

# PENRITH CITY COUNCIL

## NOTICE OF DETERMINATION

### DESCRIPTION OF DEVELOPMENT

Application number:	DA20/0164
Description of development:	Demolition of Existing Structures, Tree Removal, Construction of Two x 5 Storey Residential Flat Buildings Containing a Total of 51 Apartments with Two Shared Basement Car Parking Levels, Landscaping & Civil Works
Classification of development:	Class 2 , Class 7a

### DETAILS OF THE LAND TO BE DEVELOPED

Legal description:	Lot 29 DP 31239 Lot 30 DP 31239 Lot 32 DP 31239 Lot 33 DP 31239 Lot 31 DP 31239
Property address:	16 Hope Street, PENRITH NSW 2750 18 Hope Street, PENRITH NSW 2750 20 Hope Street, PENRITH NSW 2750 22 Hope Street, PENRITH NSW 2750 24 Hope Street, PENRITH NSW 2750

### DETAILS OF THE APPLICANT

Name & Address:	Morson Architects Pty Ltd Level 2 3 Barrack Street SYDNEY NSW 2000
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### DECISION OF CONSENT AUTHORITY

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

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

Date from which consent operates	26 October 2021
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Date the consent expires	26 October 2026
Date of this decision	13 October 2021

## **POINT OF CONTACT**

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

Assessing Officer:	Kathryn Saunders
Contact telephone number:	+612 4732 8567

## NOTES

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### **Reasons**

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

### **Conditions**

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

### **Certification and advisory notes**

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

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

### **Review of determination**

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

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

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

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

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

### **Designated development**

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

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

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

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

# ATTACHMENT 1: CONDITIONS OF CONSENT

## General

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

- Traffic and Parking Assessment Report, prepared by Stanbury Traffic Planning, Reference 19-201-2, dated April 2021;
- Construction Waste Management Plan, prepared by Peter Morson, and Operational Waste Management Plan, Reference 18006 16-24 Hope Street\_Waste management - Waste Section document;
- Preliminary Site Investigation, prepared by Banksia EnviroSciences, dated 15 April 2021;
- Access Report, prepared by Vista Access Architects, revision B, dated 18-03-2020, reference no. 18148;
- BASIX Certificate No. 947968M\_03; and
- The following drawings:

Drawing Title	Drawing No.	Revision Number	Prepared By	Dated
Cover Plan	DA01	D	Morson Group	15/06/2021
3D Views	DA02	D	Morson Group	15/06/2021
3D Views	DA03	D	Morson Group	15/06/2021
Statement of Design	DA04	B	Morson Group	01/04/2021
SEPP 65 and Design Criteria	DA05	B	Morson Group	01/04/2021
Site Analysis	DA06	B	Morson Group	01/04/2021
Site Plan	DA07	B	Morson Group	01/04/2021
Site Analysis Streetscape	DA08	B	Morson Group	01/04/2021
Demolition Plan	DA09	B	Morson Group	01/04/2021
Basement 2	DA10	B	Morson Group	01/04/2021
Basement 1	DA11	B	Morson Group	01/04/2021
Ground Floor Plan	DA12	D	Morson Group	15/06/2021
Level 1	DA13	B	Morson Group	01/04/2021
Level 2	DA14	B	Morson Group	01/04/2021
Level 3	DA15	B	Morson Group	01/04/2021
Level 4	DA16	B	Morson Group	01/04/2021
Roof Plan	DA17	C	Morson Group	25/08/2021
North Elevation	DA19	D	Morson Group	15/06/2021
East Elevation	DA20	C	Morson Group	15/06/2021
West Elevation	DA21	C	Morson Group	15/06/2021
South Elevation	DA22	B	Morson Group	01/04/2021
Central Elevations	DA23	C	Morson Group	15/06/2021
North-South Section 1	DA24	D	Morson Group	15/06/2021
North-South Section 2	DA25	D	Morson Group	15/06/2021
East-West Section	DA26	C	Morson Group	07/05/2021
Detailed Section 2	DA26D	B	Morson Group	16/06/2021
Solar Access Study	DA27	B	Morson Group	01/04/2021

