

PENRITH CITY COUNCIL

MAJOR ASSESSMENT REPORT

Application number:	DA16/0137.01
Proposed development:	Review of Refusal Determination - Demolition of Existing Structures & Construction of Six (6) Storey Residential Flat Building containing 61 Apartments & Two Levels of Basement Car Parking
Property address:	119 Derby Street, PENRITH NSW 2750 115 Derby Street, PENRITH NSW 2750 117 Derby Street, PENRITH NSW 2750
Property description:	Lot 5 DP 24603 Lot 6 DP 24603 Lot 7 DP 24603
Date received:	21 July 2016
Assessing officer	Lauren Van Etten
Zoning:	Zone R4 High Density Residential - LEP 2010
Class of building:	Class 2 , Class 7a
Recommendations:	Deferred Commencement

Executive Summary

Council is in receipt of an application under Section 82A of the *Environmental Planning and Assessment Act 1979 (EP&A Act)* seeking a review of refusal determination for DA16/0137 for a residential flat building with 61 units at 115-119 Derby Street, Penrith.

Development Application No. DA16/0137 was lodged 11 February 2016 and sought approval for the Demolition of Existing Structures & Construction of a Six (6) Storey Residential Flat Building containing 61 Apartments & Two Levels of Basement Car Parking. The application was refused under delegated authority by Council on 11 May 2016 for the following reasons:

- Owner's consent for a new stormwater drainage easement over an adjoining property was not provided.
- Waste collection issues.
- Height of building exceeded.
- Numerous minor variations to planning controls such as building separation, unit sizes, room depth, etc.

The subject site is zoned R4 High Density Residential under the Penrith Local Environmental Plan (LEP) 2010. Residential flat buildings are a permissible land use (under the residential accommodation group term) in the R4 zone with Council consent.

The application has been notified to adjoining properties, advertised in the local newspaper and placed on public exhibition for a period of 14 days. Three submissions were received which are dealt with in the body of this report.

An assessment under Section 82A of the Environmental Planning and Assessment Act 1979 has been undertaken and the proposal is recommended for a deferred commencement approval given that the submitted owner's consent for the new stormwater drainage easement is conditional. All other previous reasons for refusal have been addressed.

Site & Surrounds

The subject site comprises three residential lots on the northern side of Derby Street in Penrith known as 115, 117 and 119 Derby Street. Each of the lots contains a single dwelling house.

The site has a combined frontage of 45.72 m with an overall area of approximately 2090 sqm. The lots are orientated in a north/south alignment. The site generally falls from south-east to north-west with an overall cross fall of approximately 3 m.

The surrounding locality is characterised by older low density housing stock, however the character of the area is evolving with recent changes to the LEP providing for an increase in higher densities in the area due to its close proximity to Penrith City Centre and the Penrith Health and Education Precinct (Nepean Hospital). There are some smaller residential flat buildings and town houses in the area.

The development site is bounded by a town house development to the north, low density housing to the east and west and multi-unit dwellings to the south.

Proposal

The application seeks a review of the refusal determination for DA16/0137 under Section 82A of the EP&A Act.

The development involves the demolition of all structures on the site and the erection of a residential flat building providing 61 units. The unit mix has changed as follows:

- 16 x 1 bedroom (previously 14 were proposed).
- 40 x 2 bedroom (previously 43 were proposed).
- 5 x 3 bedroom (previously 4 were proposed).

The proposal provides for 78 on site parking spaces. These spaces are allocated as follows:

- 57 general residential spaces allocated to individual units.
- 8 accessible residential spaces allocated to the adaptable units.
- 12 visitor spaces, 1 of which is to double as a service car space and 1 of which is to double as a car wash bay.

The proposal submitted with the application presents as substantially the same proposal as previously assessed, albeit with changes made to mitigate the adverse impacts previously anticipated in relation to waste collection and amenity.

Plans that apply

- Local Environmental Plan 2010 (Amendment 4)
- Development Control Plan 2014
- State Environmental Planning Policy No 65—Design Quality of Residential Flat Development
- Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

Planning Assessment

Section 82A - Review of determination

Pursuant to Section 82A of the *Environmental Planning and Assessment Act 1979*, an applicant may request Council to review its determination of a Development Application. The request to review must be lodged and determined within 6 months of the date of Council's notice of determination. As the application was determined under the delegation of Council, a decision on the review of determination is not to be made by a subordinate of that delegate and as such, the review will be determined by the Executive Manager.

As per the requirements of Section 82A, Council must be satisfied that the development as amended (if amended at all), is substantially the same development as that described in the original application. In this regard, a review of the submitted plans confirms that while amendments have been made for the better, the proposal meets the "substantially the same development" test in that the proposal is of the same essence,

namely with the same number of units proposed and substantially the same building footprint, albeit with a modified internal design and minor external changes to facilitate effective waste collection and improve amenity outcomes.

The reasons for refusal of the original Development Application are reviewed in turn below relative to the revised proposal:

Reason for Refusal 1

The application is not satisfactory for the purpose of Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act as the proposal is inconsistent with Clause 28(2)(c) of the State Environmental Planning Policy No. 65 Design Quality of Residential Apartment Development which requires that the consent authority take into account the provisions of the Apartment Design Guidelines. The proposal does not comply with the following provisions of the Apartment Design Guidelines:

- *3F - Visual Privacy.*
- *4A - Solar and Daylight Access.*
- *4F - Common Circulation and Spaces.*
- *4D - Apartment Size and Layout.*

With regard to the reason above, it is considered that the revised design and siting of the residential flat building will no longer result in adverse amenity impacts due to the revised internal design which predominantly complies with the provisions of the ADG. In summary, the bulk and scale of narrow side setbacks has been reduced through increased landscaping and screening to windows, solar access has improved through changes to the proposed windows and balconies, common circulation space has improved with the incorporation of a second lift and the size and layout of the apartments has changed in minor ways to ensure the proposal is predominantly compliant with the minimum requirements of the ADG. Refer to Section 79C(1)(a)(i) of this report for further details.

It is for the above reasoning that reason for refusal 1 is considered to be addressed.

Reason for Refusal 2

The application is not satisfactory for the purpose of Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act as the proposal is inconsistent with the following provisions of the Penrith Local Environmental Plan 2010:

- *4.3 - Height of Buildings.*
- *4.6 - Exceptions to Development Standards.*

Specifically it is not considered that the written request has justified that there are sufficient environmental planning grounds to justify contravening the development standard.

With regard to the above, the revised Clause 4.6 request in relation to Clause 4.3 (Height of Building) has demonstrated that compliance with the height standard is unreasonable and unnecessary in the circumstances of the case and there are sufficient environmental planning grounds to justify contravening the height standard as required by Clause 4.6(4)(a)(i) of the LEP. More specifically, given the proposal is now predominantly compliant with the Apartment Design Guide and provides a compliant waste management proposal, an encroachment of the height standard could be considered to achieve the built form and amenity objectives sought by Clause 4.3. Further, there are sufficient environmental planning grounds to justify the development standard variation as the proposal will facilitate effective on-site waste collection within the basement, which Council has been recently advocating for through the newly introduced amendment to Penrith Development Control Plan 2014.

It is for the above reasoning that reason for refusal 2 is considered to be addressed.

