

PENRITH CITY COUNCIL

MAJOR ASSESSMENT REPORT

Application number:	DA20/0475
Proposed development:	Demolition of Existing Structures and Construction of 4 x Two Storey Town Houses pursuant to State Environmental Planning Policy (Affordable Rental Housing) 2009
Property address:	84 Cox Avenue, PENRITH NSW 2750
Property description:	Lot 2 DP 38057
Date received:	6 August 2020
Assessing officer	James Heathcote
Zoning:	SEPP WSA - Affected by Obstacle Limitation Zone R3 Medium Density Residential - LEP 2010
Class of building:	Class 1a
Recommendations:	Approve

Executive Summary

Council is in receipt of a development application for the demolition of existing structures and construction of 4 x two-storey townhouses with associated driveway, landscaping and drainage works, pursuant to State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARH SEPP) at 84 Cox Avenue, Penrith NSW 2750. The subject site is zoned R3 Medium Density Residential under the provisions of Penrith Local Environmental Plan 2010. The proposal is a permissible land use in the zone with Council consent.

Concerns were raised by staff during the assessment process regarding the proposed storm water design and driveway maneuvering areas. After discussions made with the applicant, and Council staff, amended plans were submitted that resolved all of the above matters. As a result, the applicant has satisfactorily addressed these concerns raised through the assessment process, with any other outstanding matters to be resolved through imposed conditions of consent.

Otherwise, the proposed town house development generally complies with the controls and objectives of the ARH SEPP and Penrith Development Control Plan 2014.

The proposal was notified to adjoining properties between 31 August and 14 September 2020. 10 neighbouring properties were notified and no submissions were received in response.

An assessment under Section 4.15 of the Environmental Planning and Assessment Act 1979 has been undertaken and the application is recommended for approval, subject to recommended conditions.

Site & Surrounds

Site Context:

The subject site is legally described as Lot 2 DP 38057. The site is located on the southern side of Cox Avenue, approximately 50m west of its intersection with Parker Street (State Road, route A9) in Penrith. The site has a total area of 917sqm, with an approximate 15.24m frontage to Cox Avenue and a depth of 61m. The land slopes gently across the site, by approximately 2.7m, toward the (northern) front boundary of the site. The site is currently occupied by a single storey dwelling and associated outbuildings.

The surrounding area comprises of well-established residential development with a mix of single detached dwellings, multi dwelling housing and a residential flat building. The subject site backs onto the reserve for the railway line (approximately 10m from rear property boundary to rail line). The subject site is approximately 250m north-west of Nepean Hospital and approximately 1.5km east of Penrith Central Business District (CBD).

Site History:

- Subject application only.

Site Attributes / Restrictions (Lot 2 DP 38057):

- No restrictions listed under the Deposited Plan.

Proposal

The proposed development includes the following:

- Demolition of existing structures,
- Construction of 4 x two storey town houses pursuant to State Environmental Planning Policy (Affordable Rental Housing) 2009,
- Associated driveway, landscaping and drainage works.

Plans that apply

- Local Environmental Plan 2010 (Amendment 4)
- Development Control Plan 2014
- State Environmental Planning Policy (Affordable Rental Housing) 2009
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- State Environmental Planning Policy (Infrastructure) 2007
- 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 development has been assessed in accordance with the matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979, 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 (Affordable Rental Housing) 2009

An assessment has been undertaken of the application against relevant criteria with a State Environmental Planning Policy (Affordable Rental Housing) 2009 and the application is satisfactory subject to recommended conditions of consent.

Part 2 New Affordable Rental Housing

Division 1 In-fill affordable housing

10 Development to which Division applies

- The development is defined as multi dwelling housing and is permissible with consent within the R3 Residential (Medium Density) zone under the provisions of Penrith Local Environmental Plan 2010.
- The subject site does not contain a heritage item that is identified in an environmental planning instrument, interim heritage order or on the State Heritage Register under the Heritage Act 1977.
- The application has demonstrated that the subject site is within an accessible area, sited within 270m walking distance from a bus stop servicing Route 785.

13 Floor space ratios

- There is no floor space ratio prescribed by the Penrith Local Environmental Plan 2010. Therefore, this clause is not applicable to the subject application.

