

PENRITH CITY COUNCIL

MAJOR ASSESSMENT REPORT

Application number:	DA20/0598
Proposed development:	Demolition of Existing Structures & Torrens Title Subdivision x 4 Lots
Property address:	26 Paskin Street, KINGSWOOD NSW 2747 23 Second Avenue, KINGSWOOD NSW 2747
Property description:	Lot 13 DP 975378 Lot 1 DP 530541
Date received:	17 September 2020
Assessing officer	Sufyan Nguyen
Zoning:	SEPP WSA - Affected by Obstacle Limitation SEPP WSA - Affected by Wildlife Buffer Zone Zone R3 Medium Density Residential - LEP 2010
Class of building:	N/A
Recommendations:	Approve

Executive Summary

Council is in receipt of development application for demolition of existing structures and torrens title subdivision x 4 lots at 26 Paskin Street and 23 Second Avenue, Kingswood. The subject site is zoned R3 Medium Density Residential under Penrith Local Environmental Plan 2010. The development proposal is permissible with Council consent.

The key issues identified and addressed as part of the assessment of the proposal were in regard to the following matters:

- The subject site not being nominated on Council's minimum subdivision lot size map;
- Demonstrating that the proposed lots are appropriate lot sizes and dimensions by way of indicative building footprints for each lot;
- Unauthorised land fill on site;
- Stormwater drainage and flooding concerns;
- Requirement for a drainage easement along the rear of the site; and
- Tree impacts.

The application was notified to nearby and adjoining property owners and occupiers and publicly exhibited for a period of 14 days in accordance with Council's adopted Community Engagement Strategy and Participation Plan 2019. During this exhibition period, no public submissions were received in response.

An assessment under Section 4.15 of the Environmental Planning and Assessment Act 1979 (the Act) has been undertaken and the application is recommended for approval, subject to recommended conditions, including the registering of an easement for drainage and overland flow with a minimum 2.5m wide in Lot 25 DP 1069009 and the associated civil works.

Site & Surrounds

The subject site has a property address of 26 Paskin Street and 23 Second Avenue Kingswood. and is legally described as as Lot 13 Sec 4 DP 975378 and Lot 1 DP 53054123. Both lots are rectangular in shape and form a reverse L-shaped allotment. Lot 13 Sec 4 DP 975378 (26 Paskin Street) is orientated on an east/west direction with a west-facing frontage of 20.12m and a south-facing secondary frontage (depth) of 50.29m. Lot 1 DP 53054123 (23 Second Avenue Kingswood) is orientated on a north/south direction with a south-facing frontage of 16.76m and a east-facing side boundary (depth) of 60.35m and a northern boundary of 16.76m, which both adjoin a public reserve. The remaining inner-western side boundary and inner northern rear boundary adjoin neighbouring residential properties (22-24a Paskin Street).

The site currently contains two existing single dwellings and a secondary dwelling. The site is affected by a slope of up to approximately 2m, which generally falls in a north-east direction and it is noted that majority of the site is affected overland flow flooding.

The surrounding area is characterised by a mix of detached single storey dwellings to multi dwelling housing and boarding houses, with the locality currently transitioning to medium density development. Western Sydney University Penrith Campus (Kingswood WSU) is located approximately 575m south-eastwards from the site and Nepean Hospital is 910m north-westwards. Available public transport modes include the nearest bus stops located 110m south-westwards and Kingswood Station 528m north-westwards.

Proposal

The applicant seeks approval for torrens title subdivision x 4 lots at 26 Paskin Street and 23 Second Avenue, Kingswood. The proposal includes the demolition of existing structures and tree removal.

The proposed four lot torrens title subdivision seeks to create the following:

- Lot 1: 263m² - Corner lot with a 20.115m western side boundary to Paskin Street, a 13.055m southern boundary to Second Avenue with a south-western splay corner;
- Lot 2: 241.4m² - 12m south-facing frontage to Second Avenue and a depth of 20.115m;
- Lot 3: 241.4m² - 12m south-facing frontage to Second Avenue and a depth of 20.115m; and
- Lot 4: 1,277m² - Reverse L-shaped lot with a 30m south-facing frontage to Second Avenue, western side boundary (depth) of 60.35m, northern boundary of 16.765 (adjoining a public reserve), inner western side boundary of 40.235 (adjoining two neighbouring residential properties (22-24a Paskin Street), inner northern boundary of 13.2m (adjoining 24 Paskin Street) and western boundary of 20.115m (adjoining proposed Lot 3 on 26 Paskin Street);

