

PENRITH CITY COUNCIL

NOTICE OF DETERMINATION

DESCRIPTION OF DEVELOPMENT

Application number:	DA20/0365.02
Description of development:	Section 4.55(1A) Modification to Approved Residential Flat Building to Reconfigure Bedroom Allocation, Internal Layout, and Balcony Arrangement of Units 18 and 19
Classification of development:	Class 2 , Class 7a

DETAILS OF THE LAND TO BE DEVELOPED

Legal description:	Lot 35 DP 31239 Lot 36 DP 31239 Lot 34 DP 31239
Property address:	26 Hope Street, PENRITH NSW 2750 28 Hope Street, PENRITH NSW 2750 30 Hope Street, PENRITH NSW 2750

DETAILS OF THE APPLICANT

Name & Address:	Mr M Makhoul PO Box 795 KINGS LANGLEY NSW 2147
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DECISION OF CONSENT AUTHORITY

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

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

Date from which consent operates	26 March 2021
Date the consent expires	26 March 2026
Date of this decision	25 March 2021 as amended on 16 November 2021 under Section 4.55 of the Environmental Planning and Assessment Act.

POINT OF CONTACT

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

Assessing Officer:	Sandra Fagan
Contact telephone number:	+61247327992

NOTES

Reasons

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

Conditions

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

Certification and advisory notes

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

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

Review of determination

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

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

Appeals in the Land and Environment Court

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

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

Designated development

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

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

Sydney Western City Planning Panels

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

ATTACHMENT 1: CONDITIONS OF CONSENT

General

1 The development must be implemented substantially in accordance with the following plans stamped approved by Council, the application form, and the following supporting documents submitted with the application (except as may be amended by the conditions of this consent):

- DA Acoustic Report (ID: 20171633.2), prepared by Acoustic Logic, dated 10 June 2020;
- Traffic and Parking Assessment Report, prepared by Varga Traffic Planning Pty Ltd, Reference 20305, dated 12 June 2020;
- Waste Management Plan, prepared by Mark Makhoul, dated 10 April 2018;
- Nationwide House Energy Rating Scheme - Certificate by BDAV Assessor #12/1472, issued June 2020;
- Aboricultural Impact Assessment and Tree Management Plan, reference 3568.2, prepared by Redgum Horticultural, dated 17 November 2020;
- BASIX Certificate No. 1106425M; and
- The following drawings:

Drawing Title	Drawing No.	Revision Number	Prepared By	Dated
Site Analysis Plan & Location Plan	DA0.01	B	Building Design & Technology	11/11/2020
Proposed Upper Basement Plan	DA1.01	A	Building Design & Technology	01/06/2020
Lower Basement Plan	DA1.02	A	Building Design & Technology	01/06/2020
Basement Driveway Sections	DA1.02A	B	Building Design & Technology	11/11/2020
Proposed Ground Floor Plan	DA1.03	C	Building Design & Technology	05/11/2021
Proposed Plan Level 1	DA1.04	B	Building Design & Technology	11/11/2020
Proposed Plan Level 2	DA1.05	C	Building Design & Technology	26/08/2021
Proposed Plan Level 3	DA1.06	B	Building Design & Technology	11/11/2020
Proposed Plan Level 4	DA1.07	B	Building Design & Technology	11/11/2020
Proposed Plan Level 5	DA1.08	B	Building Design & Technology	11/11/2020