14 Standards that cannot be used to refuse consent

Control	Requirement	Proposed	Complies
Site Area	- 450m ²	917m ²	Yes
Landscaped Area	- 35m ² of landscaped area per dwelling; or - 30% of the site area	359m ² ; or 39% landscaping for the site.	Yes
Deep Soil Zones	- 15% of the site area - Minimum dimension of 3m; and - 2/3 Located at the rear of site (if practical).	162m ² (17.59%) Predominantly in rear and front.	Yes
Solar Access	- 3 hours to 70% of dwellings	Achieved	Yes
Parking	- 0.5 parking spaces per 1 bedroom - 1 parking space per 2 bedrooms - 1.5 parking space per 3 or more bedrooms	The proposal is for the construction of 4 x 2 storey townhouses. The configuration of these town houses are 4 x 3 bedroom units. Therefore 6 parking spaces are required. The proposal provides 6 undercover parking spaces with one additional parking space between Units 2 and 3.	Yes
Dwelling Size	Each dwelling to have a gross floor area of at least: - 35m ² - Bedsitter or studio - 50m ² - 1 bedroom dwelling - 70m ² - 2 bedroom dwelling - 95m ² - 3 or more bedroom dwelling	Unit 1 (3 bedroom): 99.62m ² Unit 2 (3 bedroom): 101.44m ² Unit 3 (3 bedroom): 101.44m ² Unit 4 (3 bedroom): 101.44m ²	Yes

15 Design requirements

- The relevant provisions for this section have been considered.

16 Continued application of SEPP 65

- Not applicable.

16A Character of local area

- Park Avenue and the surrounding area consist of a mixture of low, medium and high density housing. There are several similar style multi unit developments within close proximity of the site. The proposed development will fit in the surrounding and maintain the character of the area.

17 Must be used for affordable housing for 10 years

Conditions of consent are recommended to address the requirements of this clause.

18 Subdivision

- No subdivision is proposed by the subject application.

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

The aim of this policy is to ensure consistency in the implementation of the BASIX scheme throughout the state, ensuring that certain types of residential development is sustainable through applications providing a list of commitments regarding the manner in which the development will be carried out.

The BASIX Certificate, numbered 1117758M, submitted with the application confirms that the proposed development will meet the policy's requirements for sustainability, passing sustainability targets for water, thermal comfort and energy.

State Environmental Planning Policy (Infrastructure) 2007

Under the State Environmental Planning Policy (Infrastructure) 2007 (ISEPP); *Clause 87 Impact of rail noise or vibration on non-rail development*, Subclause (1) refers to any proposed development, for the purposes of residential accommodation which includes multi dwelling housing, that is on land in or adjacent to a rail corridor and whether the consent authority considers it is likely to be adversely affected by rail noise or vibration.

Subclause (3) further states that if the development is for the purposes of residential accommodation, the consent authority must not grant consent to the development unless it is satisfied that appropriate measures are taken to ensure that applicable noise levels are not exceeded.

Chapter C12 Noise and Vibration of the Penrith Development Control Plan 2014, Section 12.2 *Rail Traffic Noise and Vibration* refers to rail noise and vibration issues that are to be considered where the siting of proposed residential development is on, or within, 80m of an operating rail corridor. The rear boundary line of the subject site is adjacent to the reserve for the rail way line (an approximate 10m from the rear boundary to the actual rail way line).

The applicant submitted a 'Railway Noise and Vibration Assessment at:- 84 Cox Avenue, Penrith, NSW 2750 (prepared by Noise and Sound Services dated August 2020) to give consideration to the potential noise and vibration impacts on the proposed development.

The report assessed the noise and vibration associated with both passenger and freight train movements, with unattended measurements being taken over a 7-day period. The assessment confirmed that the development would not experience any vibration impacts, however the noise impacts from the railway traffic would be above the criteria stipulated in the ISEPP. As a result, the report makes recommendations regarding specific glazing requirements, as well as other structural elements. In addition, mechanical ventilation was also found to be required, as the criteria would be exceeded with windows open.

This report was referred to Council's Environmental Management team who considered the recommendations made by the report to be satisfactory, and a condition of consent has been recommended to ensure that the requirements put forward in the report are incorporated into the development.

Therefore, consideration has been given to the criteria in the ISEPP and Council's local controls, and appropriate measures have been conditioned to ensure the objectives of both sets of controls will be achieved for the subject application.

Further to the above, it is noted that the subject site is also situated approximately 50m west from Parker Street (State Road, route A9), and Schedule 3 Traffic-generating development to be referred to RMS of the ISEPP includes a category for sites with access to a road that connects to a classified road within 90m, including proposals for residential accommodation. However, this is only triggered by 75 or more dwellings or 50 or more motor vehicles being generated per hour. The proposal is for 4 x town houses and, as such, the above consideration does not apply for the subject application.

State Environmental Planning Policy No 55—Remediation of Land

SEPP 55 aims to provide a framework for the assessment, management and remediation of contaminated land throughout the state. Clause 7(1) of SEPP 55 requires a consent authority to be satisfied that the site is suitable for the proposed development, or can be made suitable prior to the determination of the application.

The site is currently used for residential purposes, which is unchanged as a result of the proposed development. There is no history of contamination or unauthorised earthworks recorded at the subject site.

In consideration of the above, the proposal satisfies the requirements of SEPP 55, subject to conditions.

Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

Sydney Regional Environmental Plan No. 20 - Hawkesbury-Nepean River (No 2 - 1997) applies to the subject land and stipulates that the consent authority shall not grant consent to the application unless it is of the opinion that the carrying out of the development is consistent with any relevant, general and specific aim of the plan.

The general aims and objectives of the plan are directed towards improving the amenity of the river and protecting the lands within the river valley, including scenic quality.

An assessment has been undertaken of the application against criteria with Sydney Regional Environmental Plan No 20 and the application is satisfactory subject to recommended conditions of consent.

Local Environmental Plan 2010 (Amendment 4)

Provision	Compliance
Clause 1.2 Aims of the plan	Complies
Clause 2.3 Permissibility	Complies
Clause 2.3 Zone objectives	Complies
Clause 4.3 Height of buildings	Complies
Clause 4.4 Floor Space Ratio	N/A
Clause 5.10 Heritage conservation	Complies - See discussion
Clause 7.2 Flood planning	N/A
Clause 7.5 Protection of scenic character and landscape values	N/A
Clause 7.7 Servicing	Complies

Clause 5.10 Heritage conservation

See comments under the Heritage Referral section of this report for more information.

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

Draft Environment State Environmental Planning Policy

The Draft Environment SEPP was exhibited from 31 October 2017 to 31 January 2018. This consolidated SEPP proposes to simplify the planning rules for a number of water catchments, waterways, urban bushland, and Willandra Lakes World Heritage Property.

Changes proposed include consolidating a total of seven existing SEPPs being:

- *State Environmental Planning Policy No. 19 – Bushland in Urban Areas*
- *State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011*
- *State Environmental Planning Policy No. 50 – Canal Estate Development*
- *Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment*
- *Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (No.2-1997)*
- *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005*
- *Willandra Lakes Regional Environmental Plan No. 1 – World Heritage Property*

It is noted that the proposed changes to State Environmental Planning Policy No 19 – Bushland in Urban Areas (SEPP 19) are not considered to impact the proposed development. In addition, the amendments to Sydney Regional Environmental Plan No 20 – Hawkesbury – Nepean River (No. 2 – 1997) do not impact the proposed development. In this regard, the proposal is not inconsistent with the provisions of this Draft Instrument.

Draft Remediation of Land SEPP

The Department of Planning and Environment has announced a Draft Remediation of Land SEPP, which will repeal and replace the current State Environmental Planning Policy No 55—Remediation of Land.

The proposed new land remediation SEPP will:

- Provide a state-wide planning framework for the remediation of land,
- Maintain the objectives and reinforce those aspects of the existing framework that have worked well,
- Require planning authorities to consider the potential for land to be contaminated when determining development applications and rezoning land,
- Clearly list the remediation works that require development consent, and
- Introduce certification and operational requirements for remediation works that can be undertaken without development consent.

It is also proposed that it will transfer the requirements to consider contamination when rezoning land to a direction under Section 9.1 of the Environmental Planning and Assessment Act 1979.

Whilst the proposed SEPP will retain the key operational framework of SEPP 55, it will adopt a more modern approach to the management of contaminated land. Noting the above, the Draft SEPP will not alter or affect the findings in respect to contamination of the site.

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
C3 Water Management	Complies - see Appendix - Development Control Plan Compliance
C4 Land Management	Complies
C5 Waste Management	Complies
C6 Landscape Design	Complies
C7 Culture and Heritage	Complies
C8 Public Domain	N/A
C9 Advertising and Signage	N/A
C10 Transport, Access and Parking	Complies - see Appendix - Development Control Plan Compliance
C11 Subdivision	N/A
C12 Noise and Vibration	Complies - see Appendix - Development Control Plan Compliance
C13 Infrastructure and Services	Complies
D2.1 Single Dwellings	N/A
D2.2. Dual Occupancies	N/A
D2.3 Secondary Dwellings	N/A
D2.4 Multi Dwelling Housing	Complies - see Appendix - Development Control Plan Compliance
D2.5 Residential Flat Buildings	N/A
D2.6 Non Residential Developments	N/A

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

There are no planning agreements applicable to the subject site or application.

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

The requirements of the Regulations have been considered in the assessment of the application, with applicable conditions of consent being recommended. Notification has been carried out in accordance with the Regulations. Conditions of consent are included to ensure BCA compliance.

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

The likely impacts of the proposed development upon the surrounding area are discussed as follows:

Context and Setting

The surrounding area is residential in character with a mixture of attached and detached dwellings, single dwellings, dual occupancies, multi-dwelling housing and residential flat building development.

The application proposes the construction of 4 x two storey town houses with associated driveway, landscaping and drainage works. As such, the proposed development is consistent with the established neighbourhood character of the region and is of a similar design to the several multi-dwelling housing developments in the area.