Plans that apply

- Local Environmental Plan 2010
- Development Control Plan 2014
- State Environmental Planning Policy (Western Sydney Aerotropolis) 2020
- State Environmental Planning Policy No 55—Remediation of Land
- Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

Planning Assessment

• Section 4.15 - Evaluation

The proposal has been assessed in accordance with the matters for consideration under Section 4.15 of the Act, and having regard to those matters, the following issues have been identified for further consideration.

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

State Environmental Planning Policy (Western Sydney Aerotropolis) 2020

State Environmental Planning Policy (Western Sydney Aerotropolis) 2020 (SEPP WSA) contains a map that relates to wildlife buffer areas and air space operations for the airport. The map titled the "Wildlife Buffer Zone Map" shows that the subject site is within a 13 kilometre 'wildlife buffer zone' of the Western Sydney Airport site. The Obstacle Limitation Surface Map also shows that the site is within this area

Consideration has been given to Clause 21 of SEPP WSA and the proposed development. The objective of Clause 21 is to regulate development on land surrounding the Western Sydney Airport site where wildlife may present a risk to the operation of the airport. Certain types of development then trigger the requirements for further consideration under Clause 21. The proposal is not one of the types of uses that warrant additional consideration under SEPP WSA with regard to wildlife and the operation of the airport.

Clause 24 of SEPP WSA relates to development that would penetrate the prescribed air space for the airport and be a 'controlled activity'. The proposed development neither penetrates the prescribed air space, nor is it a controlled activity, therefore not triggering any additional considerations under this clause.

State Environmental Planning Policy No 55—Remediation of Land

State Environmental Planning Policy No. 55—Remediation of Land (SEPP 55) provides aims to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment. Under Clause 7 of SEPP 55, it must be considered as to whether the land is contaminated, and if so, Council must be satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which development is proposed to be carried out.

In this regard, Council received a complaint on 6 August 2020 in regard to potential unauthorised fill being imported onto the property (23 Second Av, Kingswood) and a review of historic aerial photographs of the site identifies numerous piles of material in the north-eastern portion of the property (Source: Nearmap, dated 1 October 2020). Council's Compliance Unit undertook an investigation of the site (investigation reference number: DC20/0655), which resulted in issuing a clean up notice.

The applicant subsequently commissioned soil testing and two Excavated Natural Materials Assessments prepared by BHM Geological (dated 26 August and 15 September 2021, ref GAC 2099-AA Rev. 0 and GAC 2099-AB Rev. 0), which observed foreign material including concrete, brick and glass and no potential asbestos containing material. The assessment states that material imported onto the subject property was not suitable for the proposed land use has since been removed from the site and disposed of at a lawful waste facility. The excavated natural material assessment concludes that *"the subject stockpiled mulch material has been effectively removed from the site and has not impacted upon underlain soils"*. In addition, a material clearance certificate and an assurance certificate of secure burial was issued by SUEZ Recycling and Recovery Pty/Ltd, dated 8 September 2021, Weighbridge Ticket No. ED170114756.0 (6.84 tonnes). As such, the site is considered to be suitable for the proposed use, subject to appropriate conditions of consent being imposed, as endorsed by Council's Senior Environmental Management Officer.

Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

An assessment has been undertaken of the proposal against relevant criteria within Sydney Regional Environmental Plan No. 20—Hawkesbury-Nepean River (No. 2—1997) which aims to protect this river system.

The nature and scope of the development proposal is minor in scale. Subject to recommended conditions of consent in relation to construction management and ongoing stormwater management, the proposal is not considered likely to adversely impact on the Hawkesbury-Nepean catchment.