Proposed Roof Plan	DA1.09	A	Building Design & Technology	01/06/2020
Elevations 1 (North & East)	DA1.10	B	Building Design & Technology	11/11/2020
Elevations 2 (South & West)	DA1.11	C	Building Design & Technology	26/08/2021
Elevation Models	DA1.11A	A	Building Design & Technology	01/06/2020
Section AA & Front Fence Elevation	DA1.12	B	Building Design & Technology	28/07/2020
Section BB & CC	DA1.12A	B	Building Design & Technology	11/11/2020
Section D	DA1.12B	A	Building Design & Technology	01/06/2020
Ventilation Plan	DA1.13	B	Building Design & Technology	11/11/2020
Solar Access Plan	DA1.14	A	Building Design & Technology	01/06/2020
9AM-Noon Sun Views	DA1.14A	A	Building Design & Technology	01/06/2020
1PM-3PM Sun Views	DA1.14B	A	Building Design & Technology	01/06/2020
June 21 Winter Shadow Plan	DA1.15	A	Building Design & Technology	01/06/2020
Site Management Plan	DA1.16	A	Building Design & Technology	01/06/2020
Site Plan	C0_BDT	D	Contour Landscape Architecture	04 December 2020
Ground Floor Landscape Plan (Sheet 1)	C1_BDT	D	Contour Landscape Architecture	04 December 2020
Ground Floor Landscape Plan (Sheet 2)	C2_BDT	D	Contour Landscape Architecture	04 December 2020

Rooftop Landscape Plan	C3_BDT	D	Contour Landscape Architecture	04 December 2020
First Floor Landscape Plan	C4_BDT	D	Contour Landscape Architecture	04 December 2020
Second & Thirds Floor Landscape Plan	C5_BDT	A	Contour Landscape Architecture	26 May 2020
Landscape Details	C6_BDT	A	Contour Landscape Architecture	26 May 2020
Cover Sheet SW18025	SWDP01	K	Capital Engineering Consultants	03 December 2020
Level 2 Basement Plan SW18025	SWDP02	K	Capital Engineering Consultants	03 December 2020
Level 1 Basement Plan SW18025	SWDP03	K	Capital Engineering Consultants	03 December 2020
Site Stormwater Plan SW18025	SWDP04	K	Capital Engineering Consultants	03 December 2020
Level 1 Floor Plan SW18025	SWDP05	K	Capital Engineering Consultants	03 December 2020
Level 2 Floor Plan SW18025	SWDP06	K	Capital Engineering Consultants	03 December 2020
Level 3 Floor Plan SW18025	SWDP07	K	Capital Engineering Consultants	03 December 2020
Level 4 Floor Plan SW18025	SWDP08	K	Capital Engineering Consultants	03 December 2020
Level 5 Floor Plan SW18025	SWDP09	K	Capital Engineering Consultants	03 December 2020
Roof Plan SW18025	SWDP010	K	Capital Engineering Consultants	03 December 2020
MUSIC Model Catchment Plan SW18025	SWDP011	K	Capital Engineering Consultants	03 December 2020
MUSIC X Results SW18025	SWDP012	K	Capital Engineering Consultants	03 December 2020

Details Sheet SW18025	SWDP013	K	Capital Engineering Consultants	03 December 2020
KIP Design + Details SW18025	SWDP014	K	Capital Engineering Consultants	03 December 2020
Council Standard Details SW18025	SWDP015	K	Capital Engineering Consultants	03 December 2020

As amended by Section 4.55(1A) Modification Application DA20/0365.02 determined on 16 November 2021.

- 2 All three lots that make up the subject development site, being Lots 34, 35, and 36 in Deposited Plan 31239, are to be consolidated as one lot. Written evidence that the request to consolidate the lots has been lodged with NSW Land Registry Services is to be submitted to the certifying authority before the Construction Certificate for the development can be issued by the certifier.

A copy of the registered plan of consolidation from NSW Land Registry Services 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.

- 3 **The development shall not be used or occupied until an Occupation Certificate has been issued.**
- 4 **Prior to the issue of any 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).
- 5 A **Construction Certificate** shall be obtained prior to commencement of any building works.
- 6 Prior to a Construction Certificate being issued for any part of the development above ground, the applicant is to develop a means of providing equitable access to the landscaped rear setback area from the patio adjoining the communal multi-purpose room. The equitable access details are to be shown on the Construction Certificate drawings.
- 7 The operable skylights in Unit 35 are to open to the south so as to achieve cross-flow ventilation, given that the windows have a northerly aspect.
- 8 All air conditioning motors to be placed on individual apartment balconies are to be suitably screened from view and set back from the outer edge of the balcony. No Occupation Certificate is to be issued until such suitable screening is installed.
- 9 The following community safety and crime prevention through environmental design (CPTED) requirements are required to be implemented:

Lighting

- All outdoor/public spaces throughout the development must be lit to the minimum Australian Standard of

AS 1158. Lighting must be consistent in order to reduce the contrast between shadows and illuminated areas and must be designed in accordance with AS 4282 - Control of the obtrusive effects of outdoor lighting.