Access, Traffic and Transportation Impacts

The minimum provision car parking spaces is provided for each unit. Vehicle access to the site will be provided via a driveway from Cox Avenue. The proposal will not generate any significant traffic and will not unreasonably increase traffic on site or in the local road network.

Utilities

All relevant services are available on site. Appropriate conditions of consent shall be imposed to ensure these services are connected prior to the issue of an Occupation Certificate.

Noise and Vibration

Appropriate setbacks have been achieved to each boundary.

See the State Environmental Planning Policy (Infrastructure) 2007 section of this report for more information.

Socioeconomic Impacts

The proposal will provide additional housing choice within the area.

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 site is zoned R3 Medium Density Residential and the proposal is permissible with Council consent.
- The proposed development is generally consistent with the objectives of Penrith Development Control Plan 2014.
- The use is compatible with surrounding/adjoining land uses.
- The grade of the site is suitable for the design proposed.
- The site is able to drain to Council's satisfaction.
- The proposal would have a negligible impact on the amenity of the surrounding properties.

Section 4.15(1)(d) Any Submissions

Community Consultation

In accordance with Clause 4.4 of Appendix F4 of Penrith Development Control Plan 2014, the proposed development was advertised and notified to nearby and adjoining residents between 31 August and 14 September 2020. 10 neighbours were notified and no 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
Heritage	No objections - subject to conditions
Environmental - Environmental management	No objections - subject to conditions
Environmental - Waterways	No objections - subject to conditions
Waste Services	Not supported
Traffic Engineer	No objection subject to conditions

Development Engineer

The application was referred to Council's Development Engineering team, who raised concerns with several aspects of the proposed stormwater systems and the driveway's compliance with Australian Standards and Council's policies/controls.

The applicant submitted amended plans which, upon review with Council's Engineers, satisfied the required information, with other outstanding matters be pursued through recommended conditions of consent.

Environmental - Environmental management

The application was referred to Council's Environmental Management team for review, who had no objections to the proposal subject to recommended conditions. See discussion under the ISEPP section of this report for more information.

Environmental - Waterways

The application was referred to Council's Waterways team for review in terms of water sensitive urban design and water quality and treatment.

Council's Waterways team had no objections to the proposal subject to recommended conditions of consent.

Heritage

The subject application was referred to Council's Heritage Advisor due to the subject site being near a Heritage listed item on the corner of Cox Avenue and Parker Street (A9).

Council's Heritage Advisor had no objections to the subject application subject to the landscaping and front setback being consistent with adjoining development along Cox Avenue.

The proposed landscaping and front setback has been assessed as being consistent with adjoining and similar development along Cox Avenue.

Traffic Engineer

The application was referred to Council's Traffic Engineering team, who had no objection to the proposal subject to conditions.

Waste Services

Council's Waste Services team did not support the subject application due to information not being provided as to the specifications of the on-site waste infrastructure, amongst other details.

Council's adopted Multi-Unit Dwellings Waste Management Guidelines requires that for both residual and recycling bins, that a bin provision of 2 dwellings per bin be provided. It is noted that all bin allocations are rounded up to the next whole number. As such, the required bin allocation equates to 2 bins for residual rubbish and 2 bins for recycling i.e. 4 bins total for the site. The above requirement has been provided for the subject development. Furthermore, the minimum size requirements for the waste collection area and the bulky waste storage area is met for the proposal, in accordance with the Multi-unit Dwellings Waste Management Guidelines.

All other requirements of the guidelines have been included through conditions of consent to be resolved prior to the issue of a Construction Certificate.

Section 4.15(1)(e)The public interest

The proposal should not generate any significant issues of public interest.

Section 94 - Developer Contributions Plans

The following Section 7.11 plans apply to the site:

- Section 7.11 - District Open Space Facilities
- Section 7.11 - Cultural Facilities
- Section 7.11 - Penrith City Local Open Space

The following Section 7.11 calculations apply to the proposed development.

Calculation for Multi Dwelling Housing					
<i>Open Space</i>					
No. of units	x	Rate	-	Credit for existing dwelling/s	Contribution rate
4	x	2.0	-	3.1	4.9
<i>City wide</i>					
No. of units	x	Rate	-	Credit for existing dwelling/s	Contribution rate
4	x	2.4	-	3.0	6.6
AMOUNT					
S.7.11 Contribution Plan		Contribution Rate x Calculation rate			Total
District Open Space		4.9 x \$2,027.00			\$9,932.00
Local Open Space		4.9 x \$733.00			\$3,591.00
Cultural facilities		6.6 x \$185.00			\$1,221.00
		NET TOTAL			\$14,744.00

Conclusion

In assessing this application against the relevant environmental planning policies, including several State Policies, Penrith Local Environmental Plan 2010 and Penrith Development Control Plan 2014, the proposal satisfies the aims, objectives and provisions of these policies. The site is suitable for the proposed development, the proposal is in the public interest, and there is unlikely to be negative impacts arising from the proposed development. Therefore, the application is worthy of support, subject to recommended conditions.