Reason for Refusal 3

The application is not satisfactory for the purpose of Section 79C(1)(a)(iii) of the Environmental Planning and Assessment Act as the proposal is inconsistent with the following provisions of Penrith Development Control Plan 2014:

- *Part C5 - Waste Management.*
- *Part D2.5 - Residential Flat Buildings.*

Part C5 - Waste Management

The proposed development originally provided a reverse in waste collection bay and basement garbage room with a single chute above serving all levels of the development. However, this failed to comply with Council's requirements that access and egress to the development be in a forward direction.

The amended proposal includes the provision of an on-site turntable for garbage and removalist vehicle access. The turntable can be accepted given that sufficient manoeuvring area will be available on-site to allow waste collection vehicles to enter and leave the site in a forward direction and service the development efficiently, as is required by the DCP. Additionally, the proposed traffic control measures will allow potential conflict points to be minimised.

In addition, the original proposal did not provide for an adequate number of bins, nor an adequate waste storage area. However, the proposal has been amended. The configuration of the waste room still remains problematic in relation to manoeuvrability, however a recommended condition of consent will require a revised basement plan to provide a compliant proposal with adequate clearances and doorways.

Subsequently, the amended proposal complies with the requirements of Part C5 of DCP 2014.

Part D2.5 - Residential Flat Buildings.

Originally, the proposed development required retaining walls 1.4 m in height at the south-western corner of the site to cut into the site and provide for a completely flat development pad. The cutting did not appropriately address the slope of the land resulting in ground floor units at the north-western corner being elevated off ground level and requiring a variation to the 18 m height limit measured from the existing ground level.

The sectional elevation provided now demonstrates additional landscape treatment surrounding the protruding basement car park. This section demonstrates that the likely amenity impacts on the adjoining property and the development's common open space due to the cut and fill required by the development are negligible. The basement has been lowered by an additional 1m to accommodate Council's waste service vehicle and cannot be further lowered. While the protruding basement car park is 1.75m above natural ground level, this is considered inconsequential given the proposed landscape treatment and the recommended condition of consent requiring the ground floor balconies along the northern elevation to provide appropriate screening for privacy and to further articulate this façade of the building.

It is for the above reasoning that reason for refusal 3 is considered to be addressed.

Reason for Refusal 4

The application is not satisfactory for the purpose of Section 79C(1)(a)(iv) of the Environmental Planning and Assessment Act as the application failed to provide evidence that the owner of the adjoining land on which development is to be carried out consents to the application as required by Clause 50 of the Regulations.

The requested owner's consent letter was provided from the adjoining downstream property to the north as part of this application for review. However, the letter remains inadequate as it is a conditional letter. Approval in principle is not sufficient given information is still pending in relation to the proposed connection to the existing easement and the details of the proposed easement. An unconditional letter is required to be submitted, however it can be provided by way of a deferred commencement condition.

Therefore, reason for refusal 4 is considered to be addressed.

Reason for Refusal 5

The application is not satisfactory for the purpose of Section 79C(1)(b) of the Environmental Planning and Assessment Act in terms of the following likely impacts of the development:

- *Built form, aesthetics and neighbourhood character; and*
- *Amenity.*

The proposal has undergone a number of design revisions and the revised development presents a suitable urban design outcome on the site having regard to the site's context. Despite the non-compliant side setbacks, the overall design, 6m side setback for windows and additional screening to be conditioned will mitigate the potential for significant amenity impacts to arise when the adjoining allotments are developed.

Although the proposal is not in keeping with the current low-medium density characteristics of the area, the proposed development sets an attractive benchmark for the future character of the area as a high density residential zone supporting the CBD.

Therefore, reason for refusal 5 is considered to be addressed.

Reason for Refusal 6

The application is not satisfactory for the purpose of Section 79C(1)(c) of the Environmental Planning and Assessment Act as the site is not suitable for the proposed development for the following reasons:

- *The site does not have a legal point of discharge for stormwater generated by the proposed development.*
- *The design of the development is not consistent with the existing or desired future character of the area.*

Given that evidence of owner's consent has been provided for the proposed drainage strategy, albeit subject to conditions, the amended proposal is considered to have a legal point of discharge for stormwater generated by the proposed development. In addition, as detailed in Section 79C(1)(a)(i) of this report, the amended proposal predominantly complies with the provisions of the ADG and thus provides a design which is consistent with the desired future character of the area.

Reason for Refusal 7

The application is not satisfactory for the purpose of Section 79C(1)(d) of the Environmental Planning and Assessment Act due to matters raised in submissions.

The submissions raised in the original application related to the following aspects and are addressed in the revised proposal as follows:

- Visual and acoustic impacts of 6 levels - while 6 levels is permissible in the R4 zone and the window setbacks are generally compliant, where overlooking is likely, balconies have been conditioned to be of obscure glass and screened.
- Density of development is unacceptable given existing character - The revised design mitigates adverse impacts, as does additional screening which is to be conditioned.
- Waste collection impacts and visitor impacts - on-site waste collection has been provided which will not affect street parking and adequate visitor parking has been provided.
- Side fencing - any damage to boundary fencing shall be reinstated by the persons having the benefit of the consent. Further, private courtyard fencing detail will be requested prior to the issue of a Construction Certificate, in accordance with relevant guidelines.
- Overshadowing - the proposal's shadow diagrams meet the minimum solar access requirements under the ADG.
- Extent of lighting impacts from security lighting - a recommended condition of consent will ensure that the lighting system is in accordance with the relevant Australian Standards.

Given that the issues above have been addressed by the amended proposal, reason for refusal 7 is considered to be addressed.

Reason for Refusal 8

The application is not satisfactory for the purpose of Section 79C(1)(e) of the Environmental Planning and Assessment Act as the proposal is not in the public interest.

The amended proposal is in the public interest as it sets a desirable precedent for development in the locality in accordance with the desired future character of the area while mitigating adverse impacts on residential amenity.

Section 79C(1)(a)(i) The provisions of any environmental planning instrument

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

The proposed development is consistent with the aims and objectives of SEPP 65. The accompanying SEPP 65 regulations require the involvement of a qualified designer throughout the design, approval and construction stages. In this regard, the application has been accompanied by a design verification statement from a suitably qualified designer.

An assessment has been undertaken of the proposed development in relation to the nine design quality principles and the related Apartment Design Guide (ADG). The proposal is for the most part in accordance with the provisions of the SEPP and the ADG. The following discussion details how the significant variations to the controls of the ADG under the original application have been resolved.

3F Separation Between Windows and Balconies

The proposed development is primarily setback 3 m from side boundaries for the first 4 levels and 6 m at the top 2 levels. This represents a variation to the 6 m and 9 m requirements for buildings below 12 m and between 12-25 m respectively.

It is noted that along the facades where the variation is proposed there are no windows or balconies which will result in visual privacy impacts on the adjoining site. It is also noted that Council's Urban Design Review Panel raised no objection to the setbacks given the proposal displays competent space planning together with a confident manipulation of building forms, complemented by effective architectural design of facades.

3F Visual Privacy

As part of the review process it was noted that, while the cross through apartments' design allows for adequate cross ventilation, the bedroom windows that open onto the atrium remain problematic in terms of privacy impacts as they are not only closer than the minimum separation distance but they are also facing each other and not offset. Subsequently, the windows have been offset.