Solar COS	DA27B	A	Morson Group	01/04/2021
Window Schedule & Adaptable Units	DA28	C	Morson Group	25/08/2021
Daylight Access	DA29	A	Morson Group	17/03/2020
Daylight Access	DA30	A	Morson Group	17/03/2020
Material Schedule	DA31	B	Morson Group	01/04/2021
Section 1-50	DA32	B	Morson Group	15/06/2021
Nathers	DA33	A	Morson Group	25/08/2021
<b>Stormwater Plans</b>				
Cover Sheet Plan	000	C	ACE Civil	27/07/2018
Stormwater Concept Plan Basement Level 2 Sheet 1 of 2	101	E	ACE Civil	16/07/2021
Stormwater Concept Plan Basement Level 2 Sheet 2 of 2	102	D	ACE Civil	18/03/2021
Stormwater Concept Plan Basement Level 1	103	E	ACE Civil	16/07/2021
Stormwater Concept Plan Level 1	104	E	ACE Civil	16/07/2021
On-Site Detention Calculations Sheets Sheet 1 of 2	105	F	ACE Civil	16/07/2021
On-Site Detention Details and Calculation Sheet 2 of 2	105.1	D	ACE Civil	16/07/2021
Misc. Details Sheet	106	C	ACE Civil	18/03/2021
<b>Landscape Plans</b>				
Landscape Plan	L-01/2	D	RFA Landscape Architects	14/07/2021
Landscape Plan	L-02/2	D	RFA Landscape Architects	14/07/2021

- 2 **Prior to the issue of any Construction Certificate for the development**, amended landscape and architectural plans are to be submitted to and approved by the Manager of Development Services at Penrith City Council.

The amended plans are to incorporate the following:

- (a) For security and privacy reasons, separated and recessed, individual access is to be provided to apartments 02 and 29 off the central entry pathways.
- (b) The landscape planters and deep soil areas along the frontage of the site are to be amended to reflect Council's urban design advice and attached mark-up prepared by Brett Newbold dated 21 May 2021, to the satisfaction of Council.
- (c) A final ground floor outdoor common open space plan indicating fencing, paving treatments, pergolas and landscape treatments and levels is to be provided.
- (d) Any trees identified and approved for retention in the Council approved Arboricultural Report (as required by Condition 3), be retained and protected and the location of any such tree(s) be noted on plans.
- (e) An increased variety of ground cover species that are suitable to the local area that assist in retaining soil moisture, optimal growth and green appearance.

- 3 **Prior to the issue of any Construction Certificate for the development**, an Arboricultural Impact Assessment is to be submitted to and approved by the Manager of Development Services at Penrith City Council. The report is to provide an assessment of trees located on and adjacent to the site and is to identify any trees which may be retained and protected throughout the re-development of the site.

- 4 The development shall provide 64 resident car parking spaces including 5 accessible spaces plus 11 visitor spaces, 2 service vehicle spaces and 1 carwash space. On basement level 2, the 2 parking spaces at the blind end of the aisle shall be designated for motor-cycle parking only and shall not be used for car parking.
- 5 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.}

- 6 All five lots that make up the subject development site, being Lots 29, 30, 31, 32 and 33 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.

- 7 **The development shall not be used or occupied until an Occupation Certificate has been issued.**
- 8 A **Construction Certificate** shall be obtained prior to commencement of any building works.
- 9 **Prior to the issue of a construction certificate**, a plan indicating the selected materials for all ground floor and podium fencing and the design and details of security gates and mailbox structures is to be provided to the Manager of Development Services at Penrith City Council for review and approval.

This condition is imposed to ensure that fencing and mailbox structures are appropriately located, are suitably integrated into the architectural and landscape design of the development and that these elements are of suitable high quality, to ensure that the streetscape presentation is enhanced.