Recommendation

That DA20/0475 for the demolition of existing structures and construction of 4 x two storey town houses pursuant to State Environmental Planning Policy (Affordable Rental Housing) 2009 at 84 Cox Avenue, Penrith NSW 2750, be approved subject to the attached conditions.

General

1 A001 - Approved plans table

The development must be implemented substantially in accordance with the plans stamped approved by Council below, the application form, BASIX Certificate 1117758M and any supporting information received with the application, except as may be amended in red on the attached plans and by the following conditions.

Description	Plan No.	Revision	Prepared By	Date
Cover Page	Job No. 00391	C	Pretech Pty Ltd	29.09.20
Site, Ground Floor Plan & Development Calculations	Job No. 00391 Dwg No. A01	C	Pretech Pty Ltd	29.09.20
Site, First Floor Plan & Development Calculations	Job No. 00391 Dwg No. A02	C	Pretech Pty Ltd	29.09.20
Elevations & Sections	Job No. 00391 Dwg No. A03	A	Pretech Pty Ltd	01.07.20
Site Analysis Plan	Job No. 00391 Dwg No. A04	B	Pretech Pty Ltd	29.09.20
Shadow Analysis	Job No. 00391 Dwg No. A05	B	Pretech Pty Ltd	29.09.20
Stormwater Concept Design Ground Floor Plan	Proj.No. 20200231 Dwg No. SW200 Sheet 2 of 4	A	SGC Engineering Value	23.10.20
Stormwater Concept Design Ground Floor Plan	Proj.No. 20200231 Dwg No. SW300 Sheet 3 of 4	A	SGC Engineering Value	23.10.20
Stormwater Concept Design Ground Floor Plan	Proj.No. 20200231 Dwg No. SW400 Sheet 4 of 4	A	SGC Engineering Value	23.10.20

2 A001a - Affordable Rental Housing restriction on title

Prior to the issue of any Occupation Certificate, the Principal Certifying Authority is to be provided with copy of the registered Title for Unit number 1 which notes that:

- A restriction is registered against the title of the property, in accordance with Section 88E of the Conveyancing Act 1919 requiring that Unit number 1 must be used for the purposes of 'affordable housing' (as defined by State Environmental Planning Policy (Affordable Rental Housing) 2009, and
- That the Unit must be managed by a 'registered community housing provider' (as defined by the Housing Act 2001), for a minimum period of 10 years from the date of the issue of any **Occupation Certificate**. The name of the authority having the power to release, vary or modify the restriction referred to is to be Penrith City Council.
- Prior to the occupation of Unit number 1, details of the 'Registered Community Housing Provider' managing the affordable housing are to be provided to Penrith City Council.

Advisory notes:

(i) Under State Environmental Planning Policy (Affordable Rental Housing) 2009 a 'Registered Community Housing Provider' is defined as an entity that provides community housing.

(ii) State Environmental Planning Policy (Affordable Rental Housing) 2009 defines affordable housing as follows:

Affordable housing means housing for very low income households, low income households or moderate income households, being such households as are prescribed by the regulations or as are provided for in an environmental planning instrument.

(iii) Evidence that Unit 1 is being utilised for the purposes of affordable housing, in accordance with the above requirements, must be retained by the owner of the property and made available for Council inspection upon request.

3 **A008 - Works to BCA requirements (Always apply to building works)**

The work must be carried out in accordance with the requirements of the Building Code of Australia. If the work relates to a residential building and is valued in excess of \$20,000, then a contract of insurance for the residential development shall be in force in accordance with Part 6 of the Home Building Act 1989.

{Note: Residential building includes alterations and additions to a dwelling, and structures associated with a dwelling house/dwelling such as a carport, garage, shed, rural shed, swimming pool and the like}.

4 **A019 - OCCUPATION CERTIFICATE (ALWAYS APPLY)**

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

5 **A046 - Obtain Construction Certificate before commencement of works**

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

Demolition

6 **B002 - AS FOR DEMOLITION AND DISPOSAL TO APPROVED LANDFILL SITE**

All demolition works are to be conducted in accordance with AS 2601-2001 The Demolition of Structures.

SafeWork NSW requirements apply to demolition work and compliance with those requirements, including the SafeWork NSW Code of Practice Demolition Work August 2019, is also required.

Prior to demolition, all services shall be suitably disconnected and capped off or sealed to the satisfaction of the relevant service authority requirements.