3J Bicycle Parking

As part of the review process, it was noted that no bicycle parking was provided in the revised basement plan however this was subsequently added.

4A Solar and Daylight Access

While 70% of the units do receive 2 hours solar access between 9am and 3pm mid winter, as the ADG requires, 30% of apartments originally received no direct sunlight at mid winter, which far exceeds the maximum limit of 15%. However, the proposal was subsequently amended and now 22% of the apartments receive no direct sunlight at mid winter. While the proposal still does not comply, it is recognised that the site is configured such that the wide southern boundary promotes the inclusion of a number of south facing units. Nine units were amended to provide optimum solar access along the northern elevation, whereas the units along the southern elevation were amended to provide optimum cross ventilation to ensure that the level of internal amenity is balanced with different comparative advantages to different apartments.

4D Apartment Size and Layout

The original predominant unit type's 73 sqm floor area did not meet the minimum requirement for 2 bed, 2 bathroom units in the ADG. The units were subsequently revised to either provide 75m² or one less bathroom (Units 52 and 60). Additionally the second bedroom's minimum dimension of 2.9 m did not originally meet the 3 m minimum outlined in this section of the ADG and this has subsequently increased. Also the width of the living areas originally did not meet the 4 m minimum for 2 bedroom apartments and this has subsequently been increased.

As part of the review process, it was noted that the configuration and design of studies for Units 15, 21, 27, 33, 39, and 45 could easily enable use as bedrooms which is inappropriate given the inadequate access to natural light and these were subsequently reconfigured to provide a more open plan layout.

4F Common Circulation and Spaces

The proposed development has 12 units from the single core of the building on the first 4 levels. The ADG provides for a maximum of 8 units per core, however where design criteria is not achieved, no more than 12 apartments should be provided off a circulation core on a single level. Therefore, the revised proposal has included an additional lift to service the apartments.

4G Storage

As part of the review process, it was noted that insufficient storage space had been provided for all units given that 50% of the required storage is to be provided within the apartments. The floor plans were subsequently amended to include adequate storage space.

Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

An assessment has been undertaken of the application against relevant criteria within Sydney Regional Environmental Plan No 20—Hawkesbury-Nepean River (No 2—1997) and the application is satisfactory subject to recommended conditions of consent.

Local Environmental Plan 2010 (Amendment 4)

Provision	Compliance
Clause 1.2 Aims of the plan	Complies
Clause 2.3 Permissibility	Complies
Clause 2.3 Zone objectives	Complies
Clause 2.7 Demolition requires development consent	Complies
Clause 4.1A Minimum lot sizes for dual occupancies, multi dwelling housing and residential flat buildings	Complies
Clause 4.3 Height of buildings	Does not comply - See discussion
Clause 4.4 Floor Space Ratio	N/A
Clause 4.6 Exceptions to development standards	Complies - See discussion
Clause 7.1 Earthworks	Complies
Clause 7.4 Sustainable development	Complies
Clause 7.6 Salinity	Complies
Clause 7.7 Servicing	Complies

Clause 4.3 Height of buildings

The Height of Buildings Map identifies a maximum height of 18m as applying to the site. The proposal is a maximum height of approximately 20m and as such seeks a variation to the 18m height limit due to the slope and the basement height required to facilitate Council's waste vehicles. The variation sought equates to a maximum 11% height departure from the maximum height control. This variation can be considered by Council under Clause 4.6 Variations to Development Standards, as discussed below.

Clause 4.6 Exceptions to development standards

The applicant seeks a variation to the provisions relating to the maximum building height of 18m under Clause 4.6 of LEP 2010. The development proposes, at its highest point, a building height of 20m, which equates to an 11% variation. This variation is largest at the north-western corner of the development site (20m) while the remainder of the roof tapers down to 18.6m along the southern elevation (Derby Street frontage).

Council's requirement relating to the maximum building height is a development standard and therefore a variation under Clause 4.6 of the LEP can be considered. This clause aims to provide an appropriate level of flexibility in the application of development standards to achieve better outcomes for and from development.

In accordance with sub-clause (3), the applicant has put forward the following key points to demonstrate that compliance with the development standard is unreasonable and unnecessary, and the basis for which there are sufficient environmental planning grounds to justify contravening the development standard:

- *The proposal is consistent with the height, bulk and scale of the emerging and desired future character of the locality.*
- *A compliant development will not improve or alter the outcome in relation to visual bulk, scale, amenity and solar access.*
- *The proposal provides a high quality urban form and provides a building that can contribute to a varying skyline given the recent increase in height limit in this area. The architectural merit of the proposal reduces the overall bulk and scale.*
- *The proposal still maintains a six storey appearance and, as the encroachment is predominantly contained to a rear portion of the site, the height variation is imperceptible from the street (Derby Street).*
- *There are no adverse environmental impacts arising from the proposed height variation.*
- *There are sufficient environmental planning grounds to justify the contravention of the standard in that this amended proposal facilitates adequate waste management on-site within the basement via the turntable proposed. Basement Level 1 is 4.5m, involving 1m extra cut and 500mm extra height in order to allow Council's Waste Service Vehicle to effectively access the site.*

In accordance with sub-clause (4), the applicant's objection is well founded and is consistent with the aims of the policy. The objection has adequately addressed the matters prescribed in the LEP and has demonstrated that full compliance with the maximum building height requirement would be unreasonable and unnecessary in the circumstances of the case. The environmental planning grounds put forward by the applicant are supported in this instance. The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

Of particular importance is the overarching objective of the control which is to facilitate development of an appropriate built form. The proposed design accommodates a high quality urban design outcome for the site. The architectural features proposed improve the appearance of the development and allow adequate waste management, which adds to the residential amenity for future occupants.

The environmental planning grounds put forward are supported and it is considered that, as per the submitted Clause 4.6 variation request submitted, compliance with the building height standard would be unreasonable, and unnecessary in this instance.

Section 79C(1)(a)(iii) The provisions of any development control plan

Development Control Plan 2014

Provision	Compliance
C1 Site Planning and Design Principles	Complies
C2 Vegetation Management	Complies
C3 Water Management	Complies
C4 Land Management	Complies
C5 Waste Management	Does not comply - see Appendix - Development Control Plan Compliance
C6 Landscape Design	Complies
C7 Culture and Heritage	N/A
C8 Public Domain	N/A
C9 Advertising and Signage	N/A
C10 Transport, Access and Parking	Complies
C11 Subdivision	N/A
C12 Noise and Vibration	Complies
C13 Infrastructure and Services	Complies
D2.1 Single Dwellings	N/A
D2.2. Dual Occupancies	N/A
D2.3 Secondary Dwellings	N/A
D2.4 Multi Dwelling Housing	N/A
D2.5 Residential Flat Buildings	Does not comply - see Appendix - Development Control Plan Compliance
D2.6 Non Residential Developments	N/A

Section 79C(1)(a)(iv) The provisions of the regulations

Fire Safety

Under Part 9 of the Environmental Planning and Assessment Regulation 2000 owners of buildings must provide the FRNSW Commissioner with a copy of the Fire Safety Certificate for the building (along with the current Fire Safety Schedule). The Fire Safety Certificate is issued when essential fire safety measures have been assessed by a qualified person as being capable of performing to the standard defined by the Schedule. A condition of consent has been imposed to ensure that this occurs on an annual basis.