- 10 **Prior to the issue of a Construction Certificate**, evidence of compliance with the Design and Building Practitioners - Particulars for Regulated Designs Order 2021 is to be provided to the satisfaction of the Certifying Authority, for any excavation, shoring and anchoring works that traverse a property boundary. This includes evidence of a registered easement over a neighbouring property granting the right to install such works as required.
- 11 A minimum of 5 apartments shall be constructed as adaptable apartments to meet the requirements for persons with a disability and in accordance with the stamped approved plans. The adaptable units shall each be allocated an accessible car parking space compliant with AS 2890.6 and shall be evenly distributed throughout the building and not be concentrated in any one area or level.

**The Construction Certificate application must be accompanied by certification from a person suitably qualified and experience professional**, confirming that the adaptable dwellings are capable of being modified, when required by the occupant, to comply with the Australian Housing Standard (AS 4299-2009). The WC provided within the common area at ground floor is to be accessible.

**A Compliance Certificate in relation to the above, shall be provided prior to the issue of an Occupation Certificate.**

- 12 Any air conditioning units installed on individual apartment balconies are to be set back from the outer edge of the balcony and are not to be mounted on the wall above the balustrade level. All roof mounted plant, ducting or services infrastructure shall be setback so as to be screened from view. No approval is granted for the installation of ducting, conduit, stormwater drainage, plant machinery or services infrastructure on the external facades of the building.
- 13 Prior to the erection of any crane or any temporary construction structure at a height greater than the roof of the subject development, written notice shall be provided to Council and the Nepean Blue Mountains Local Health District at least 21 days prior to the erection, indicating at least the following:
  - Name of responsible company and relevant contact details.
  - Dimensions (height, length, etc.)
  - Length of time that such a crane or structure will be erected on site.
  - The management plan and measures that will ensure that the crane or structure will be of least possible impact on flight operations for Ambulance NSW.

Any crane or any temporary construction structure erected at a height greater than the roof of the subject development shall comply with the following:

- Be equipped with medium intensity steady red lighting positioned at the highest point and at each end of the boom/jib and counter boom/jib, such that the lighting will provide an indication of the height of the crane and the radius of the crane boom/jib. Such lighting, which should be displayed at all times of the day and night, should be positioned so that when displayed it is visible from all directions.
- 14 For the purposes of Section 4.17(11) of the Act, it is a prescribed condition of this development consent that if the development involves an excavation that extends below the level of the base of the footings of a building, structure or work (including any structure or work within a road or rail corridor) on adjoining land, the person having the benefit of this development consent must, at the person's own expense:
    - (a) protect and support the building, structure or work from possible damage from the excavation, and
    - (b) where necessary, underpin the building, structure or work to prevent any such damage.

Further to the above and **prior to the commencement of any excavation works**, a dilapidation report is to be prepared and submitted to Council. The report is to record and detail the existing state of surrounding assets and structures including those located on adjacent private property.

15 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 cladding 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.

16 The following community safety and crime prevention through environmental design (CPTED) requirements are required to be implemented:

**(a) 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.

**(b) Basement Car Parking**

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

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

- Intercom, code or card locks or similar must be installed for all entries to the buildings.
- Australian Standard 220 door and window locks must be installed in all dwellings.
- Access to common areas must be restricted to residents and their visitors.
- CCTV is to be provided to cover communal public space areas, in particular the basement car park entry/exit. 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.
- Letterboxes must be positioned to be opened from within a secure space only (i.e. residential lobby area).

**(d) Graffiti/Vandalism**

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

**(e) Landscaping**

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

## Demolition

- 17 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**.

- 18 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.

- 19 Dust suppression techniques are to be employed during demolition and construction works to reduce any potential nuisances to surrounding properties.
- 20 Mud and soil from vehicular movements to and from the site during works must not be deposited on the road.
- 21 Demolition works shall be restricted to the following hours in accordance with the NSW Environment Protection Authority Noise Control Guidelines:
- Mondays to Fridays, 7am to 6pm
  - Saturdays, 7am to 1pm if inaudible on neighbouring residential premises, otherwise 8am to 1pm
  - No demolition work is permitted on Sundays and Public Holidays.

In the event that the demolition relates to works inside the building, does not involve external walls or the roof and does not involve the use of equipment that emits noise, then the demolition works are not restricted to the hours stated above.

