

PENRITH CITY COUNCIL

NOTICE OF DETERMINATION

DESCRIPTION OF DEVELOPMENT

Application number:	DA20/0367
Description of development:	Demolition of Existing Structures & Construction of Seniors Housing Development including Five (5) Self-Contained Dwellings
Classification of development:	Class 1a

DETAILS OF THE LAND TO BE DEVELOPED

Legal description:	Lot 69 DP 218969 Lot 68 DP 218969
Property address:	8 Linksvie Avenue, LEONAY NSW 2750

DETAILS OF THE APPLICANT

Name & Address:	Glenstone Group Pty Ltd 124 Russell Street EMU PLAINS NSW 2750
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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	14 April 2021
Date the consent expires	14 April 2026
Date of this decision	8 April 2021

POINT OF CONTACT

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

Assessing Officer:	Lauren Van Etten
Contact telephone number:	+612 4732 8222

NOTES

Reasons

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

Conditions

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

Certification and advisory notes

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

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

Review of determination

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

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

Appeals in the Land and Environment Court

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

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

Designated development

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

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

Sydney Western City Planning Panels

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

ATTACHMENT 1: CONDITIONS OF CONSENT

General

- 1 The development must be implemented substantially in accordance with the plan numbers tabled below and stamped approved by Council, the application form, BASIX Certificate No. 1046653M_02, and any supporting information received with the application, except as may be amended in red on the attached plans and by the following conditions.

Drawing	Drawing Ref	Revision	Prepared By	Dated
Site Plan	DA0100	AG	Integrated Design Group	01/10/20
Basix Commitments	DA0005	AC	Integrated Design Group	01/10/20
Bus stop Compliance	DA9203 and DA9204	AC and AA	Integrated Design Group	10/03/21
Erosion and Sediment Control Plans	DA0101	AB	Integrated Design Group	05/06/20
Demolition Plan	DA0200	AB	Integrated Design Group	05/06/20
Level 1 Plan	DA1101	AB	Integrated Design Group	05/06/20
Roof Plan	DA1102	AB	Integrated Design Group	05/06/20
Architectural Plans	DA1100, DA2000, DA2001, DA2002, DA3000, DA3001, DA9201, DA9202, DA9600, DA9601, DA9602	-	Integrated Design Group	12/08/20
Landscape Plans	L1- L4	B	Nicholas Bray Landscapes	12/08/20
Stormwater Concept Design	H01-H05	I	Abel & Brown PTY Ltd	September 20

- 2 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}.

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

- 4 **Prior to the issue of an Occupation Certificate**, a lighting system shall be installed for the development to provide uniform lighting across common areas and driveways. Exterior lighting shall be located and directed in such a manner so as not to create a nuisance to surrounding land uses. The lighting shall be the minimum level of illumination necessary for safe operation. The lighting shall be in accordance with AS 4282 "Control of the obtrusive effects of outdoor lighting" (1997).
- 5 The finishes of all structures and buildings are to be maintained at all times and any graffiti or vandalism immediately removed/repaired.
- 6 A **Construction Certificate** shall be obtained prior to commencement of any building works.
- 7 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.).
 - Position and orientation of boom/jib and counterboom/jib.
 - 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 both ends of the boom/jib and counterboom/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 night, should be positioned so that when displayed it is visible from all directions.
 - When a crane is unattended for an extended period of time ensure the crane's boom is retracted and lowered as far as possible.
 - No part of the crane or structure shall extend beyond the boundaries of the subject development site unless approved by Penrith City Council in consultation with the Nepean Blue Mountains Local Health District. Any encroachment beyond the boundaries of the subject site shall be the minimum amount required to facilitate construction and access all parts of the construction site.
- 8 In accordance with Clause 18 of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004, a restriction as to user must be registered against the title of the property on which the development is to be carried out, in accordance with Section 88E of the *Conveyancing Act 1919*, limiting the use of any accommodation to which the development relates to the kinds of people referred to in subclause (1) of Clause 18. The restriction shall be registered on the land title **prior to the issue of an Occupation Certificate**.
 - 9 **Prior to the issue of a Construction Certificate**, documentation shall be submitted to, and approved by, the principal certifying authority demonstrating compliance with the requirements of Schedule 3 of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004.
 - 10 In accordance with Clause 18 of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004, the development can only be occupied by the following people:

(a) seniors or people who have a disability,

- (b) people who live within the same household with seniors or people who have a disability,
- (c) staff employed to assist in the administration of and provision of services to housing provided under this Policy.

Demolition

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

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

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

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

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

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

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

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

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

- 15 Demolition 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 demolition work is permitted on Sundays and Public Holidays.

In the event that the demolition relates to works inside the building and do not involve external walls or the roof, and do 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.

Heritage/Archaeological relics

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

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

Environmental Matters

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

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

The approved sediment and erosion control measures are to be installed **prior to and maintained throughout the construction phase of the development until the land, that was subject to the works, have been stabilised and grass cover established.**

- 18 All land that has been disturbed by earthworks is to be spray grassed or similarly treated to establish a grass cover.
- 19 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.
- 20 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.

- 21 **Prior to the issue of an Occupation Certificate** the following is to be submitted to and approved by Penrith City Council

- The developer is to enter into a formal agreement with Penrith City Council for the utilisation of Councils 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 Councils Waste Collection and Processing Contracts for Standard Waste Collection. The provision of Councils waste collection service will not commence until formalisation of the agreement.

- Councils Waste and Resource Recovery Department to conduct a site inspection to ensure all on-site infrastructure has been provided to permit a safe and efficient waste collection service.

22 A fauna inspection, assessment and implementation plan for the safe identification, removal and translocation of all protected native fauna within the existing structures and vegetation (according to governing Legislation, policy and guidelines) is to be submitted to Council for approval. The plan should define (but not be limited to):

- the response should threatened species be identified during the inspection
- management of injured wildlife
- care / translocation of wildlife to ensure its long term persistence
- the timing for the plan to be effected (for example immediately in advance of works commencing)
- reporting to Council

The plan is to be prepared by a qualified (minimum 5 years experience), licensed fauna ecologist and the safe removal, handling and translocation of fauna is to be conducted by a suitably experienced and licensed wildlife handler.

BCA Issues

23 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).

24 Access for persons with disabilities is to be provided in accordance with Schedule 3 of SEPP (Housing for Senior's or People with a Disability) 2004.

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

Health Matters and OSSM installations

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

Utility Services

- 27 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.**

- 28 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.

- 29 **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

- 30 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 are 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.

31 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.

32 A completed waste management plan shall be submitted to Penrith City Council for consideration and approval. Council must approve the plan before a Construction Certificate can be issued for the approved development.

The waste management plan shall be prepared in accordance with the Waste Planning Development Control Plan (2004), and shall address all waste materials likely to result from the proposed development, with details of the estimated waste volumes, onsite storage and management, proposed re-use of materials, designated waste contractors, recycling outlet and / or landfill site.

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.

33 Clothes drying facilities are to be positioned and screened from public view.

34 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.

35 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.

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

37 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.

Engineering

38 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 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 Prior to the issue of any Construction Certificate or Subdivision Works Certificate, the Certifier shall ensure that a Section 138 Roads Act application, including payment of application and inspection fees, has been lodged with and approved by Penrith City Council (being the Roads Authority under the Roads Act) for provision of;