Prescribed Conditions

The relevant prescribed conditions of the Regulations, such as the requirement for compliance with the BCA, will be imposed as conditions of consent where applicable.

Advertising and Notification

Neighbour notification and advertising were carried in accordance with the requirements of the Regulations.

Section 92 - Additional Matters

- Any demolition will be conditioned to be in accordance with the provisions of AS 2601.
- The development is not subject to NSW Government's Coastal Policy.
- The development is not situated on land subject to an order made under Schedule 5 of the Act (paper subdivisions).

Schedule 1 - Information to be Included in Development Application

Part 1, Section 1(1)(i) of Schedule 1 of the Regulations requires that a DA be accompanied by "*evidence that the owner of the land on which the development is to be carried out consents to the application, but only if the application is made by a person other than the owner and the owner's consent is required by this Regulation,*".

Given that the proposed development requires the provision of new drainage infrastructure and a new easement over the northern adjoining property, this adjoining property must consent to the application. As the letter of consent from the adjoining property is a conditional letter the application is recommended for a deferred commencement approval to address this matter.

Section 79C(1)(b) The likely impacts of the development

Urban Design/Amenity

The proposal has undergone a number of design revisions and the revised development presents a suitable urban design outcome on the site having specific regard to the site's context. Despite the non-compliant side setbacks, the overall design, 6m side setback for windows and additional screening to be conditioned will mitigate the potential for significant amenity impacts to arise when the adjoining allotments are developed.

Although the proposal is not in keeping with the current low-medium density characteristics of the area, the proposed development sets an attractive benchmark for the future character of the area as a high density residential zone supporting the CBD.

Access, Parking and Traffic

The proposal will generate additional traffic in the locality, however the development will have acceptable traffic impacts on the road network capacity. In addition, the proposal complies with the minimum parking requirements contained within Council's DCP.

Social and Economic Impacts

The proposal represents a significant development within the locality and will generate substantial economic benefits to Penrith. The proposal will increase the diversity of housing in proximity to the Penrith City Centre and other local service areas such as the Kingswood Health and Education Precinct as envisaged by Council's local planning policies.

Section 79C(1)(c) The suitability of the site for the development

The subject site is deemed suitable for the development for the following reasons:

- There is a legal point of discharge for stormwater generated by the proposed development.
- The amended design of the development is consistent with the existing and desired future character of the area.

Section 79C(1)(d) Any Submissions

Community Consultation

In accordance with DCP 2014 the proposed development was notified to nearby and adjoining residents, advertised in the local newspaper and placed on public exhibition for a period of 14 days. Council received three (3) submissions in response to this process.

Submissions

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

Issue Raised	Comments
Fencing Type	Details of the fencing type proposed will be required as a consent condition. The fence type will be required to be consistent with Council's controls for fences for Residential Flat Buildings and no taller than 2.2m above natural ground level, and stepped, given it is a sloping site.
Damage to Existing Fences	If any fencing is damaged during construction, a recommended condition will ensure that the fence shall be reinstated by the persons having the benefit of the consent at their full expense.
Balconies overlooking neighbours	Along the side facades, there are no windows or balconies which will result in visual privacy impacts on the adjoining sites, given that they are all setback at least 6m from the boundaries. In addition, a recommended condition of consent will require screening to be provided to these windows and additional landscaping where possible to further ameliorate any potential privacy impacts.
Extent of lighting impacts from security lighting	A recommended condition of consent will ensure that, prior to the issue of an Occupation Certificate, a lighting system shall be installed for the development to provide uniform lighting across common areas and driveways. Exterior lighting shall be located and directed in such a manner so as not to create a nuisance to surrounding land uses. The lighting shall be the minimum level of illumination necessary for safe operation. The lighting shall be in accordance with AS 4282 "Control of the obtrusive effects of outdoor lighting" (1997).
Traffic impacts	Although the proposal will generate additional traffic given the density of development proposed, the proposal was reviewed by Council's Traffic Engineer and found to have an acceptable level of traffic impact on the surrounding road network. The on-site car parking proposed by the development meets the requirements of Penrith DCP 2014. Given this, it is unlikely that the development will unreasonably impact on on-street parking in the locality.

A letter in response to the issues raised was sent to the submitters on 7/11/16 advising of the consideration given to their concerns.

Referrals

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

Referral Body	Comments Received
Development Engineer	No objections - subject to conditions
Environmental - Waterways	No objections - subject to conditions
Waste Services	No objections - subject to conditions
Traffic Engineer	Not supported

Traffic Engineer

The proposed development originally provided a reverse in waste collection bay and basement garbage room with a single chute above serving all levels of the development. However, this failed to comply with Council's requirements that access and egress to the development be in a forward direction.

The amended proposal includes the provision of an on-site turntable for garbage and removalist vehicle access.

Council's Traffic Engineers noted that, while the proposal for on-site waste collection is desirable, there is potential for conflict with other vehicles, especially at the site of the turntable at the entry to the basement ramp. Therefore, they advised the current design cannot be supported due to the likely vehicular conflict and manoeuvrability issues and vehicles being likely to queue onto Derby Street while the turntable is in use.

However, subsequently an internal meeting was held with Council's Executive Manager where interpretations of the DCP's waste chapter were discussed. It is considered that the turntable can be accepted given that sufficient manoeuvring area on-site does allow collection vehicles to enter and leave the site in a forward direction and service the development efficiently with little need to reverse as is required by the DCP. Additionally, as shown on the swept path analysis submitted, the proposed traffic control measures will allow potential conflicts to be minimised.

It is noted that Council's Traffic Engineers did not raise objection to the proposal on any other relevant grounds, such as in relation to traffic generation or car parking. During the process of the review, the number of parking spaces has reduced from 81 to 78, which is 3 spaces short of what is required for this development. However, the 2 services bays and 2 car wash bay required can be shared with visitor spaces, and therefore the proposed parking arrangement is still considered worthy of support. It was also noted that unrestricted on-street parking is available at the site frontage, as indicated by Council's Traffic Engineer in the original referral comments for DA16/0137.

Section 79C(1)(e) The public interest

The proposed development is in the public interest as it now sets a desirable precedent for development in the locality in accordance with the desired future character of the area while mitigating adverse impacts on residential amenity.

Section 94 - Developer Contributions Plans

The following Section 94 plans apply to the site:

- Section 94 - District Open Space Facilities
- Section 94 - Cultural Facilities
- Section 94 - Penrith City Local Open Space

The following Section 94 calculations apply to the proposed development.

Residential Flat Building - 61 units					
<i>Open Space</i>					
No. of units	x	Rate	-	Credit for existing dwelling/s	Contribution rate
61	x	2	-	9.3	112.7
<i>City Wide</i>					
No. of units	x	Rate	-	Credit for existing dwelling/s	Contribution rate
61	x	2.4	-	9	137.4
AMOUNT					
S.94 Contribution Plan		Contribution Rate x Calculation Rate			Total
District Open Space		112.7 x \$1869.00			\$210, 636.00
Local Open Space		112.7 x \$676.00			\$76, 185.00
Cultural Facilities		137.4 x \$150.00			\$20, 610.00
		NET TOTAL			\$307, 431.00

Conclusion

Subject to the recommended conditions of consent the proposal is considered to be consistent with the relevant sections of the Environmental Planning and Assessment Act 1979, relevant State Environmental Planning Policies, the relevant Local Environmental Plan and the Penrith Development Control Plan 2014 because it does not contravene any development standards and will not result in any significant impacts on the natural, social or economic environments.