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

- 22 **Prior to the commencement of demolition works**, a Hazardous Materials Survey is to be conducted on the existing structures to be demolished by an appropriately qualified consultant(s). The Hazardous Materials Survey is to be prepared in accordance with:
- AS 2601-2001 "The Demolition of Structures", and
  - Preliminary Site Investigation prepared by Banksia EnviroSciences (dated 15 April 2021, ref. 18006/16-24).

The associated investigations are 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 survey is to provide 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. SafeWork NSW requirements apply to demolition work and compliance with those requirements, including the SafeWork NSW Code of Practice Demolition Work (August 2019), is required.

All demolition works are to be conducted in accordance with the recommendations made in the approved Hazardous Materials Survey.

## Heritage/Archaeological relics

- 23 If any archaeological relics are uncovered during the course of the construction and excavation work, no further activities shall be undertaken until further directed by Penrith City Council or the NSW Heritage Office/Department of Planning, Industry and Environment.

The applicant is advised that depending on the possible significance of relics or items of Aboriginal cultural heritage, an archaeological assessment and applicable permits issued under the Heritage Act 1977 may be required before any work can be recommenced.

## Environmental Matters

- 24 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.

The approved sediment and erosion control measures are to be installed **prior to and maintained throughout the construction phase of the development until the landscaping, driveway and on-site parking areas have been completed for the development**. 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.

- 25 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.

{Note: Penrith Development Control Plan defines an appropriately qualified person as "a person who, in the opinion of Council, has a demonstrated experience, or access to experience in hydrology, environmental chemistry, soil science, eco-toxicology, sampling and analytical procedures, risk evaluation and remediation technologies. In addition, the person will be required to have appropriate professional indemnity and public risk insurance."}.

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.

- 26 All waste materials stored on-site during works 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.
- 27 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.

- 28 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.
- 29 All vehicle washing 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 site shall be submitted to the Principal Certifying Authority before the

wash bay can be installed.

At no time is wastewater generated from the vehicle wash bay to be directed into the stormwater drainage system.

- 30 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 site to an appropriate waste facility.

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

- 31 **Prior to the issue of the Construction Certificate**, a Construction Noise and Vibration Impact Management Plan is to be prepared and submitted to Council for approval. This assessment is to consider (at minimum) the details of the construction program, construction methods, equipment and vehicles in association with the (then) NSW Department of Environment and Climate Change's "Interim Construction Noise Guideline" 2009.

The recommendations of the approved Management Plan are to be implemented and adhered to during the construction phase of the development.

- 32 No wastewater resulting from, or associated with, the excavation and construction phase of the development, is permitted to enter Council's stormwater system. All wastewater from the site is to be removed by a licensed transporter and disposed of at an EPA licensed waste facility. All receipts and supporting documentation must be retained in order to verify lawful disposal of wastewater and are to be made available to Penrith City Council on request.

Should approval be obtained from Sydney Water for the discharge of any wastewater from the excavation and construction phase of the development, to the sewer, evidence and details of this approval are to be submitted to both Council and the Certifying Authority prior to the commencement of works.

- 33 An Unexpected Finds Protocol (the Protocol) is to be developed by an appropriately qualified environmental consultant. **Prior to the issue of a Construction Certificate**, the Protocol is to be submitted to Council and approved. If Council is not the certifying authority for the development, the Protocol is required to be provided to Penrith City Council for approval.

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

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

- 34 The following waste management requirements must be satisfied:

(a) All waste collection infrastructure, doors and access points are to be locked/accessed through an Abloy Key System. System specifications are outlined in Section 3.5.5 of the 'Residential Flat Building Waste Management Guideline' document.

(b) Waste areas are to be provided with a centralised mixing valve and hose cock and the floor area is to be

provided with drainage. All floor wastes are to connect to the sewer.

(c) The chute inlets on each residential level are to be located within cupboards (maximum depth of 150mm) and incorporate dual doors and appropriate ventilation.

(d) All on-site waste collection areas are to be provided with:

- automatic lighting and mechanical ventilation to applicable building code requirements,
- 180-degree outwards opening doors,
- unobstructed internal height clearances of 2600mm free from external services and utilities.

35 **Prior to the issue of an Occupation Certificate**, those acting on the consent are to enter into a written 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.