- In particular, the bench seating area located near the toilet, on the Level 5 roof terrace, is to include sensor lighting of a suitable luminance to address safety for users given the seating is in a visually concealed part of the roof terrace.

Basement Car Parking

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

Building Security & Access Control

- Intercom, code or card locks or similar must be installed for all entries to the building and resident only areas within the building.
- Australian Standard 220 door and window locks must be installed in all dwellings.
- CCTV is to be provided to cover communal public space areas. Cameras must be of sufficient standard to be useful for police in the event of criminal investigations. Lighting must be provided to support cameras at night (alternatively infra-red cameras are recommended). Signage must be displayed to indicate that CCTV cameras are in use.
- The letter boxes should be located within the foyer (not along the entry footpath), accessible to residents only. Redesign of this element is recommended.

Graffiti/Vandalism

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

Landscaping

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

Demolition

- 10 All demolition works are to be conducted in accordance with the provisions of AS 2601-2001 "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**.

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

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

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

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

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

Heritage/Archaeological relics

- 12 If any archaeological relics are uncovered during the course of the works, no further work shall be undertaken until further directed by Penrith City Council or the NSW Heritage Office.

The applicant is advised that depending on the possible significance of the relics, an archaeological assessment and an excavation permit under the Heritage Act 1977 may be required before any further work can be recommenced in that area of the site.

Environmental Matters

- 13 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 installed and maintained in accordance with the Department of Housing's "*Managing Urban Stormwater: Soils and Construction*" 2004.

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

- 14 Dust suppression techniques are to be employed during during demolition and construction works to reduce any potential nuisances to surrounding properties.
- 15 Mud and soil from vehicular movements to and from the site during demolition and construction works must not be deposited on the road.
- 16 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 Development Control Plan) with consideration of all relevant guidelines (e.g. EPA, ANZECC, NH&MRC), standards, planning instruments and legislation,
- clearly indicate the legal property description of the fill material source site,
- provide details of the volume of fill material to be used in the filling operations,
- provide a classification of the fill material to be imported to the site in accordance with the Environment Protection Authority's "Environmental Guidelines: Assessment, Classification & Management of Non-Liquid Wastes" 1997, and
- (based on the fill classification) determine whether the fill material is suitable for its intended purpose and land use and whether the fill material will or will not pose an unacceptable risk to human health or the environment.

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.

17 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.

18 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.

19 The operating noise level of plant and equipment shall not exceed 5dB(A) above the background noise level when measured at the boundaries of the premises. The provisions of the Protection of the Environment Operations Act 1997 apply to the development, in terms of regulating offensive noise.

20 All vehicle washing, engine degreasing and steam cleaning shall be conducted in a wash bay approved, 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 property shall be submitted to the Principal Certifying Authority before the wash bay can be installed.

21 The recommendations provided in the acoustic report prepared by Acoustic Logic, dated 10/06/2020 (reference 20171633.2/1006A/R0/KB) shall be implemented and incorporated into the design and construction of the development, and shall be shown on plans accompanying the Construction Certificate application. A certificate is to be obtained from a qualified acoustic consultant certifying that the building has been constructed to meet the noise criteria in accordance with the approved acoustic report. This certificate is to be submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

The provisions of the Protection of the Environment Operations Act 1997 apply to the development, in terms of regulating offensive noise.