The site is suitable for the proposed development, the proposal does not conflict with the public interest and there is unlikely to be negative impacts arising from the proposed development. Accordingly, the application is worthy of support and is recommended for a deferred commencement approval given the owner's consent provided from the adjoining downstream property in relation to the proposed drainage easement is conditional.

Recommendation

1. That the submitted Clause 4.6 variation to the height of buildings standard under Clause 4.3 of the Penrith LEP 2010 be supported.
2. That the Section 82A review to DA16/0137.01 for a residential flat building at 115-119 Derby Street, Penrith be approved subject to a deferred commencement consent and the attached conditions.

CONDITIONS

General

1 A001

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

Drawing	Drawing No./Revision	Project No.	Prepared By	Dated
Site Plan, as amended by Ground Floor Plan, dated 04/10/16	A105 (D)	15035-06	CK Design	04/10/2016
Streetscape Elevation	A104 (C)	15035-06	CK Design	05/06/16
Ground Floor	A108 (D)	15035-06	CK Design	04/10/2016
Level 1	A109 (E)	15035-06	CK Design	-
Level 2	A110 (E)	15035-06	CK Design	-
Level 3	A111 (E)	15035-06	CK Design	-
Level 4	A112 (D)	15035-06	CK Design	04/10/2016
Level 5	A113 (D)	15035-06	CK Design	04/10/2016
Proposed Basement 2	A106 (D)	15035-06	CK Design	04/10/2016
Proposed Basement 1	A107 (E)	15035-06	CK Design	-
Roof Plan	A114 (C)	15035-06	CK Design	05/06/16
North Elevation	A115 (C)	15035-06	CK Design	05/06/16
South Elevation	A116 (C)	15035-06	CK Design	05/06/16
East Elevation	A117 (C)	15035-06	CK Design	05/06/16
West	A118 (C)	15035-06	CK Design	05/06/16
Section	A119 (C)	15035-06	CK Design	05/06/16
Section	A120 (D)	15035-06	CK Design	04/10/16
Section	A121 (C)	15035-06	CK Design	05/06/16
Waste Management Plan	-	-	Chris Khoury	24/04/15
Stormwater Details, as amended by Basement Plan 2, A107 (E), Date 5	Revision F, Sheets 1 to 7	7604	Natasi & Associates	10/10/16
Landscape Plan	L-01, Issue A	3958a	Ray Fuggle Associates	10/12/15

- 2 **A008 - Works to BCA requirements (Always apply to building works)**
All 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}.
- 3 **A014 - LOT CONSOLIDATION**
Lots 5, 6 and 7 in Deposited Plan 24603 are to be consolidated as one lot. A copy of the registered plan of consolidation from the Land and Property Information division of the Department of Lands is to be submitted to the Principal Certifying Authority (PCA) and Penrith City Council, if Council is not the PCA, **prior to the issue of the Occupation Certificate** for the development.
- 4 **A019 - OCCUPATION CERTIFICATE (ALWAYS APPLY)**
The development shall not be used or occupied until an Occupation Certificate has been issued.
- 5 **A038 - LIGHTING LOCATIONS**
Prior to the issue of an Occupation Certificate, a lighting system shall be installed for the development to provide uniform lighting across common areas and driveways. Exterior lighting shall be located and directed in such a manner so as not to create a nuisance to surrounding landuses. The lighting shall be the minimum level of illumination necessary for safe operation. The lighting shall be in accordance with AS 4282 "Control of the obtrusive effects of outdoor lighting" (1997).
- 6 **A039 - Graffiti**
The finishes of all structures and buildings are to be maintained at all times and any graffiti or vandalism immediately removed/repaired.
- 7 **A046 - Obtain Construction Certificate before commencement of works**
A **Construction Certificate** shall be obtained prior to commencement of any building works.
- 8 **A Special**
To preserve visual privacy of the adjoining development and the subject apartments, any balconies and windows that encroach upon the minimum setbacks specified by the Apartment Design Guide, that being 6m up to a height of 4 storeys and 9m above 4 storeys, shall be screened via moveable louvres. Details shall be submitted in this regard **prior to the issue of an Occupation Certificate**.
- 9 **A Special**
A total of 6 accessible dwellings are to be provided in accordance with the requirements of Penrith Development Control Plan 2014. **The Construction Certificate must be accompanied by certification** from a person suitably qualified by the Association of Consultants in Access Australia confirming that the adaptable dwellings are capable of being modified, when required by the occupant, to comply with the Australian Housing Standard (AS 4299- 2009). A Compliance Certificate in this regard shall be provided **prior to the issue of an Occupation Certificate**.
- 10 **A Special**
Prior to the issue of an Occupation Certificate, all balconies on the ground floor along the northern elevation shall be screened by moveable louvres to provide privacy.

11 A Special

Prior to the issue of a Construction Certificate and/or Occupation Certificate, the following Crime Prevention Through Environmental Design measures shall be incorporated into the development:

- 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 (including lift lobbies, stairwells, garbage rooms and storage areas) must be well-lit, with consistent lighting to prevent shadowing or glare.
 - Signage must be in place to clearly identify exit and access points, the location of lifts and stairwells.
 - All surfaces in the car park should be painted in light coloured paint or finished in light coloured concrete to reflect as much light as possible.
- Residential Developments Building Identification Building Security & Access Control**
 - Each building entry should clearly state the unit numbers accessed from that entry.
 - Each individual dwelling should be clearly numbered.
 - Unit numbers should be clearly provided on each level.
 - Intercom, code or swipe card locks or similar must be installed for main entries to buildings including car parks.
 - Main entry doors for apartment buildings should be signed requesting residents to not leave doors wedged open.
 - Australian Standard 220 door and window locks must be installed in all dwellings including doors onto balconies, to minimise the risk of break and enter offences.
 - If security grills are used on windows they should be operable from inside in case of emergencies.
 - Ensure skylights and /or roof tiles cannot be readily removed or opened from outside.
 - Consider monitored alarm systems.
 - CCTV cameras must be provided to public areas of the development. As a minimum, cameras must be positioned to provide coverage of vehicular and pedestrian entry/exit points (including entries/exits to buildings), key thoroughfares and activity nodes as well as all areas of the car park. Signage must be provided to indicate that CCTV cameras are in operation.
- Graffiti/Vandalism**
 - Procedures must be in place to ensure the prompt removal and/or repair of graffiti or vandalism to the buildings, fencing, commercial tenancies and common areas. This includes reporting incidents to police and/or relevant authorities.
 - Graffiti resistant coatings must be used to external surfaces where possible, including signage, furniture, retaining walls, the architectural screen shielding the car park etc.
- Way Finding/Help**
 - Signs should be strategically located at entrances and near activity nodes such as intersections of corridors or paths.
 - Signs should indicate how to report maintenance problems in the complex.
 - Signs throughout the development should be large and legible, and strong colours, standard symbols and simple graphics. They should indicate where to go for help or assistance.
- Fencing**
 - Front fences should preferably be no higher than 1.2 metres. Where a higher fence is proposed, it will only be considered if it is constructed of open materials e.g. spaced pickets, wrought iron etc.
 - Fence design to the ground floor units should maximise natural surveillance from the street to the building and from the building to the street, and minimise the opportunities for intruders to hide.