7 **B003 - ASBESTOS**

Regulatory obligations (including licensing and notification requirements) for the management, control and removal of asbestos are prescribed in the:

- Work Health and Safety Act 2011 ,
- Work Health and Safety Regulation 2017
- SafeWork NSW Code of Practice How to Manage and Control Asbestos in the Workplace August 2019, and the
- SafeWork NSW Code of Practice How to Safely Remove Asbestos August 2019.
- Australian Standard AS2601

Compliance with the above legislation is required and reference should be made to SafeWork NSW and to the Asbestos Policy Penrith City Council 2014.

All asbestos laden waste must be disposed of at a waste management facility licensed by the NSW Environment Protection Authority to receive asbestos waste.

Environmental Matters

8 **D001 - Implement approved sediment& erosion control measures**

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

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

9 **D005 – No filling without prior approval (may need to add D006)**

No fill material is to be imported to the site without the prior approval of Penrith City Council in accordance with Sydney Regional Environmental Plan No.20 (Hawkesbury- Nepean River) (No.2-1997). No recycling of material for use as fill material shall be carried out on the site without the prior approval of Council.

10 **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.

11 **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.

12 **D013 - Approved noise level 1**

Noise levels within the premises shall not exceed the relevant noise criteria detailed in the 'Railway Noise and Vibration Assessment at:- 84 Cox Avenue, Penrith, NSW 2750' prepared by Noise and Sound Services, dated August 2020 (Ref. nss23240 - Final).

The recommendations provided in the above-mentioned acoustic report shall be implemented and incorporated into the design and construction of the development, and **shall be shown on plans accompanying the Construction Certificate application.**

A certificate is to be obtained from a qualified acoustic consultant certifying that the development 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.

13 **D014 - Plant and equipment noise**

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.

14 **D026 - Liquid wastes**

Only clean and unpolluted water is to be discharged into Penrith City Council's stormwater drainage system. Liquid wastes suitable for discharge to the mains sewer are to be discharged in accordance with Sydney Water requirements.

If mains sewer is not available or if Sydney Water will not allow disposal to the sewer then a licensed waste contractor is to remove the liquid waste from the premises to an appropriate waste facility.

The waste contractor and waste facility are to hold the relevant licenses issued by the NSW Environment Protection Authority.

15 **D06A – Approval for bulk earthworks/major filling operations (Use for bulk earthworks/ major filling operations)**

An appropriately qualified person/s shall:

- Supervise all filling works.
- (On completion of filling works) carry out an independent review of all documentation relating to the filling of the site, and submit a review findings report to Council and any Principal Certifying Authority. All fill material documentation is to (at minimum):
 - be prepared by an appropriately qualified person with consideration of all relevant guidelines, standards, planning instruments and legislation (e.g. EPA, NEPM, ANZECC, NH&MRC),
 - clearly state the legal property description of the fill material source site and the total amount of fill tested,
 - 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 NSW Environment Protection Authority's "Waste Classification Guidelines" 2014, 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.
- Certify by way of a Compliance Certificate or other written documentation that fill materials have been placed on the site in accordance with all conditions of this consent and that the site will not pose an unacceptable risk to human health or the environment. A copy of the Compliance Certificate or other documentation shall be submitted to Council and any Principal Certifying Authority.

The contact details of any appropriately qualified person/s engaged for the works shall be provided with the Notice of Commencement.

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

{Note: An appropriately qualified person is defined as "a person who, in the opinion of Council, has a demonstrated experience, or access to experience in hydrology, environmental chemistry, soil science, ecotoxicology, 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."}

16 **D - Dust**

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

17 **D - Hours of work**

All demolition and construction works will 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.

In the event that the work does not involve the use of equipment that emits noise, then the 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 works.

18 **D - Mud/Soil**

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

19 **D Special BLANK**

Should any "unexpected finds" occur during site excavation and earthworks including, but not limited to, the identification/finding of contaminated soils, buried building materials, asbestos, odour and/or staining, works are to cease immediately and Penrith City Council is to be notified. Any such "unexpected finds" shall be addressed by an appropriately qualified person.

All remediation works within the Penrith Local Government Area are considered to be Category 1 works under State Environmental Planning Policy 55-Remediation of Land. Should any contamination be found during development works and should remediation works be required, development consent is to be sought from Penrith City Council before the remediation works commence.

{Note: An appropriately qualified person is defined as "a person who, in the opinion of Council, has a demonstrated experience, or access to experience in hydrology, environmental chemistry, soil science, ecotoxicology, 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."}

20 **D Special BLANK**

Prior to commencement of demolition works on site, a Hazardous Building Materials Assessment is to be submitted to Council. The associated investigations are required to be carried out to assess the location, extent and condition of Hazardous Building Materials including but not limited to the following:

- Asbestos
- Synthetic mineral fibres (SMF)
- Polychlorinated Biphenyls (PCBs)
- Lead-containing paint
- Ozone depleting substances
- Lead dust in ceiling cavities

The Assessment is to also provide general recommendations for the removal of the hazardous materials, including the preparation of safe work method statements and risk assessments to appropriately address health and safety issues.