22 The following waste management requirements must be complied with and details of compliance demonstrated to Council **prior to the issue of a Construction Certificate**:

- (a) All on-site waste collection infrastructure, doors and access points (waste collection room, bulky goods collection room, loading bay, turn table, boom gate and roller door) are to be locked/accessed through Council's Abloy key system. System specifications are outlined in Section 3.5.5 of the 'Residential Flat Building Waste Management Guideline' document;
- (b) All on-site waste collection infrastructure (waste collection room, bulky goods collection room and loading bay) are to provide wash facilities through the use of a centralised mixing valve and hose cock. Respective drainage and water proofing is to be installed to support the use of hose facilities;
- (c) Amended swept path models are to be provided in accordance with Section 2.2.3 of the 'Residential Flat Building Waste Management Guideline' document and illustrate line marked on-street parking during the proposed ingress/egress manoeuvres;
- (d) The bin lift and system specification is to be provided in accordance with Section 3.5.4 of the 'Residential Flat Building Waste Management Guideline' document;
- (e) The chute inlets on each residential level are to be located within bin cupboards. The cupboards are to have a maximum depth of 150mm and incorporate dual self-closing and sealed doors to inhibit the permeation of odour within the residential corridors; and
- (f) The chute room is to be provided in accordance with Sections 3.5.1 and 3.7.1 of the 'Residential Flat Building Waste Management Guideline' document.

23 **Prior to the issue of an Occupation Certificate**, the following is to be submitted to and approved by Penrith City Council:

- (a) The developer is to enter into a formal agreement with Penrith City Council for the utilisation of Council's waste collection service. This is to include Council being provided with indemnity against claims for loss and 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;
- (b) The turn table is to be provided in accordance with Sections 2.2.7 and 2.4 of the 'Residential Flat Building Waste Management Guideline' document. A site inspection is to be organised with Council's Waste and Resource Recovery Department to calibrate the system with Council's standard waste collection vehicle. A minimum two weeks notice is required to be given to Council to organise a collection vehicle to visit the site and conduct the test with the turn table manufacturer; and
- (c) Council's Waste and Resource Recovery Department is to conduct a site inspection of the on-site infrastructure to permit a safe and efficient waste collection service.

24 Council's bin infrastructure and collection service will be provided/commenced for the development on the completion of all on-site waste collection infrastructure and the attainment of an Occupation Certificate.

BCA Issues

25 Access and sanitary facilities for persons with disabilities are to be provided and maintained in accordance with the requirements of the Building Code of Australia and AS 1428 "Design for Access and Mobility". Details of compliance are to be provided in the relevant plans and specifications accompanying the Construction Certificate application.

- 26 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 either complying with the deemed to satisfy provisions, or formulating an alternative solution (which either complies with the performance requirements or is shown to be at least equivalent to the deemed to satisfy provision, or a combination of both.

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.

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

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

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

Utility Services

- 28 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 any Occupation Certificate.

- 29 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.

Specifically, a pad mounted substation has not been approved as part of this development consent. The landowner / developer is to ensure that suitable provisions are in place for the subject development to use the substation approved for the adjoining property at 32-36 Hope Street.

Any changes in relation to requiring a substation within the subject site will require further approval from Penrith City Council through a Section 4.55 modification to the development consent.

- 30 **Prior to the issue of a Construction Certificate**, the Principal Certifying Authority shall be satisfied that telecommunications infrastructure may be installed to service the premises which complies with the following:
- The requirements of the Telecommunications Act 1997;
 - For a fibre ready facility, the NBN Co's standard specifications current at the time of installation; and
 - For a line that is to connect a lot to telecommunications infrastructure external to the premises, the line shall be located underground.

Unless otherwise stipulated by telecommunications legislation at the time of construction, the development

must be provided with all necessary pits and pipes, and conduits to accommodate the future connection of optic fibre technology telecommunications.

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

Construction

31 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.

32 Prior to the commencement of demolition or construction works, the following must be provided on site:

(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.

33 Construction works and demolition 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; and
- No work is permitted on Sundays and Public Holidays.