12 A Special

Any plant or unsightly structures installed on the external facades or rooftop must be screened from view.

13 A Special

In order to protect the visual privacy of the adjoining properties, a 500mm screen shall be provided on top of the northern, eastern and western boundary fences. Details of compliance in this regard shall be provided to the Certifying Authority **prior to the issue of an Occupation Certificate**.

14 [A Special \(Design Verification Statement CC\)](#)

Prior to the issue of a Construction Certificate, a design verification statement from a qualified designer shall be submitted. The design verification statement shall verify that the Construction Certificate plans and specifications achieve or improve the design quality of the development for which development consent was granted, having regard to the design quality principles set out in Schedule 1 of State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development.

15 [A Special \(Design Verification Statement OC\)](#)

Prior to the issue of an Occupation Certificate, a design verification statement from a qualified designer shall be submitted. The design verification statement shall verify that the development achieves the design quality shown in the approved Construction Certificate plans and specifications, having regard to the design quality principles set out in Schedule 1 of State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development.

16 [A Special \(Waste Room Requirements\)](#)

Prior to the issue of a Construction Certificate, details of all proposed fencing and retaining walls are to be provided to Penrith Council for approval. The fence type shall be consistent with the controls for fences for residential flat buildings, as outlined in Penrith Development Control Plan 2014. Front fencing shall be substantially in accordance with the streetscape elevation on the site analysis drawn by CK Design, reference no. A104(C), dated 15/06/16.

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

Prior to the issue of a Construction Certificate, the Certifying Authority shall ensure that a draft operation and maintenance plan is prepared and submitted for all stormwater treatment measures as part of the treatment train. The plan must include details on the cleaning/maintenance requirements of the proposed treatment measures as well as detail on how this will be managed (nominate who will be responsible).

Prior to the issue of a Construction Certificate, the Certifying Authority is to ensure appropriate access for ongoing cleaning and maintenance of the Stormfilter device is provided and clearly indicated on the detailed design plans.

Demolition

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

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

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

19 [B003 - ASBESTOS](#)

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

Prior to commencement of demolition works on site, a 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 Environmental Protection Authority to receive asbestos wastes.

20 [B004 - Dust](#)

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

21 B005 - Mud/Soil

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

22 B006 - Hours of work

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 and 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.

Environmental Matters

23 D001 - Implement approved sediment& erosion control measures

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

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

24 D007 - Cut and fill of land requiring Validation Certificate –limited to footprint

Cut and fill operations on the property are only permitted in conjunction with the building works as detailed on the approved plans and specifications, and shall not extend more than 2 metres past the defined building footprint.

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

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

{Note: Penrith Contaminated Land Development Control Plan defines an appropriately qualified person as "a person who, in the opinion of Council, has a demonstrated experience, or access to experience in hydrology, environmental chemistry, 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."}

25 D009 - Covering of waste storage area

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

26 D010 – Appropriate disposal of excavated or other waste

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

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

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

27 **D020 - Vehicle wash bay**

All vehicle washing, engine degreasing and steam cleaning shall be conducted in a wash bay and shall be installed and connected to the sewer in accordance with Sydney Water's requirements.

Details of the vehicle wash bay including the Section 73 Certificate issued by Sydney Water for the discharge of trade waste from the premises shall be submitted to the Principal Certifying Authority before the wash bay can be installed.

28 **D Special (BLANK)**

Should any "unexpected finds" occur during site excavation and earthworks including, but not limited to, the identification/finding of contaminated soils, buried building materials, asbestos, odour and/or staining, works on the site are to cease immediately and Council is to be notified. Any such "unexpected finds" shall be investigated and addressed by an appropriately qualified environmental consultant, in line with the relevant EPA Guidelines and the National Environment Protection (Assessment of Site Contamination) Measure 2013.

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

29 **D Special BLANK**

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

30 **D Special BLANK**

Prior to the issue of a Construction Certificate, revised basement plans must be submitted to, and approved by, Council's Waste Services Department with the following revisions:

- The chute room located in the basement must allow for a minimum 900mm clearance around the carousel system on the southern aspect and a minimum 900mm clearance on the western aspect of the room for maintenance and accessibility.
- The chute room is to provide a single 900mm door access which permits unobstructed access to the chute room and roller shutter door.
- The loading dock located in the basement is to be built to a width of 5600mm that is unobstructed and level. This will allow for adequate clearance for truck manoeuvres and bin collection.
- The loading dock is to provide a 12.5m long unobstructed loading bay that can accommodate Council's Heavy Rigid vehicle. Bollards are to be installed behind the vehicle to separate the 12.5m loading bay from the ramp to Basement 2.
- The bin storage room located in the basement is to provide a 900mm door access that does not obstruct access to the chute room doorway. This door will allow access to the 2500mm roller shutter door.
- The bulky household's goods room is to provide a total storage area of 10 square metres that excludes areas required for swing door operations. A minimum 1.8m internal room width is required for the storage of goods.
- The bulky household's goods room is to provide suitable door access with a minimum 1800mm diameter. The doors will need to incorporate an abloy key locking system.
- The basement is to incorporate adequate exhaust fans to service the emission produced during collection operations of Council's Heavy Rigid Vehicle. The vehicles require high revs to operate the mechanical lift arms during collection.

31 **D Special BLANK**

Prior to the issue of an Occupation Certificate, the developer is to enter into a formal agreement with Penrith City Council for the utilization of Council's Waste Collection Service. This is to include Council being provided with indemnity against claims for loss or damage.

Note: By entering into an agreement with Council for waste collection, the development will be required to operate in full compliance with Penrith City Council's Waste Collection and Processing Contracts for Standard Waste Collection. The provision of Council's waste collection service will not commence until formalisation of the agreement.

BCA Issues

32 E009 - Annual fire safety-essential fire safety (Class 2-9 buildings)

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

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

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

As soon as practicable after the annual fire safety statement is issued, the owner of the building to which the statement relates:

- must also provide a copy of the statement (together with a copy of the current fire safety schedule) to the Commissioner of New South Wales Fire Brigades, and
- prominently display a copy of the statement (together with a copy of the current fire safety schedule) in the building.

33 E01A - BCA compliance for Class 2-9

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

- (a) complying with the deemed to satisfy provisions, or
- (b) formulating an alternative solution which:

- complies with the performance requirements, or
- is shown to be at least equivalent to the deemed to satisfy provision, or
- (c) a combination of (a) and (b).

It is the owner's responsibility to place on display, in a prominent position within the building at all times, a copy of the latest fire safety schedule and fire safety certificate/statement for the building.

Health Matters and OSSM installations

34 F006 - Water tank & nuisance

The rainwater tank must be maintained so as not to create a nuisance and it must be protected against mosquito infestation.