## BCA Issues

36 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

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

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

38 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.

39 **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

40 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 on site, 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.

41 Prior to the commencement of construction works:

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

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

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

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

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

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

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

42 The approved waste management plan must be implemented on-site and adhered to throughout all stages of the development including demolition, with supporting documentation / receipts retained in order to verify the recycling and disposal of materials in accordance with the approved plan.

43 The building shall be set out by a registered surveyor. A Survey Certificate shall be undertaken and submitted to the Principal Certifying Authority when the building is constructed to ground floor slab level.

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

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

Other construction works carried out inside a building/tenancy and that do not involve the use of equipment

that emits noise are not restricted to the construction hours stated above.

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

## Engineering

45 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.

46 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.

47 **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) Road opening for utilities (service lead in works and under grounding of existing services)
- (b) Road occupancy or road closures
- (c) The placement of hoardings, structures, containers, waster skips, signs, etc in the road reserve
- (d) Temporary construction access
- (e) Temporary ground anchors (for basement construction)
- (f) the removal of redundant driveways and kerb crossovers, and the required reinstatement of kerb along the frontage of the site.

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.

**All works associated with the Roads Act approval must be completed prior to the issue of any Occupation Certificate.**

### Advisory notes:

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.

48 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 driveway, footpath, landscaping, kerb inlet pit and stormwater works in the Hope Street road reserve fronting the development.

As part of this Section 138 Roads Act approval, the application is required to demonstrate that the proposed driveway layback will achieve a minimum 1m clearance to both the existing and proposed kerb inlet pits in close proximity to this layback. This approval shall include any works that may be required to achieve this outcome.

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

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

Note:

- Where Penrith City Council is the 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.

49 The stormwater management system shall be consistent with plans lodged for development approval, prepared by Ace Civil Stormwater Services Pty Ltd, project number 180919, dated 16/07/2021.

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.

50 Prior to the issue of any Construction Certificate, the Certifying Authority shall ensure that vehicular access, circulation, manoeuvring, pedestrian and parking areas associated with the subject development are in accordance with AS 2890.1, AS 2890.2, AS 2890.6 and Penrith Development Control Plan.

51 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 City Assets Department for endorsement. The CTMP shall be prepared by a suitably qualified consultant with appropriate training and certification from Transport for NSW (TfNSW). 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.

52 Prior to the issue of a Roads Act Approval, a Performance Bond is to be lodged with Penrith City Council for driveway, footpath, landscaping, kerb inlet pit and stormwater works in the Hope Street road reserve fronting the development.

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

Note:

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

53 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 the Council infrastructure and surrounding developments. The geotechnical investigation, report and strategy shall comply with the recommendations contained in the technical direction GTD 2012/001 prepared by the Road and Maritime Services, as amended.

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

55 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.

56 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.

57 All existing (aerial) and proposed services for the development, including those across the frontage of the development, are to be located or relocated underground in accordance with the relevant authority regulations and standards.

58 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.

59 Prior to the issue of an Occupation Certificate, works-as-executed drawings, final operation and maintenance management plans and any other compliance documentation shall be submitted to the Principal Certifying

Authority in accordance with Penrith City Council's Engineering Construction Specification for Civil Works, WSUD Technical Guidelines and Stormwater Drainage for Building Developments policy.

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

60 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.

61 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 and Drainage for Building Developments policy.

62 Prior to the issue of any Occupation Certificate and installation of regulatory / advisory linemarking and signage, plans are to be lodged with Penrith City Council and approved by the Local Traffic Committee.

Note:

- Contact Penrith City Council's Engineering Services Department on 4732 7777 for further information on this process.
- Allow eight (8) weeks for approval by the Local Traffic Committee.
- Applicable fees are indicated in Council's adopted Fees and Charges Schedule.

63 Prior to the issue of any Occupation Certificate, a Maintenance Bond is to be lodged with Penrith City Council for driveway, footpath, landscaping, kerb inlet pit and stormwater works in the Hope Street road reserve fronting the development.