Other construction and demolition 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

- 34 All roadworks, stormwater drainage works, signage, linemarking, associated civil works and dedications, required to effect the consented development shall be undertaken by the applicant at no cost to Penrith City Council.
- 35 An Infrastructure Restoration Bond is to be lodged with Penrith City Council for development involving works around Penrith City Council's Public Infrastructure Assets. The bond is to be lodged with Penrith City Council prior to commencement of any works on site or prior to the issue of any Construction Certificate, whichever occurs first. The bond and applicable fees are in accordance with Council's adopted Fees and Charges.

An application form together with an information sheet and conditions are available on Council's website. Contact Penrith City Council's Asset Management Department on 4732 7777 or visit Penrith City Council's website for more information.

- 36 Prior to the issue of any Construction Certificate, a Section 138 Roads Act application, including payment of application and inspection fees together with any applicable bonds, shall be lodged 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
 - c) Road opening for utilities and stormwater (including stormwater connection to Penrith City Council roads and other Penrith City Council owned drainage)
 - d) Road occupancy or road closures
 - e) The placement of hoardings, structures, containers, waster skips, signs, etc in the road reserve
 - f) Temporary construction access
 - g) Temporary ground anchors (for basement construction)

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

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

Note: Where Penrith City Council is the Certifying Authority for the development, the Roads Act approval for the above works may be issued concurrently with the Construction Certificate. All works associated with the Roads Act approval must be completed prior to the issue of any Occupation Certificate.

- 37 Prior to the issue of any Construction Certificate, the Certifying Authority shall ensure that a Section 138 Roads Act application, including payment of application and inspection fees, has been lodged with, and approved by Penrith City Council (being the Roads Authority under the Roads Act), for provision of a new kerb inlet pit over the existing stormwater drainage line fronting 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 4732 7777 to obtain a formal fee proposal prior to lodgement and visit Penrith City Council's website for more information.

- 38 The stormwater management system shall be consistent with plans lodged for development approval, prepared by Capital Engineering Consultants, project number SW18025, revision K, dated 03/12/2020.

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

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

- 39 Prior to the issue of any 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 (or as amended) (Plumbing and Drainage – Stormwater Drainage).
- 40 Prior to the issue of any Construction Certificate, the Certifying Authority shall ensure that vehicular access, circulation, maneuvering, 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. In particular, all visitor parking spaces are to be designed and located so as to allow a minimum width of 2.5m.
- 41 Prior to the commencement of any works on-site (including demolition works) or prior to the issue of any Construction Certificate, whichever occurs first, a Construction Traffic Management Plan (CTMP) shall be submitted to Council's Asset Management Department for endorsement. The CTMP shall be prepared by a suitably qualified consultant with appropriate training and certification from Transport for NSW. The CTMP shall include details of any required road closures, work zones, loading zones and the like. Approval of the CTMP may require approval of the Local Traffic Committee. Please contact Council's Asset Management Department on 4732 7777 and refer to Council's website for a copy of the Temporary Road Reserve Occupancy Application Form.
- 42 Prior to the issue of a Roads Act Approval, a Performance Bond is to be lodged with Penrith City Council for provision of a new kerb inlet pit over the existing stormwater drainage line fronting Hope Street. The value of the bond shall be determined in accordance with Penrith City Council's adopted Fees and Charges Schedule. Contact Penrith City Council's Development Engineering Department on 4732 7777 for further information relating to bond requirements.
- 43 Prior to the issue of a Construction Certificate, a geotechnical investigation report and strategy shall be submitted to the Certifying Authority to ensure stability of Council's infrastructure and the surrounding developments. The geotechnical investigation, report and strategy shall comply with the recommendations contained in the technical direction GTD 2012/001 prepared by Transport for NSW (as amended).

No excavation by the use of hydraulic rock hammers has been approved in this development consent. Should the use of hydraulic rock hammers be required, the applicant may be required to lodge a modification application accompanied by a suitable and relevant Geotechnical Report and Acoustic Report.