Local Environmental Plan 2010

Provision	Compliance
Clause 1.2 Aims of the plan	Complies
Clause 2.3 Permissibility	Complies
Clause 2.3 Zone objectives	Complies
Clause 2.6 Subdivision - consent requirements	Complies
Clause 2.7 Demolition requires development consent	Complies
Clause 4.1 - Minimum subdivision lot size	Does not comply - See discussion
Clause 5.21 Flood planning	Complies - See discussion
Clause 7.7 Servicing	Complies

Clause 4.1 - Minimum subdivision lot size

Council's minimum lot size map does not nominate a minimum subdivision lot size for the subject site. However, the immediate surrounding lots opposite Second Avenue to the south are subject to a minimum 400m² subdivision lot size provision. While so, there is no minimum lot size applicable to the proposal, a 6 x townhouses development proposal is currently being assessed on proposed Lot 4 under development application no. DA20/0652, whereby Lot 4 meets the minimum 1,200m² lot size and minimum 22m lot frontage provisions for multi dwelling housing.

It should be noted that the locality is zoned R3 Medium Density Residential whereby the locality is currently transitioning to more dense forms of development in accordance with the R3 zoning. Notwithstanding this, in consideration of the small lot sizes and dimensions for proposed Lots 1-3 (241.4m²-263m²), the applicant provided a concept arrangement plan at the request of Council, which illustrates indicative building envelopes for each proposed Lots 1-3. The building envelopes demonstrate that the proposed lot sizes and dimensions can accommodate single dwellings, which will ultimately present similar to multi dwelling housing developments along the Paskin Street and Second Avenue south-facing frontage.

Moreover, proposed Lots 1-3 will be restricted via a positive covenant by way of a recommended condition of consent, such that these lots will be developed concurrently by a single developer/builder to ensure that the future built forms provide a high level of residential amenity and privacy, in addition to single garages. This will ensure that the future development will be consistent and compatible with the local character and in turn, minimise amenity impacts.

It also noted that the demolition works and the future single dwelling developments will impact on 13 existing trees on site, with two trees being of moderate significance, which display good and health, five trees being exempt species from Council's Tree Preservation Order and the remaining trees being of low retention value. Nevertheless, the tree losses will be offset in the future landscape design for each proposed lot, as detailed in this report.

Clause 5.21 - Flood planning

The subject site is affected by overland flow flooding along some of the north-east and south sections of Lot 1 DP 530541 (23 Second Avenue). Given the minor nature of the development proposal, being a subdivision and associated demolition and civil work, the proposal is not considered to pose any major flooding risk or concerns raised in regard to climate change. In addition, a review of the submitted concept residential plans and the related proposed townhouse development (DA20/0652) indicates that the proposed lots 1-3 have the capacity to accommodate future dwellings with appropriate finished floor levels to meet minimum freeboard requirements, without resulting in unreasonable amenity and privacy impacts.

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

It is noted that both the Draft Environmental SEPP and Draft Remediation Land SEPP are at present applicable to the subject site, but while so, does not affect or alter the recommendations of this report.

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

Development Control Plan 2014

Provision	Compliance
DCP Principles	Complies
C1 Site Planning and Design Principles	Complies
C2 Vegetation Management	Complies - see Appendix - Development Control Plan Compliance
C3 Water Management	Complies
C4 Land Management	Complies
C5 Waste Management	Complies
C10 Transport, Access and Parking	Complies - see Appendix - Development Control Plan Compliance
C11 Subdivision	Complies - see Appendix - Development Control Plan Compliance
C12 Noise and Vibration	Complies
C13 Infrastructure and Services	Complies - see Appendix - Development Control Plan Compliance

Section 4.15(1)(a)(iiia) The provisions of any planning agreement

There are no planning agreements in place, which are applicable to the development proposal.

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

The relevant prescribed conditions of the Regulations, such as the requirement for compliance with the Building Code of Australia (BCA) and fire safety requirements, will be imposed as consent conditions where applicable, as recommended by Council's Building Surveyor. In this regard, the proposal complies with the relevant BCA and fire safety requirements of the Environmental Planning and Assessment Regulation 2000.

In addition, the development application has been notified and publicly exhibited in accordance with the requirements of the Regulations.

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

Under Section 4.15(1)(b) of the Act, consideration must be given to the likely impacts of the development, including environmental impacts on both the natural and built environments, and the social and economic impacts in the locality.

In regards to the context of the locality, the proposed lots have the capacity to provide adequate building footprints to achieve reasonable residential amenity and will in turn, positively contribute to the streetscape with newly designed dwellings. It is noted that 3 of 4 lots are rather small in size, however, the locality is currently transitioning to more medium density development and therefore detached single dwellings situated on narrow lots for Lots 1-3 is consistent with the R3 zoning.