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

Note:

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

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

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

65 **Prior to the issue of a Construction Certificate**, a signage and line marking plan for proposed on-street parking changes (on the northern and southern side of Hope Street), to be instated as Marked Parking Bays as per the "Park In Marked Bays Only" scheme currently in place on Hope Street, must be submitted to Council for endorsement via the Local Traffic Committee.

The plan will be subject to consultation with affected residents as part of the Local Traffic Committee process. Due to the timing of Local Traffic Committee meetings, the reporting period prior, and the need for the Committee's recommendations to be endorsed at Council's Ordinary Meeting, a time frame of approximately 10 weeks is required from the time an accepted signage and line marking plan is received by Council for assessment.

66 **Prior to the issue of a Construction Certificate**, a Traffic Management Plan is to be prepared and is to be submitted to Council for approval. The Plan shall include all details of the installation and management of the proposed traffic control signal system proposed for installation in relation to waste service vehicle access to the basement. The Plan shall include, but not limited to, the provision of:

- The product and its specifications (including signage and signal lantern dimensions and clearances, with any associated details of loop detectors, signal output controllers and the like).
- Details of swipe card/security/activation/trip/manual activation mechanisms/intercom use and/or positional sensors and their operation (whether in-ground or surface-mounted for vehicle detection).
- Signal programming details with regard to "revert to" and "dwell" for green and red signals (for ingressing and egressing vehicles).
- Nominated system wait times and pre-set clearance timing.
- Instructions on use of the system to be given to waste vehicle drivers.
- Installation and maintenance details from the installer (including a copy of the user operation manual, or the like).
- Contingencies in the event of a system failure.

67 The required sight lines around the driveway entrance are not to be compromised by landscaping, fencing or signage.

68 All vehicles are to enter and exit in a forward direction.

## Landscaping

69 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.

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

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

i. Implementation Report

On 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 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.

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

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

73 All trees that are required to be retained as part of the development are to be protected in accordance with the minimum tree protection standards prescribed in Chapter C6 of the Penrith Development Control Plan.

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

75 **Prior to the issue of any Occupation Certificate**, street trees are to be planted at a rate of one tree per existing lot (or to the satisfaction of the Manager of Development Services). Prior to the planting of street trees, approval of the selected plant species, location and pot size of the street trees is to be approved by Penrith City Council (as the relevant Roads Authority). In this regard, please contact Council's Development

## Section 94

- 76 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, \$176,720.00 is to be paid to Council prior to the issue of any Construction Certificate 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 Section 7.11 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 and is also available on Council's website.

**Note:** The timing of contributions payable may be otherwise affected in accordance with Planning Circular PS 20-003 dated 3 July 2020 and the associated NSW Government Ministerial Direction - Infrastructure Contributions.

- 77 This condition is imposed in accordance with Penrith City Council's Section 7.11 Contributions Plan for District Open Space Facilities. Based on the current rates detailed in the accompanying schedule attached to this Notice, \$20,836.00 is to be paid to Council prior to the issue of any Construction Certificate 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 Section 7.11 invoice accompanying this consent should accompany the contribution payment. The Section 7.11 Contributions Plan for District Open Space Facilities may be inspected at Council's Civic Centre, 601 High Street, Penrith and is also available on Council's website.

**Note:** The timing of contributions payable may be otherwise affected in accordance with Planning Circular PS 20-003 dated 3 July 2020 and the associated NSW Government Ministerial Direction - Infrastructure Contributions.

- 78 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, \$63,924.00 is to be paid to Council prior to the issue of any Construction Certificate 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

Section 7.11 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 and is also available on Council's website.

**Note:** The timing of contributions payable may be otherwise affected in accordance with Planning Circular PS 20-003 dated 3 July 2020 and the associated NSW Government Ministerial Direction - Infrastructure Contributions.

## Payment of Fees

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

## Certification

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

- (a) employ a Principal Certifier 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 Certifier shall submit to Council an "Appointment of Principal Certifier" notice in accordance with Section 6.6 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 6.6 of the Environmental Planning and Assessment Act 1979.

81 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 development.

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

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

## SIGNATURE

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Name:	Kathryn Saunders
Signature:	

For the Development Services Manager