- 44 The developer shall undertake dilapidation report/s for all adjoining properties / surrounding buildings, **and** Council owned infrastructure, that confirms that no damage occurs due to the excavations associated with the development. If Council is not the Certifying Authority, the dilapidation report relating to Council owned infrastructure shall be submitted to Council prior to Construction Certificate issue and then updated and submitted prior to any Occupation Certificate issue. A copy of the report/s relating to surrounding private properties shall be given to each relevant landowner. The appropriate and relevant landowners consent is to

be obtained prior to entry onto private property.

- 45 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.
- 46 Prior to the issue of any Occupation Certificate, the Principal Certifying Authority shall ensure that all works associated with a Section 138 Roads Act approval have been inspected and signed off by Penrith City Council.
- 47 Prior to the issue of any 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.

- 48 Prior to the issue of any Occupation Certificate, the Principal Certifying Authority shall ensure that the:
 - a) Stormwater management systems (including on-site detention and water sensitive urban design)
 - b) Basement pump out systems
 - Have been satisfactorily completed in accordance with the approved Construction Certificate and the requirements of this consent.
 - Have met the design intent with regard to any construction variations to the approved design.
 - Any remedial works required to be undertaken have been satisfactorily completed.

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

- 49 Prior to the issue of any Occupation Certificate, a restriction as to user and positive covenant relating to the:
 - a) Stormwater management systems (including on-site detention and water sensitive urban design)
 - b) Basement pump out systems

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 Developments Policy.

- 50 Prior to the issue of any Occupation Certificate, a Maintenance Bond is to be lodged with Penrith City Council for provision of a new kerb inlet pit over the existing stormwater drainage line fronting Hope Street. The value of the bond shall be determined in accordance with Penrith City Council's adopted Fees and Charges Schedule. Contact Penrith City Council's Engineering Services Department on 4732 7777 for further information relating to bond requirements.
- 51 All car spaces are to be sealed, line marked and dedicated for the parking of resident or visitor vehicles only. They shall not be used for the storage of materials, products, waste materials and the like.

- 52 Subleasing of car parking spaces is not permitted by this development consent. Any future strata subdivision of the development is to incorporate the relevant and appropriate resident car parking spaces to residential apartments and visitor spaces to common property.
- 53 The required sight lines around the driveway entrances are not to be compromised by landscaping, fencing or signage
- 54 All vehicles are to enter/exit the site in a forward direction
- 55 A minimum of 9 car parking spaces are to be allocated for the sole use of visitors.
- 56 Prior to the issue of any Construction Certificate, certification from an appropriately qualified structural engineer is to be obtained that confirms that the approved floor to floor height of 3.06m is adequate to provide for all services and still achieve a finished floor to ceiling height in all habitable rooms of residential apartments of 2.7m. Any subsequent details are to be included in the Construction Certificate plans.

Landscaping

- 57 All landscape works are to be constructed in accordance with the stamped approved plans noted at Condition 1 and in accordance with Chapter C6 of the Penrith Development Control Plan. Landscaping shall thereafter be maintained in accordance with the approved plans, 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. Any such replacement planting must occur within 6 months of the former vegetation dying or being removed, or within the next relevant seasonal cycle.
- 58 The following series of reports relating to landscaping are to be submitted to the nominated Principal Certifying Authority at the appropriate time periods as listed below. These reports shall be prepared by a landscape professional.

i. Implementation Report

Upon completion of the landscape works associated with the development and prior to the issue of any Occupation Certificate for the development, an Implementation Report must be submitted attesting to the satisfactory completion of the landscaping works for the development.

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

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.

- 59 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.

60 Tree Protection:

- (a) The applicant shall engage a qualified arboricultural consultant with a minimum Level 5 qualification (AQF – Australian Qualification Framework) or the equivalent to be retained for the duration of the demolition and construction of the development.
- (b) The consultant shall be engaged to prepare a site-specific Tree Protection Plan and Drawing in accordance with the conditions of this consent and Section 5 of AS 4970 – 2009, Protection of Trees on Development Sites. All relevant trees to be retained and protected, and trees located on adjoining properties, within 5m of the subject property boundary, are to be covered by this report.
- (c) An individual Tree Protection Plan and Drawing shall be required for each stage of the development where changes within the Tree Protection Zone (TPZ) are required.
- (d) In addition, the consulting arborist is to identify key stages where monitoring and certification will be required as outlined in AS 4970 – 2009, Section 5.
- (e) The relevant Tree Protection Plan and Drawing is to be retained and implemented on site at all times.
- (f) The consultant arborist shall be present on-site during demolition and any of the key stages identified in the schedule required in the condition point above.
- (g) A written account of the satisfactory completion of each of these stages as assessed by the consulting arborist is to be reported to the Principal Certifying Authority.