It is noted that all trees on site will be removed during the demolition works due to either some trees being in close proximity to the existing dwelling and structures on site or future building envelopes, or some trees being of low retention value or exempt species, as detailed in the subsequent Arborist's Report provided at the request of Council and in the Appendix of this report. Notwithstanding this, it is also noted that new tree plantings will be provided for future development application/s for the site to positively contribute to the amenity of the locality.

While so, the proposed lots have the capacity to provide adequate servicing, including drainage works and vehicular access and off-street parking, it is considered appropriate that a positive covenant be imposed via a recommend condition of consent, such that Lots 1-3 be development concurrently to ensure that the built forms are designed in response to the constraints of the smaller lots and the surrounding local character. In addition, the single dwellings will be restricting to attached single garages with single driveways fronting Second Avenue to reduce overall hardstand, which will in turn, further reduce visual impacts on the streetscape.

As such, the minor nature of the development is not considered likely to result in any adverse impacts on the surrounding natural and built environments. In terms of any significant socio-economic impacts, the minor scale of the proposal will be of minimal impact on adjoining and surrounding residential properties and the sports field.

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

The site is suitable for the proposed development for the following reasons:

- The development proposal is a permissible land use in the R3 zone;
- The proposal is of a minor nature and scale;
- The proposal will not result in any significant impacts on the surrounding natural or built environments;
- The proposal will have negligible impacts on traffic flows and on-street parking;
- The site has existing connections to sufficient services;
- Majority of the significant trees nominated for removal are in poor condition; and
- The site is in proximity to amenities and recreational activities.

Section 4.15(1)(d) Any Submissions

Community Consultation

In accordance with Council's adopted Community Engagement Strategy and Community Participation Plan 2019, the development application was notified to 22 adjoining and nearby properties and publicly exhibited from 28 September to 12 October 2020. During this exhibition period, no public submissions were received in response.

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 - Environmental management	No objections - subject to conditions
Environmental - Waterways	No objections
Traffic Engineer	No objection subject to conditions

Section 4.15(1)(e)The public interest

The public interest is best served by the orderly and economic use of land for purposes permissible under the relevant planning regime and in accordance with the prevailing planning controls. In this regard, the proposal is generally consistent with the relevant planning provisions and subject to compliance with the recommended conditions of consent, the proposal is considered worthy of support and is not considered likely to pose any significant public interest impacts.

Section 94 - Developer Contributions Plans

The following development contribution plans apply to the site:

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

The following development contributions apply to the proposed development:

Calculations for Two into Four Lot Subdivision

Cultural Facilities

No. of Lots	x	Rate	Credit for existing dwellings	Contribution rate
4	x	3.0	6.0	6.0

District and Local Open Space Facilities

No. of Lots	x	Rate	Credit for existing dwellings	Contribution rate
4	x	3.1	6.2	6.2

AMOUNTS

Contribution Plan	Contribution Rate x Calculation Rate	Total
Cultural Facilities	3 x \$194.00	\$1,164.00
District Open Space	3.1 x \$2,043.00	\$12,666.00
Local Open Space	3.1 x \$739.00	\$4,583.00
NET TOTAL		\$18,413.00

Conclusion

In assessing this development proposal against the relevant environmental planning policies, including Penrith Local Environmental Plan 2010, Penrith Development Control Plan 2014, State Environmental Planning Policy (Western Sydney Aerotropolis) 2020, State Environmental Planning Policy No. 55—Remediation of Land and Sydney Regional Environmental Plan No. 20—Hawkesbury-Nepean River (No. 2—1997), the proposal generally satisfies the aims, objectives and provisions of these policies. Overall, the development is unlikely to have any unreasonable impacts on the surrounding natural, social or economic environments. The site is suitable for the development and the proposal is in the public interest. Therefore, the application is worthy of support and is recommended for approval, subject to conditions.

Recommendation

That DA20/0598 for demolition of existing structures and torrens title subdivision x 4 lots at 26 Paskin Street and 23 Second Avenue, Kingswood be approved, subject to the attached conditions.