During demolition works, the approved Hazardous Building Materials Assessment must be implemented and complied with at all times.

At the completion of the demolition works, the applicant is to submit to Council a report demonstrating that the hazardous building materials identified in the Hazardous Building Materials Assessment have been removed and disposed of at a lawful waste facility.

BCA Issues

21 **E001 - BCA compliance**

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

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

(b) formulating an alternative solution which:

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

Utility Services

22 **G002 - Section 73 (not for**

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

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

23 [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.

In the event that a pad mounted substation is necessary to service the development, Penrith City Council shall be consulted over the proposed location of the substation before the Construction Certificate for the development is issued as the location of the substation may impact on other services and building, driveway or landscape design already approved by Council.

24 [G006 -](#)

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

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

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

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

Construction

25 [H001 - Stamped plans and erection of site notice](#)

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

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

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

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

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

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

26 H002 - All forms of construction

Prior to the commencement of construction works:

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

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

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

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

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

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

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

27 H006 - Submission of and implement waste management plan

Prior to works commencing, a Construction Waste Management Plan is to be submitted to Council for approval.

This Plan is to address all waste materials generated during the demolition and construction phases of the development, including details of the proposed waste volumes, on site storage and management, designated waste contractors and waste facilities.

The Council approved Waste Management Plan must be implemented and adhered to on site, with supporting documentation / receipts retained in order to verify the disposal of materials in accordance with the approved Plan.

28 H032 - Painting

Prior to the issue of an Occupation Certificate, the building is to be painted internally and externally (as applicable).

29 H033 – Clothes line

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

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

The rainwater tank(s) is to be:

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

Additionally, the following are to be provided:

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

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

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

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

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

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

- roof catchment areas must be kept clear of overhanging vegetation,
- gutters must have sufficient fall to downpipes to prevent pooling of water,
- overflow, discharge from bleed off pipes from roof mounted appliances such as airconditioners, hot water services and solar heaters must not discharge into the rainwater catchment area,
- for roofs containing lead based, tar based or asbestos material the tank supply must not be connected to drinking, bathing and gardening tap water outlets,
- appropriate measures must be installed to prevent foreign materials from contaminating the water which enters the rainwater tank.

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

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

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

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

34 [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 and do not involve the use of equipment that emits noise are not restricted to the construction hours stated above.

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

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

Prior to the issue of an Occupation Certificate, the developer is to enter into a formal agreement with Penrith City Council for the 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.

Council's waste collection will only be provided for the development upon the construction of the on-site waste collection infrastructure and **on attainment of an Occupation Certificate.**

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

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

- The Waste Collection Area and Bulky Storage Bay are to provide wash facilities through the use of a centralised mixing valve and hose cock. Respective drainage and waste proofing is to be installed to support the use of hose facilities.
- The wall height of the screening surrounding the Waste Collection Area and Bulky Storage Bay is not to exceed 1.4m above natural ground level.
- The floor of the Waste Collection Area and Bulky Storage Bay is to be graded to a central drainage point connected to the sewer and discharged on site.
- The floor of the Waste Collection Area and Bulky Storage Bay is to be constructed of concrete to a minimum thickness of 75mm, non-slip and smooth/even surface covered at all intersections.

Roads Act Requirements

37 [I Special BLANK](#)

All car spaces are to be dedicated for the parking of vehicles only and not to be used for storage of material/products/waste material or laundry and the like, including the enclosed garages for Units 1, 2, 3 and 4.

Engineering

38 [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.

39 **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 Construction Certificate or 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.

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

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

- a) Vehicular crossings (including kerb reinstatement of redundant vehicular crossings). The vehicular crossing shall be a minimum 1m clear of the existing Telstra pit fronting the site.
- b) Concrete footpaths and or cycleways
- c) Road opening for utilities and stormwater (including stormwater connection to Penrith City Council's road drainage system and other Penrith City Council owned drainage)
- d) Road occupancy or road closures
- e) The placement of hoardings, structures, containers, waster skips, signs etc. in the road reserve
- f) Temporary construction access

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

Contact Penrith City Council's 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.

41 **K209 - Stormwater Concept Plan**

The stormwater management system shall be provided generally in accordance with the concept plan/s lodged for development approval, prepared by Think Planners, reference number 20200231, revision P3, dated 17 July 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 a Construction Certificate the Certifying Authority shall ensure that the stormwater management system has been designed in accordance with Council's Stormwater Drainage for Building Developments and Water Sensitive Urban Design Policy.

42 **K210 - Stormwater Management**

The stormwater management system shall be consistent with plans lodged for development approval, prepared by SGC Consulting Engineers, project number 20200231, drawing number SW100 - SW400, revision A, dated 23/10/2020.