61 Tree Protection Plan and Drawing:

- (a) The applicant shall engage a qualified arboricultural consultant with a minimum Level 5 qualification (AQF – Australian Qualification Framework) to prepare a site-specific Tree Protection Plan and Drawing in accordance with the conditions of this consent and Section 5 of AS 4970 – 2009, Protection of Trees on Development Sites.
- (b) The Tree Protection Plan shall also specifically address (but not be limited to) the following points:
 - i. All stages of the demolition/construction process;
 - ii. Specific tree protection requirements, especially when intrusion into the Tree Protection Zone (TPZ) or when trunk and branch protection is required;
 - iii. A requirement/specification stating that all underground services to be installed within the designated TPZ of a tree to be retained must be installed using directional drilling/thrust boring techniques;
 - iv. An individual Tree Protection Plan and Drawing for each stage of the development where changes within the Tree Protection Zone (TPZ) are required (i.e. prior to commencement, demolition, during construction, post construction and landscaping).
- (c) In addition, the consulting arborist is to identify key stages where monitoring and certification will be required as outlined in AS 4970–2009, Section 5.
- (d) The completed Tree Protection Plan and Drawing is to be provided to the Manager of Development Services for final approval prior to the issue of a Construction Certificate.
- (e) The approved Tree Protection Plan shall be retained and implemented on site at all times.

Section 94

62 This condition is imposed in accordance with Penrith City Council's Section 7.11 Contributions Plan for Cultural Facilities. Based on the current rates detailed in the accompanying schedule attached to this Notice, **\$15,371.00 is to be paid to Council prior to a Construction Certificate being** issued for this development (the rates are subject to quarterly reviews). If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted Section 7.11 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 S7.11 invoice accompanying this consent should accompany the contribution payment. The Section 7.11 Contributions Plan for Cultural Facilities may be inspected at Council's Civic Centre, 601 High Street, Penrith.

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

63 This condition is imposed in accordance with Penrith City Council's Section 7.11 Contributions Plan for District Open Space. Based on the current rates detailed in the accompanying schedule attached to this Notice, **\$136,201.00 is to be paid to Council prior to a Construction Certificate being** issued for this development (the rates are subject to quarterly reviews). If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted Section 7.11 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 S7.11 invoice accompanying this consent should accompany the contribution payment. The Section 7.11 Contributions Plan for District Open Space may be inspected at Council's Civic Centre, 601 High Street, Penrith.

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

64 This condition is imposed in accordance with Penrith City Council's Section 7.11 Contributions Plan for Local Open Space. Based on the current rates detailed in the accompanying schedule attached to this Notice, **\$49,225.00 is to be paid to Council prior to a Construction Certificate** being issued for this development (the rates are subject to quarterly reviews). If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted Section 7.11 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 S7.11 invoice accompanying this consent should accompany the contribution payment. The Section 7.11 Contributions Plan for Local Open Space may be inspected at Council's Civic Centre, 601 High Street, Penrith.

Note: The timing of contributions payable may be otherwise affected in accordance with Planning Circular

PS20-003 dated 3 July 2020 and the associated NSW Government Ministerial Direction - Infrastructure Contributions.

Certification

65 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.

66 An Occupation Certificate is to be obtained from the Principal Certifying Authority on completion of all works and prior to the occupation of the building/tenancy and commencement of the approved use. 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/or if 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.

SIGNATURE

Name:	Sandra Fagan
Signature:	

For the Development Services Manager