General

1 [A001 - Approved plans table](#)

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

Drawing Title	Prepared By	Project No.	DWG No.	Issue	Date
Plan of Proposed Subdivision Lot 13 Section 4 DP975378 & Lot 1 DP530541 22 Parkin St & 23 Second Avenue, Kingswood	Richard Hogans & Co	--	DA-201	D	July 2020
Stormwater Concept Plan Ground Floor Plan	SGC	20200337	SW200	A	29/10/21
Stormwater Concept Plan Details Sheet	SGC	20200337	SW300	A	29/10/21

Documents

- Aboricultural Impact Appraisal - 26 Paskin Street & 23 Second Avenue, Kingswood, NSW prepared by Naturally Trees, dated 7 September 2021;
- Assurance Certificate of Secure Burial prepared by Suez Environment, Weighbridge Ticket No. ED170114756.0, dated 8 September 2021;
- Excavated Natural Material Assessment prepared by BHM Geotechnical, Reference: GAC 2099 – AA Rev.0, dated 26 August 2021; and
- Material Clearance Certificate prepared by BHM Geotechnical, Reference: GAC 2099 – AB Rev.0, dated 15 September 2021;

2 [A Special \(BLANK\)](#)

Approved Lots 1, 2 and 3 shall not be developed or sold individually as vacant lots. The lots shall be developed by a single builder and designed as a house and land package. Each dwelling is to have a maximum of one single garage. The allotments are to be sold as house and land packages with the necessary development approval gained.

The above requirements are to be reflected in a positive covenant on the lot titles pursuant to Section 88B of the Conveyancing Act 1919. The related Section 88B instrument shall accompany the related Subdivision Certificate application.

3 [A Special \(BLANK\)](#)

Prior to the issue of a Subdivision Works Certificate:

(a) An easement for drainage and overland flow being a minimum of 2.5m wide shall be provided in Lot 25 in DP 1069009. Evidence of registration of the easement with Land and Registry Services (LRS) shall be submitted to Penrith City Council, prior to the issue of a Subdivision Works Certificate. Easement widths shall be in accordance with Penrith City Council's Stormwater Drainage Specification for Building Developments Policy, and

(b) The stormwater works within the easement are to be designed in accordance with the approved Section 68 Approval, issued by Penrith City Council.

4 [A Special \(BLANK\)](#)

Prior to the issue of a Subdivision Certificate, any drainage works within Lots which rely on the easement for interallotment drainage works shall be completed.

Demolition

5 [B001 - Demolition of existing structures](#)

All structures on the subject site are to be demolished as part of the approved works.

6 [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**.

7 [B003 - ASBESTOS](#)

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

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

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

8 [B004 - Dust](#)

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

9 [B005 - Mud/Soil](#)

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

10 [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 that does not involve external walls or the roof and does not involve the use of equipment that emits noise then the demolition works are not restricted to the hours stated above.

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

Environmental Matters

11 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.

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

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

12 D006 - No filling without prior approval (Use always, except for bulk earthworks/ major fill operations)

No fill material shall be imported to the site until such time as a Validation Certificate(with a copy of any report forming the basis for the validation) for the fill material has been submitted to, considered and approved by Council. The Validation Certificate shall:

- state the legal property description of the fill material source site,
- be prepared by an appropriately qualified person (as defined in Penrith Land Development Control Plan 2014) with consideration of all relevant guidelines (e.g. EPA, ANZECC, NH&MRC), standards, planning instruments and legislation,
- provide details of the volume of fill material to be used in the filling operations,
- provide a classification of the fill material to be imported to the site in accordance with the Environment Protection Authority's "Environmental Guidelines: Assessment, Classification & Management of Non-Liquid Wastes" 1997, and
- (based on the fill classification) determine whether the fill material is suitable for its intended purpose and land use and whether the fill material will or will not pose an unacceptable risk to human health or the environment.

{Note: Penrith Development Control Plan 2014 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."}.

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

13 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.

14 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.

Utility Services

15 [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 a Subdivision Certificate.

16 [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.

Construction

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

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

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

Other construction works carried out inside a building/tenancy that do not involve the use of equipment that emits noise are not restricted to the construction hours stated above.