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

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

43 **K222 - Access, Car Parking and Manoeuvring - General**

Prior to the issue of any Construction Certificate, the Certifier shall ensure that vehicular access, circulation, manoeuvring, pedestrian and parking areas associated with the subject development are in accordance with AS2890.1, AS2890.2, AS2890.6 and Penrith City Council's Development Control Plan.

44 **K224 - Construction Traffic Management Plan**

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 Penrith City 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.

45 **K301 - Sediment & Erosion Control**

Prior to commencement of works sediment and erosion control measures shall be installed in accordance with the approved Construction Certificate and to ensure compliance with the Protection of the Environment Operations Act 1997.

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

46 **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.

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

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

48 **K502 - Works as executed – General and Compliance Documentation**

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

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

49 **K503 - Stormwater Compliance**

Prior to the issue of any Occupation Certificate, the Principal Certifying Authority shall ensure that the stormwater management system (including water sensitive urban design measures):

- Have been satisfactorily completed in accordance with the approved Construction Certificate and the requirements of this consent.
- Have met the design intent with regard to any construction variations to the approved design.
- Any remedial works required to be undertaken have been satisfactorily completed.

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

50 **K503 - Works As Executed - Stormwater Management**

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

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

51 **K504 - Restriction as to User and Positive Covenant**

Prior to the issue of an Occupation Certificate a restriction as to user and positive covenant relating to the stormwater management systems (including water sensitive urban design measures) shall be registered on the title of the property. The restriction as to user and positive covenant shall be in Penrith City Council's standard wording as detailed in Penrith City Council's Stormwater Drainage Specification for Building Development – Appendix F

52 **K504 - Stormwater Compliance**

Prior to the issue of any Occupation Certificate, the Principal Certifier shall ensure that the:

a) Stormwater management systems (including on-site detention)

- have been satisfactorily completed in accordance with the approved Construction Certificate or Subdivision Works Certificate and the requirements of this consent;
- have met the design intent with regard to any construction variations to the approved design, and;
- Any remedial works required to be undertaken have been satisfactorily completed.

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

53 **K505 - Restriction on the Use of Land and Positive Covenant**

Prior to the issue of any Occupation Certificate, a restriction on the use of land and positive covenant relating to the:

a) Stormwater management systems (including on-site detention)

shall be registered on the title of the property. The restriction on the use of land and positive covenant shall be in Penrith City Council's standard wording as detailed in Council's Stormwater Specification for Building Developments - Appendix F.

54 **K601 - Stormwater Management System Operation and Maintenance**

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

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

55 **K - Waterways - Stormwater Management system operation and maintenance**

The stormwater management systems shall continue to be operated and maintained in perpetuity to the satisfaction of Council in accordance with the final operation and maintenance management plan. Regular inspection records are required to be maintained and made available to Council upon request. All necessary improvements are required to be made immediately upon awareness of any deficiencies in the treatment measure/s

56 **K Special Condition BLANK**

Prior to the issue of any Construction Certificate, the Certifier shall ensure that the driveway hardstand area at the southern end of the site is extended to wholly contain the swept path for the design vehicle for both ingress and egress for the double garage servicing Unit 4 in accordance with AS2890.

Landscaping

57 **L001 - General**

All landscape works are to be constructed in accordance with the stamped approved plans and Chapter C6 Landscape Design of Penrith Development Control Plan 2014.

Landscaping shall be maintained:

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

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

58 **L006 - Aust Standard**

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

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

59 **L008 - Tree Preservation Order**

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

Development Contributions

60 **N001a - Section 7.11 contribution (Cultural Facilities)**

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, \$1,221.00 **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.

61 **N001b - Section 7.11 contribution (District Open Space)**

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, \$9,932.00 **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.

62 **N001c - Section 7.11 contribution (Local Open Space)**

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, \$3,591.00 **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

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

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

(a) employ a Principal Certifying Authority to oversee that the said works carried out on the site are in accordance with the development consent and related Construction Certificate issued for the approved development, and with the relevant provisions of the Environmental Planning and Assessment Act 1979, 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 of 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.

64 **Q05F - Occupation Certificate for Class10**

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

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

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

Appendix - Development Control Plan Compliance

Development Control Plan 2014

Part C - City-wide Controls

C3 Water Management

See discussion under the Development Engineer Referral section of this report for more information.

C10 Transport, Access and Parking

See the ARH SEPP section of this report for more information.

C12 Noise and Vibration

See discussion under the Infrastructure SEPP section of this report for more information.

D2 Residential Development

The proposal generally complies with the Multi Dwelling Housing requirements of this Chapter, despite not meeting the 22m wide frontage control.

Assessment of the proposed 4 x town houses has confirmed that it complies numerically with the building length, building separation and the front, rear and side setback controls, as required by Chapter 2.4 of Penrith DCP 2014.

See discussion under the ARH SEPP section of this report for more information.