been inspected and signed-off by Penrith City Council.

- 52 Prior to the issue of any Occupation Certificate, works-as-executed drawings, final operation and maintenance management plans and any other compliance documentation for the stormwater management system shall be submitted to the Principal Certifier in accordance with Penrith City Council's Engineering Construction Specification for Civil Works, Stormwater Drainage Specification for Building Developments and

WSUD Technical Guidelines.

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

- 53 Prior to the issue of any Occupation Certificate, the Principal Certifier shall ensure that the 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; and
  - Any remedial works required to be undertaken have been satisfactorily completed.

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

- 54 Prior to the issue of any Occupation Certificate, a restriction on the use of land and positive covenant relating to the stormwater management systems (including on-site detention and water sensitive urban design) shall be registered on the title of the property. The restriction on the use of land and positive covenant shall be in Penrith City Council's standard wording as detailed in Council's Stormwater Specification for Building Developments - Appendix F.

- 55 Prior to the issue of any Occupation Certificate, entry and exit signage which is clearly visible from the public road shall be placed within the development site.

The signage shall indicate that the eastern vehicular access is to be used for ingress purposes only and appropriately signposted "Entry Only". The western vehicular access is to be used for egress purposes only and appropriately signposted "No Entry".

- 56 Prior to the issue of any Occupation Certificate, directional signage and line marking shall be installed indicating directional movements and the location of customer parking to the satisfaction of the Principal Certifier.

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

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

- 58 All car parking and manoeuvring areas must be in accordance with AS 2890.1-2004, AS 2890.6-2009 and Council's requirements. Car park ramp headroom clearances including at grade transitions and car park aisle widths, column locations and clearances (including in accordance with AS 2890.1, Figures 5.1 and 5.2) must be compliant with the above.

- 59 The required sight lines around the driveway entrances are not to be obstructed by landscaping, fencing or signage. Sight distance requirements must be in accordance with AS 2890.1 and / or AS 2890.2, Figure 3.2 Access driveways and Figure 3.3 Minimum sight lines for pedestrian safety.
- 60 All car spaces and access areas are to be dedicated for the parking of vehicles only and not to be used for storage of materials, products, waste materials, etc.
- 61 All vehicles are to enter and leave the site in a forward direction.
- 62 The sub-leasing of car parking spaces is not permitted by this consent.
- 63 Signage indicating the location of staff/visitor parking is required at the driveway entrance.

## Landscaping

- 64 All landscape works are to be constructed in accordance with the landscape plans approved by conditions within this consent and the relevant provisions of Penrith Development Control Plan 2014.

Landscaping shall be maintained:

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

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

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

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

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

- 67 All plant material associated with the construction of approved landscaping is to be planted in accordance with the Tree Planting Specification prescribed in Penrith Council's Development Control Plan 2014.

- 68 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.

69 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.

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

- Revised tree species and quantities as per Condition 71;
- Any front fencing shall be timber for compatibility with the character of the area;
- The driveway colour is to be a medium to light brown to reduce heat absorption; and
- The materials proposed for any shade structures and the proposed slide shall be included in accordance with AS 4685 'Playground equipment and surfacing', Part 0: Development, installation, inspection, maintenance and operation.

71 The applicant is to plant a minimum of fifteen (15) replacement trees as required in the approved Landscape Plan and as specifically outlined below:

- Five (5) trees known to attain a minimum height of 10m at maturity in the front setback of the site.
- Ten (10) trees known to attain a minimum height of 10m at maturity in the rear setback of the site.
- Endemic tree species are to be used and are not to include any of the exempted plant species listed under Chapter C2 Vegetation Management of Penrith Development Control Plan 2014.
- One (1) replacement tree is to have a minimum container size of 1,000 litres and the remainder are to have a minimum container size of 600 litres. They shall comply with NATSPEC "Specifying Trees: A Guide to Assessment of Tree Quality" (2003) or Australian Standard AS 2303 – 2015 Tree Stock for Landscape Use.
- All new plantings shall be located so future growth will not conflict with electricity wires. Consideration should be given to the location of new electricity poles and wires so th space is provided.

The replacement trees are to be planted prior to the issue of an Occupation Certificate and the trees shall be maintained for the life of the development.