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

Engineering

18 [K101 - Works at No Cost to Council](#)

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

19 [K201 - Infrastructure Bond](#)

An Infrastructure Restoration Bond is to be lodged with Penrith City Council for development involving works around Penrith City Council's Public Infrastructure Assets. The bond is to be lodged with Penrith City Council prior to commencement of any works on site or prior to the issue of any Subdivision Works Certificate, whichever occurs first. The bond and applicable fees are in accordance with Council’s adopted Fees and Charges.

An application form together with an information sheet and conditions are available on Council’s website.

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

20 **K202 - S138 Roads Act - Minor Works in the Public Road**

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

- a) Road opening for utilities
- b) Road occupancy or road closures
- c) The placement of hoardings, structures, containers, waster skips, signs etc. in the road reserve
- d) Temporary construction access
- e) Pavement and kerb/pram ramp installation.

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

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

Note:

- Where Penrith City Council is the Certifier for the development, the Roads Act approval for the above works may be issued concurrently with the Construction Certificate or Subdivision Works Certificate.
- Separate approval may be required from Transport for NSW for classified roads.
- All works associated with the Roads Act approval must be completed prior to the issue of any Occupation Certificate or Subdivision Certificate as applicable.
- On completion of any awning over the road reserve, a certificate from a practising structural engineer certifying the structural adequacy of the awning is to be submitted to Council before Council will inspect the works and issue its final approval under the Roads Act.

21 **K203 - S138 Roads Act - Roadworks Requiring Approval of Civil Drawings**

Prior to the issue of any Subdivision Works Certificate, the Certifier shall ensure that a Section 138 Roads Act application, including payment of application and inspection fees, has been lodged with and approved by Penrith City Council (being the Roads Authority under the Roads Act) for provision of a 1.5m wide concrete footpath for the full frontage of the site in Second Avenue and Paskin Street, Kingswood. Kerb ramps shall be provided along Second Avenue and both sides of Paskin Street at the street intersection corners to Council requirements. The above works shall be complete prior to the issue of an Occupation Certificate.

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

Contact Penrith City Council's Development Engineering Department on 4732 7777 to obtain a formal fee proposal prior to lodgement and visit Penrith City Council's website for more information.

Note:

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

22 [K205 - S68 Local Government Act - Stormwater Drainage Works](#)

Prior to the issue of any Subdivision Works Certificate, the Certifier 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 and connection to Council's trunk drainage system in Lot 25 DP 1069009.

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

Contact Penrith City Council's Development Engineering Department on 4732 7777 to obtain a formal fee proposal prior to lodgement and visit Penrith City Council's website for more information.

Note: All works associated with the Section 68 Local Government Act approval must be completed prior to the issue of a Subdivision Certificate.

23 [K206 - Subdivision Works Certificate for Subdivision Works](#)

A Subdivision Works Certificate (previously a Construction Certificate) is to be approved by the Certifier for the provision of any subdivision works (road, drainage, earthworks).

Prior to the issue of any Subdivision Works Certificate, the Certifier shall ensure that engineering plans are consistent with the stamped approved plans prepared by SGC, reference number 20200337, DWG number SW100 - SW300, revision A, dated 29/10/2021, and that all subdivision works have been designed in accordance with the development consent, Penrith City Council's Design Guidelines for Engineering Works for Subdivisions and Developments, Engineering Construction Specification for Civil Works, Austroads Guidelines and best engineering practice.

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

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

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

Note:

- Council's Development Engineering Department can provide this service. Contact Penrith City Council's Development Engineering Department on 4732 7777 to obtain a formal fee proposal prior to lodgement and visit Penrith City Council's website for more information.

24 [K225 - Performance Bond](#)

Prior to the issue of a Roads Act Approval, a Performance Bond is to be lodged with Penrith City Council for the construction of a 1.5m wide concrete footpath for the full frontage of the site in Second Avenue and Paskin Street, Kingswood.

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

Note:

- Contact Penrith City Council's Development Engineering Department on 4732 7777 for further information relating to bond requirements.

25 **K303 - Matters to be Addressed Prior to Commencement of Subdivision Works**

Work on the subdivision shall not commence until:

- a Subdivision Works Certificate (if required) has been issued;
- a Certifier has been appointed for the project, and;
- any other matters prescribed in the development consent for the subdivision and the Environmental Planning and Assessment Act and Regulation have been complied with.