- A 1.5m wide concrete footpath shall be provided along the site frontage verge on Linksvie Avenue and along the site frontage verge on Fairways Avenue and connect with the existing 1.2m wide concrete footpath on Fairways Avenue. Kerb ramps, with connection to path on southern side, shall be provided on both sides of Fairways Avenue near the Linksvie Avenue kerb returns.
- The existing footpath along Fairways Avenue shall also be provided with three concrete footpath passing areas that are at least 2.0m long and 2.0m wide and spaced at approximately 42m intervals between the existing widened concrete footpath fronting the children's / pedestrian crossing and Leonay Parade. A passing area must also be located approximately midway between the existing 1.2m path near the school's eastern side boundary and the existing widened concrete footpath fronting the pedestrian crossing. Where the existing footpath along Fairways Avenue requires some reasonable upgrade as part of undertaking the footpath upgrade works, this shall be undertaken by the applicant as deemed necessary and reasonable by Council.
- Kerb ramps with connections to paths and 2.0m X 2.0m pathway landings (with 2% cross fall) shall be provided on both sides of Leonay Parade near the northern kerb return of Fairways Avenue at a location that is clear of the approved one in association with DA18/0663. Provide accessible grades and cross falls for the kerb ramps, connections, landings, bus stop boarding points, footpaths and driveways including at desirably a 1.5m wide (minimum 1.0m wide) wheelchair accessible 2% cross fall sections across driveways that align with the footpath. The works shall also be clear of public utilities, Council identified trees.
- Adjustments to the existing 1.5m wide footpath along the eastern side of Leonay Parade shall be provided for a Disability Discriminations Act (DDA) complying accessible path, with DDA complying grades and cross falls, 2.0m X 2.0m pathway wheelchair manoeuvring landings and DDA complying bus stop concrete boarding point at the existing bus stop on the western side of Leonay Parade between

Fairways Avenue and Linksvie Avenue. The works shall also be clear of public utilities and Council identified trees

- Vehicular crossings (including kerb reinstatement of redundant vehicular crossings)
- Road opening for utilities and stormwater (including stormwater connection to Penrith City Council roads and other Penrith City Council owned drainage)

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

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

Note:

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

- 41 The stormwater management system shall be consistent with plan/s lodged for development approval, prepared by Abel & Brown Pty Ltd, reference number 2918 H-01 to H-05, revision I, dated Sep.20.

Prior to the issue of any Construction Certificate or Subdivision Works 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 or Subdivision Works Certificate.

- 42 Prior to the issue of any Construction Certificate or Subdivision Works 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.

- 43 Prior to the issue of a Roads Act Approval, a Performance Bond is to be lodged with Penrith City Council for footpath works in Fairways Avenue.

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.

- 44 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.
- 45 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.
- 46 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 where Penrith City Council is not the Principal Certifier.

- 47 Prior to the issue of any Occupation Certificate, the Principal Certifier shall ensure that the:
- a) Stormwater management systems (including on-site detention and water sensitive urban design)
 - 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.

- 48 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 and water sensitive urban design)

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.

- 49 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.