Utility Services

35 G002 - Section 73 (not for

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

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

36 G004 - Integral Energy

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

Prior to the issue of a Construction Certificate, details of any required electrical substation location and electrical authority's requirements in relation to the substation shall be submitted to Council for approval. The location of the substation shall not impact on other services or the building, driveway or landscape design approved by Council. Subject to Endeavour Energy's requirements, the location of the substation shall be integrated with the built form to reduce visual impacts on the streetscape.

37 **G006 -**

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

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

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

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

38 **G Special (BLANK)**

Prior to the issue of a Construction Certificate, the location and position of any required fire hydrants and boosters shall be submitted to and approved by Council. The location of these service requirements shall be integrated with the built form to reduce visual impacts along the street frontages.

Construction

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

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

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

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

Signage but no more than 2 signs stating the above details 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.

40 H002 - All forms of construction

Prior to the commencement of construction works:

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

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

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

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

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

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

41 H029 – Ventilation equipment

Prior to the issue of a Construction Certificate, all mechanical ventilation equipment, ducts, air conditioner services and the like shall be shown on the Construction Certificate documentation as contained within the building. These services shall not be visible from any public location along Derby Street.

Any downpipes or stormwater pipes shall be integrated and blend with the architecture of the building.

42 H032 - Painting

Prior to the issue of an Occupation Certificate, the building is to be painted internally and externally in accordance with the approved colour schedule.

43 H033 – Clothes line

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

44 H036 - Rainwater Tank (Also impose H037, H038, H039, G005 & Q010)

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 an Occupation Certificate**.

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

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

- roof catchment areas must be kept clear of overhanging vegetation,
- gutters must have sufficient fall to downpipes to prevent pooling of water,
- overflow, discharge from bleed off pipes from roof mounted appliances such as 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.

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

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

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

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

48 [H041 - Hours of work \(other devt\)](#)

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

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

Other construction works carried out inside a building/tenancy that does 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.

49 [H Special \(BLANK\)](#)

Prior to the issue of a Construction Certificate, the developer shall obtain a Geotechnical Report to determine any construction requirements for the excavation of the basement car park.

Engineering

50 [K101 - Works at no cost to Council](#)

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

51 [K201 - Infrastructure Bond](#)

An Infrastructure Restoration Bond is to be lodged with Penrith City Council for development involving works around Penrith City Council's Public Infrastructure Assets. The bond is to be lodged with Penrith City Council prior to the issue of any Construction Certificate. 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 4732 7777 or visit Penrith City Council's website for more information.

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

Prior to the issue of any Construction Certificate, a Section 138 Roads Act applications, including payment of application and inspection fees, shall be lodged and approved by Penrith City Council (being the Roads Authority for any works required in a public road). These works may include but are not limited to the following:

- a) Vehicular crossings (including kerb reinstatement of redundant vehicular crossings)
- b) Concrete footpaths and or cycleways
- c) Road opening for utilities and stormwater (stormwater connection to the existing kerb inlet pit in Hope Street, Penrith)
- d) Road occupancy or road closures
- e) The placement of hoardings, structures, containers, waste skips, signs, etc in the road reserve
- f) Temporary construction access

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

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

Note:

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

53 **K205 - S68 Local Government Act – Stormwater drainage works CIVIL CONSTRUCTION IN LOTS**

Prior to the issue of a 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 stormwater drainage works from the proposed development (115-119 Derby Street), through Lot 100 DP 791049, to connect into the existing kerb inlet pit in Hope Street.

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 or Subdivision Certificate as applicable.

54 **K210 - Stormwater Management**

The stormwater management system shall be provided generally in accordance with the concept plan/s lodged for development approval, prepared by Natasi & Associates, reference number 7604, revision F, dated 10/10/16.

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

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

55 **K211 - Stormwater Discharge – Basement Car parks**

Prior to the issue of a Construction Certificate, the Certifying Authority 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 3500.3:2015 (Plumbing and Drainage – Stormwater Drainage).

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

Prior to the issue of a 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 2014.

57 **K301 - Sediment & Erosion Control**

Prior to commencement of any works associated with the development, sediment and erosion control measures shall be installed in accordance with the approved Construction Certificate and to ensure compliance with the Protection of the Environment Operations Act 1997 and Managing Urban Stormwater series from the Office of Environment and Heritage.

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

58 **K302 - Traffic Control Plan**

Prior to commencement of any works associated with the development, a Traffic Control Plan including details for pedestrian management shall be prepared in accordance with AS 1742.3 "Traffic Control Devices for Works on Roads" and the Roads and Maritime Service's 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:

1. A copy of the Traffic Control Plan shall accompany the Notice of Commencement to Penrith City Council.

59 **K405 - Turf to Verge**

Upon completion of all works in the road reserve all verge areas fronting and within the development are to be turfed. The turf shall extend from 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.

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

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

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

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

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

62 K504 - Stormwater Compliance

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

- a) Stormwater management system (including on-site detention and water sensitive urban design)
 - Has been satisfactorily completed in accordance with the approved Construction Certificate and the requirements of this consent.
 - Has 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.

63 K505 - Restriction as to User and Positive Covenant

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

- a) Stormwater management system (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 for Building Development.

64 K601 - Stormwater Management system operation and maintenance

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.

65 K Special (BLANK)

A total of 78 off-street parking spaces are to be provided, line marked and maintained for the development, in accordance with the stamped approved plans. The parking space dimensions and manoeuvring areas are to comply with AS 2890.1 and AS 2890.2, the Building Code of Australia and the Commonwealth Disability Discrimination Act.

Of the 78 spaces, 6 accessible car parking spaces are to be provided in accordance with AS 1428.1.

Parking is to be allocated to each unit and the development in accordance with the car parking rates specified in Chapter C10 Transport, Access and Parking of Penrith Development Control Plan 2014 and the information submitted as part of DA16/0137.01.

66 K Special (BLANK)

The subleasing of car parking spaces is not permitted or endorsed by this consent.

67 K Special (BLANK)

Prior to the issue of an Occupation Certificate, secure bicycle parking is to be provided in accordance with AS 2890.3:2015 Bicycle Parking Facilities.

Landscaping

68 L001 - General

All landscape works are to be constructed in accordance with the stamped approved plan and Landscape Design section of Penrith Council's 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.

All trees approved by Council for removal shall be removed in a manner so as to prevent damage to those trees that are to be retained

69 [L002 - Landscape construction](#)

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

70 [L003 - Report requirement](#)

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

i. Implementation Report

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

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

ii. Maintenance Report

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

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

71 [L005 - Planting of plant](#)

All plant material associated with the construction of approved landscaping is to be planted in accordance with the Landscape Design Section of Penrith Development Control Plan 2014.

72 [L006 - Aust Standard](#)

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

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

73 [L007 - Tree protection measures – no TMP with DA](#)

All trees that are required to be retained as part of the development are to be protected in accordance with the minimum tree protection standards prescribed in Penrith's Development Control Plan 2014, the arborist's report recommendations, prepared by Mackay Tree Management, dated 14/12/15, and in accordance with AS 4970 -2009 Protection of Trees on Development Sites.

74 [L008 - Tree Preservation Order](#)

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

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

Prior to the issue of an Occupation Certificate, at least 11 suitable replacement tree/s (preferably native trees) capable of and nurtured to grow to about 10m in height at maturity, must be planted in suitable locations within the property, and, in particular, not be planted closer than 2 metres to any building.