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

26 **K405 - Turf to Verge**

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

27 **K501 - Penrith City Council Clearance - Roads Act / Local Government Act**

Prior to the issue of any Subdivision Certificate, the Principal Certifier shall ensure that all works associated with a S138 Roads Act approval and S68 Local Government Act approval have been inspected and signed off by Penrith City Council.

28 **K502 - Completion of Subdivision Works**

Prior to the issue of any Subdivision Certificate, the Principal Certifier shall ensure that all subdivision works required by this consent have been satisfactorily completed or that suitable arrangements have been made with Penrith City Council for any outstanding works.

29 **K508 - Splay Corner**

Prior to the issue of any Subdivision Certificate, a 4x4m splay corner at the intersection of Second Avenue and Paskin Street, Kingswood is to be dedicated as public road to Penrith City Council on a plan of subdivision registered with Land Registry Services (LRS). The dedication of public road and subsequent registration shall be at no cost to Penrith City Council.

30 **K515 - Maintenance Bond**

Prior to the issue of any Subdivision Certificate, a Maintenance Bond is to be lodged with Penrith City Council for the construction of a 1.5m wide concrete footpath for the full frontage of the site in Second Avenue and Paskin Street, Kingswood.

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

Note:

- Contact Penrith City Council's Development Engineering Department on 4732 7777 for further information relating to bond requirements.

31 **K516 - Subdivision Compliance Documentation**

Prior to the issue of any Subdivision Certificate, the following compliance documentation shall be submitted to the Principal Certifier. A copy of the following documentation shall be provided to Penrith City Council where Penrith City Council is not the Principal Certifier:

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

b) CCTV footage in DVD format to Penrith City Council's requirements and a report in "SEWRAT" format for all drainage as identified as Council's future assets. Any damage that is identified is to be rectified in consultation with Penrith City Council.

c) Surveyor's Certificate certifying that all pipes and services are located wholly within the property or within appropriate easements and that no services encroach boundaries, private or public lands.

d) Structural Engineer's construction certification for any structures where applicable.

e) A slope junction plan for inter-allotment drainage lines indicating distances to boundaries and depths.

32 [K517 - Registration of Easements](#)

Prior to the issue of any Subdivision Certificate, the following easements shall be created on the plan of subdivision:

- a) Easements for drainage over any inter-allotment drainage.

Subdivision

33 [M008 - Subdivision Certificate requirements](#)

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

An original plan of subdivision and associated administration sheets. The plan of subdivision must indicate, where relevant -

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

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

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

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

34 [M014 - Surveyors certificate](#)

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

Development Contributions

35 [N001a - Section 7.11 contribution \(apply separate condition for each Contribution Plan\)](#)

This condition is imposed in accordance with Penrith City Council's Development Contributions Plan for District Open Space. Based on the current rates detailed in the accompanying schedule attached to this Notice, **\$12,666.00 is to be paid to Council prior to a Construction Certificate being issued for this development** (the rates are subject to quarterly reviews). If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted contributions 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 invoice accompanying this consent should accompany the contribution payment. The Development Contributions Plan for District Open Space may be inspected at Council's Civic Centre, 601 High Street, Penrith.

36 [N001b - Section 7.11 contribution \(apply separate condition for each Contribution Plan\)](#)

This condition is imposed in accordance with Penrith City Council's Development Contributions Plan for Local Open Space. Based on the current rates detailed in the accompanying schedule attached to this Notice, **\$4,583.00 is to be paid to Council prior to a Construction Certificate being issued for this development** (the rates are subject to quarterly reviews). If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted contributions 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 invoice accompanying this consent should accompany the contribution payment. The Development Contributions Plan for Local Open Space may be inspected at Council's Civic Centre, 601 High Street, Penrith.

37 [N001c - Section 7.11 contribution \(apply separate condition for each Contribution Plan\)](#)

This condition is imposed in accordance with Penrith City Council's Development Contributions Plan for Cultural Facilities. Based on the current rates detailed in the accompanying schedule attached to this Notice, **\$1,164.00 is to be paid to Council prior to a Construction Certificate being issued for this development** (the rates are subject to quarterly reviews). If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted contributions 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 invoice accompanying this consent should accompany the contribution payment. The Development Contributions Plan for Local Open Space may be inspected at Council's Civic Centre, 601 High Street, Penrith.