72 **Prior to the commencement of any works**, a project arborist with a minimum AQF (Australian Qualification Framework) Level 5 shall be engaged to prepare a Tree Protection Plan (Specification) and Drawing in accordance with AS 4970 - 2009 to appropriately retain and protect Trees 8, 11 and 12.

The completed Tree Protection Plan (Specification) and Drawing is to be provided to the Manager of Development Services for approval prior to the commencement of any works.

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

73 At a minimum, the Tree Protection Plan (Specification) and Drawing shall:

- identify key stages where monitoring and certification will be required as outlined in AS 4970–2009, Section 5;
- provide a requirement that all contractors and workers on site shall be briefed on the tree protection and management procedures in place as part of their site induction. A written record of the induction process is to be kept on site;

- require the project arborist to supervise any work within or directly adjacent to the Tree Protection Zone;
- nominate whether trunk and branch protection will be required to be installed on the tree and at what stages this may be required;
- permit the project arborist to alter/adjust the Tree Protection Zone or measures providing that reasons for this are clearly documented, justifiable, undertaken under the supervision of the project arborist and that those changes will not cause detriment or damage to the tree;
- require the project arborist to undertake site inspections not less than weekly to ensure that tree protection measures are in place;
- require the project arborist to keep a written record (e.g. field notes and photos) to provide evidence of site attendance and compliance with the approved conditions of consent;
- require the project arborist to forward a copy of the written record of inspection to the Principal Certifying Authority within 1 week of that inspection occurring;
- require the project arborist to identify whether there is a breach of the Tree Protection Plan. If a breach is identified the project arborist must report this to the Principal Certifying Authority and specify any remedial works and the timeframe in which these works must be completed. If an inspection reveals that there has been a significant breach of the Tree Protection Plan (Specification), inspections from then on must be carried out twice weekly.

Note: Minimum Tree Protection measures shall include:

- ensuring that the trees on the neighbouring property (Trees 8, 11 and 12) are adequately retained and protected. The site boundary fence shall remain in place for the duration of approved works to prevent physical damage to the neighbouring trees and ground protection provided as their Tree Protection Zones (TPZs) intrude into the subject site. Protection measures are to be in accordance with AS 4970 - 2009, Protection of Trees on Development Sites, Section 4.3;
- ensuring all trees to be retained and protected shall be clearly shown on all demolition and construction plans;
- providing for weather resistant signage in prominent locations on the tree protection fence that indicates access into the Tree Protection Zone is not permitted. The sign shall be a minimum dimension of 500mm high x 400mm wide of similar design and layout as per Appendix C, AS 4970 - 2009, Protection of Trees on Development Sites;
- requiring the project arborist to supervise any work within or directly adjacent to the Tree Protection Zone;
- requiring the project arborist to undertake regular inspections to ensure the fence and other tree protection measures are intact, comply with the above standard, are installed to the appropriate dimensions and provide effective protection for the trees to be retained;
- ensuring the Tree Protection Zone (TPZ) is maintained as per AS 4970 - 2009, Section 4.6. Access to the TPZ is permitted to undertake necessary maintenance such as mowing, watering and weed control;
- ensuring building materials, chemical storage, site sheds, wash out areas, and similar shall not be located within the fenced Tree Protection Zone or that the Tree Protection Zone is not downstream of any washdown areas;
- providing a contingency should tree roots be exposed during approved works, to permit roots with a diameter less than 25mm to be pruned cleanly using sharp hand tools and not torn or ripped by machinery and require tree roots greater than 25mm in diameter to be assessed by a qualified arborist - minimum Australian Qualification Framework (AQF) Level 5 or equivalent - before any pruning work is undertaken.

74 An arborist with a minimum AQF (Australian Qualification Framework) Level 5 shall be engaged for the duration of the approved works to implement and comply with the measures within the approved Tree Protection Plan (Specification) and Drawing.

## Section 94

75 This condition is imposed in accordance with Penrith City Council's Section 7.12 Development Contributions Plan for Non-Residential Development. Based on the current rates detailed in the accompanying schedule attached to this Notice, \$33,003 is to be paid to Penrith City Council prior to a Construction Certificate being issued for this development (the rates are subject to quarterly reviews). If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted Section 7.12 plan.

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

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

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

## Certification

76 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.

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

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

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

## **SIGNATURE**

Name:	Lauren Van Etten
Signature:	

For the Development Services Manager