Development Contributions

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

This condition is imposed in accordance with Penrith City Council's Section 94 Contributions Plan for District Open Space. Based on the current rates detailed in the accompanying schedule attached to this Notice, \$210,636 is to be paid to Council **prior to a Construction Certificate being issued** for this development (the rates are subject to quarterly reviews). If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted Section 94 plan. The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule.

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

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

This condition is imposed in accordance with Penrith City Council's Section 94 Contributions Plan Local Open Space. Based on the current rates detailed in the accompanying schedule attached to this Notice, \$76,185 is to be paid to Council **prior to a Construction Certificate being issued** for this development (the rates are subject to quarterly reviews). If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted Section 94 plan. The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule.

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

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

This condition is imposed in accordance with Penrith City Council's Section 94 Contributions Plan Cultural Facilities. Based on the current rates detailed in the accompanying schedule attached to this Notice, \$20,610 is to be paid to Council **prior to a Construction Certificate being issued** for this development (the rates are subject to quarterly reviews). If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted Section 94 plan. The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule.

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

Payment of Fees

79 **P001 - Costs**

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

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

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

Certification

81 **Q006 - Occupation Certificate (Class 2 - 9)**

An Occupation Certificate is to be obtained from the Principal Certifying Authority on completion of all works and **prior to the occupation of the residential flat building**. The Occupation Certificate shall not be issued if any conditions of this consent, but not the conditions relating to the operation of the development, are outstanding, and the development does not comply with the provisions of the Environmental Planning and Assessment Act and Regulation.

Before the Occupation Certificate can be issued for the development, Fire Safety Certificates issued for the building are to be submitted to Penrith City Council and the New South Wales Fire Brigades.

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

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

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

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

The Principal Certifying Authority shall submit to Council an "Appointment of Principal Certifying Authority" in accordance with Section 81A of the Environmental Planning and Assessment Act 1979.

Information to accompany the Notice of Commencement

Two (2) days before any earthworks or construction/demolition works are to commence on site (including the clearing site vegetation), the proponent shall submit a "Notice of Commencement" to Council in accordance with Section 81A of the Environmental Planning and Assessment Act 1979.

Schedule 1 (Deferred Commencement)

83 S Special (Deferred commencement condition)

A.	An unconditional letter is to be submitted from the owner's of the adjoining downstream properties in relation to the proposed drainage plan and drainage easement. A copy of the unconditional letter shall be submitted to Penrith City Council prior to the consent becoming operational.
B.	An easement for drainage and overland flow shall be provided over Lot 100 DP 791049 pursuant to Section 88E of the Conveyancing Act 1919. Evidence of registration of the easement with Land and Property Information (LPI) shall be submitted to Penrith City Council. The easement width shall be in accordance with Penrith City Council's adopted Design Guidelines.
C.	Revised stormwater concept plans shall be submitted to Penrith City Council for approval. The plans shall consider emergency overflows from the on-site detention system in the instance of system failure and shall demonstrate that the downstream existing pipeline located within the registered easement over Lot 100 DP1049487 has adequate capacity to convey the 100 year ARI stormwater flows. Should the existing stormwater infrastructure within registered easement Lot 100 DP1049487 have inadequate capacity, the system shall be upgraded. All stormwater drainage shall be in accordance with Penrith City Council's Stormwater Guidelines for Building Developments (Working Draft) Policy.
D	A valid BASIX Certificate is to be provided, that is a certificate lodged to Council within 3 months of the date of issue.
NOTE:	The above matters must be completed within 18 months from the date of this consent or this consent shall lapse.

Appendix - Development Control Plan Compliance

Development Control Plan 2014

Part C - City-wide Controls

C5 Waste Management

The proposed development originally provided a reverse in waste collection bay and basement garbage room with a single chute above serving all levels of the development. However, this failed to comply with Council's requirement's that access and egress to the development be in a forward direction.

The amended proposal includes the provision of an on-site turntable for garbage and removalist vehicle access.

Council's Traffic Engineers noted that, while the proposal for on-site waste collection is desirable, there is potential for conflict with other vehicles, especially at the site of the turntable at the entry to the basement ramp. Therefore, they advised the current design cannot be supported due to the likely vehicular conflict and manoeuvrability issues and vehicles being likely to queue onto Derby Street while the turntable is in use.

However, subsequently an internal meeting was held with Council's Executive Manager where interpretations of the DCP's waste chapter were discussed. It is considered that the turntable can be accepted given that sufficient manoeuvring area on-site does allow collection vehicles to enter and leave the site in a forward direction and service the development efficiently with little need to reverse as is required by the DCP. Additionally, as shown on the swept path analysis submitted, the proposed traffic control measures will allow potential conflicts to be minimised.

In addition, the original proposal did not provide an adequate number of bins, nor an adequate waste storage area. However, the proposal has been amended. The configuration of the waste room still remains problematic in relation to manoeuvrability given the inward swinging doors and the absence of a roller door for the bulky waste area, however a recommended condition of consent will require a revised basement plan to provide a compliant proposal with adequate clearances and adequate doorways.

Subsequently, the amended proposal complies with the requirements of Part C5 of DCP 2014.

C10 Transport Access and Parking

As the required amendments to the waste management area dimensions in the basement will affect the existing aisle width of the vehicular access way, the design was amended so that the vehicular access way was relocated to an area with adequate width. This will allow the area directly east of the existing waste storage area to be reserved as additional space for the waste storage rooms to provide adequate manoeuvrability and allow pedestrian access from the bulky waste area to the loading bay, without conflict from oncoming traffic.

The three spaces to be deleted with this revised configuration (the car wash bay and service spaces) will be provided in a shared configuration with the visitor car spaces. This amended proposal is considered satisfactory given that the proposal consists of 78 spaces, which is only 2 spaces less than the original proposal, however this facilitates an acceptable waste collection outcome and is considered a negligible tradeoff for public benefit. These amendments will be added in red on the stamped approved plans.

D2 Residential Development

D2.5 Residential Flat Buildings

D2.5.18 Fences and Retaining Walls

This section outlines that retaining walls should be no higher than 500 mm. The proposed development requires retaining walls 1.4 m in height at the south-eastern corner of the site to cut into the site and provide for a completely flat development pad. As part of the original proposal, it was noted that the proposed cutting did not go far to address the slope of the land as it resulted in ground floor units at the north-western corner being elevated off ground level by 1.75m. However, the revised proposal has included further landscape detail at the north-western corner where the basement car park protrudes by 1.75m to articulate the protruding wall and also provide screening between the common open space and the private open space. A recommended condition of consent will require the balconies along the northern elevation to be constructed of materials that provide appropriate privacy up to head height, rather than the proposed glazed balconies.

D2.5.20 Accessibility and Adaptability

A total of 6 accessible dwellings are to be provided in accordance with the requirements of Penrith Development Control Plan 2014. Six units have been shown with adaptable floor plans and these units are to be allocated the 6 accessible parking spaces within the basement car park. A recommended condition of consent will require the Construction Certificate to be accompanied by certification from a person suitably qualified person confirming that the adaptable dwellings are capable of being modified, when required by the occupant, to comply with the Australian Housing Standard (AS 4299- 2009). A Compliance Certificate in this regard shall be provided prior to the issue of an Occupation Certificate.