Certification

38 [Q008 - Subdivision Certificate](#)

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

Appendix - Development Control Plan Compliance

Development Control Plan 2014

Part C - City-wide Controls

C2 Vegetation Management

C2.1 Preservation of Trees and Vegetation

It should be noted that a concept arrangement plan was subsequently submitted at the request of Council, which indicates that several existing trees situated along the Second Avenue frontage will be impacted by the future dwellings for each lot. Given that the subject site contain several mature trees across the site, with majority being situated along the western section of the Second Avenue frontage, an Arborist's Report was subsequently provided at the request of Council, which indicate that only 2 of 13 trees on site are considered to be of moderate significance and worthy of retention and the remaining trees are either in poor health condition and low significance value or tree species being exempt from Council's Tree Protection Order. It is also noted that one healthy significant tree situated on the neighbouring property at 22 Paskin Street is to be retained and is situated outside the Tree Protection Zone and protected by existing boundary fencing.

While so, the demolition and future construction works requires that all trees be removed on site, including the two high category trees, the loss of all trees can be appropriately offset with new tree plantations via the future development and therefore is considered acceptable in this instance, noting that a number of trees are of low significance and low retention value.

C10 Transport, Access and Parking

C10.5 Parking, Access and Driveways

A concept arrangement plan for illustrating single dwellings on Lots 1-3 was subsequently provided at the request of Council to illustrate potential building envelopes and vehicular access arrangements. These details demonstrate that the small lots can accommodate single dwellings with associated driveways and crossovers. As such, proposed Lots 1-3 can achieve adequate access and parking.

C10.6 Pedestrian Connections

It is considered appropriate that the provision of a 1.5m pathway be provided along the dual street frontages to accommodate the future occupants and pedestrians, noting the adjoining sports fields and its associated users. The new pedestrian pathway will provide a safer walking route and deter pedestrians from using the road, which will be addressed via a recommended condition of consent.

C11 Subdivision

C11.3 Residential Subdivision

It is noted that the subject site is not subject to a minimum lot size under the Penrith Local Environmental Plan 2010 and the proposed Lots 1-3 have land areas which range from 241.4m²-263m². Lots 1-3 are considered to be small lots, however, Lot 4 is an L-shaped lot, which is expected to accommodate a 5 x townhouses development, which is currently under assessment via development application no. DA20/0652. This townhouse development will result in a detached unit situated adjacent to Lot 3 and two detached blocks of two attached unit situated in the remaining land of property address 23 Second Avenue, with the first block of units considerably setback behind the unit adjacent to Lot 3.

Subject to the future single dwellings being developed on Lots 1-3, this will ultimately result in the appearance of detached single dwellings along majority of this section of the Second Avenue frontage, which will resemble a villa/townhouse development and is consistent with the R3 zoning. It should also be noted that the neighbourhood is currently undergoing a transition to medium density development, such as a recently approved boarding house development and townhouse development at the properties to the north of the site (20 and 22 Paskin Street).

As such, the proposal is considered to provide housing diversity, which is suitable for the context of the site and the immediate surrounds. The proposed lots have the capacity to accommodate suitable building footprints, which will provide a reasonable amount of residential amenity, noting the constraints of north/south orientated lots. Notwithstanding this, given the

small lot sizes and dimensions of Lots 1-3, it is considered appropriate that these lots be developed concurrently with only single garages by a single developer via Council's development application process to ensure that the built forms are consistent and compatible with the existing and desired future character of the locality. This matter will be addressed by way of a recommended condition of consent which will impose a positive covenant in this regard.

C13 Infrastructure and Services

C13.1 Location of Easements for Infrastructure

The applicant subsequently provided a stormwater plan at the request of Council to demonstrate adequate drainage. The new infrastructure includes a stormwater pipe and pits via an easement at the rear of proposed Lots 1-3, which connects to the stormwater system for the townhouse development on Lot 4 and then connects to an existing stormwater pit on the adjoining public reserve. Council consent in principle has been provided in regard to the easement on Council owned land, dated 28 April 2021 and a condition of consent is imposed to ensure that the easement be registered with Land Registry Services prior to any construction works.