- 50 Prior to the issue of any Construction Certificate the Principal Certifying Authority shall ensure that a detailed plan and documentation is provided to include a 1.5m wide concrete footpath along the site frontage verge on Linksvie Avenue and along the site frontage verge on Fairways Avenue and extend to connect with the existing 1.2m wide concrete footpath on Fairways Avenue. Kerb ramps, with connection to the path on the southern side, shall be provided on both sides of Fairways Avenue near the Linksvie Avenue kerb returns. These works shall be to Council specifications and requirements.
- 51 Prior to the issue of any Construction Certificate the Principal Certifying Authority shall ensure that a detailed plan and documentation is provided with at least a 2.0m long and 2.0m wide footpath passing area located along Fairways Avenue, approximately midway between the existing 1.2m path near the school's eastern side boundary and the existing widened concrete footpath fronting the children's / pedestrian crossing. The existing footpath along Fairways Avenue shall also be provided with three concrete footpath passing areas that are at least 2.0m long and 2.0m wide and spaced at approximately 42m intervals between the existing widened concrete footpath fronting the children's/pedestrian crossing and Leonay Parade. These works shall be to Council specifications and requirements.
- 52 Prior to the issue of any Construction Certificate the Principal Certifying Authority shall ensure that a detailed plan and documentation is provided to include kerb ramps with connections to paths and 2.0m X 2.0m pathway landings (with 2% cross fall) on both sides of Leonay Parade near the northern kerb return of Fairways Avenue. This is to be at a location that is clear of the approved driveways approved under DA18/0663 and co-ordinate with the driveway locations, grades, cross falls and the footpath, grade and cross fall adjustments that may be required for these driveways. This includes providing accessible grades and cross falls for the kerb ramps, connections, landings, bus stop boarding points, footpaths and driveways including a 1.5m wide (minimum 1.0m wide) wheelchair accessible 2% cross fall sections across driveways that align with the footpath. The works shall also be clear of public utilities, trees and shall be to Council specifications and requirements.
- 53 Prior to the issue of any Construction Certificate the Principal Certifying Authority shall ensure that a detailed plan and documentation is provided of adjustments to the existing 1.5m wide footpath along the eastern side of Leonay Parade to ensure it is a Disability Discriminations Act (DDA) complying accessible path, with DDA complying grades and cross falls, 2.0m X 2.0m pathway wheelchair manoeuvring landings and DDA complying bus stop concrete boarding point at the existing bus stop on the western side of Leonay Parade between Fairways Avenue and Linksvie Avenue. These works shall be at least 1.0m clear of and compatible with the approved 1 driveways under DA18/0663 and co-ordinate with any footpath, grade and cross fall adjustments that may be required for these driveways. This includes providing accessible grades and cross falls for the kerb ramps, connections, wheelchair manoeuvring landings, bus stop boarding points, footpaths and driveways including at desirably a 1.5m wide (minimum 1.0m wide) wheelchair accessible 2% cross fall sections across driveways that align with the footpath. The works shall also be clear of public utilities and trees and shall be to Council specifications and requirements.

Landscaping

- 54 Prior to the issue of a Construction Certificate, the landscape plan is to reflect the addition of 4 x trees which are to be provided within the southern setback with a mature effective height of 8m. These trees are to be deciduous to limit the shade in winter particularly to adjoining properties. All boundary fencing shall be timber paling, unless mutually agreed otherwise for side fencing between property owners (for side fencing). All balustrade fencing around courtyards shall be timber picket fences. A balustrade shall be provided to the private open space of Unit 2.
- 55 All landscape works are to be constructed in accordance with Appendix F5, Section 2.9 Landscape Technical Specifications of the 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.

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

i. Implementation Report

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

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

ii. Maintenance Report

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

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

iii. 3 Year Landscaping Report

Three years after an Occupation Certificate was issued for the development, a suitably qualified and experienced landscape professional shall prepare a Landscaping Report for Council's consideration and approval, certifying to one of the following:

- (a) The landscaping on site has matured and is in accordance with the original landscape approval.

(b) The landscaping on site has not matured in accordance with the original design philosophy and requires significant restoration.

In this case, restoration plans are to be submitted to Council for its consideration and approval. The approved plans shall be implemented at the expense of the property owners.

- 58 All plant material associated with the construction of approved landscaping is to be planted in accordance with Appendix F5, Landscape Technical Specifications of the Penrith Development Control Plan 2014.
- 59 All landscape works are to meet industry best practice and the following relevant Australian Standards:
- AS 4419 Soils for Landscaping and Garden Use,
 - AS 4454 Composts, Soil Conditioners and Mulches, and
 - AS 4373 Pruning of Amenity Trees.
- 60 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.
- 61 Prior to issue of a Construction Certificate amendments in design are to be undertaken to comply with Recommendations 1, 2 & 3 of the Tree Protection Plan (Specifications) as provided in the Arboricultural Impact Assessment Report (2020 Redesign), prepared by the Arborist Network, author Mark Hartley, Report No CD2001B, dated 9 June 2020 (page 10 of 32).

The Tree Protection Plan (Specifications) and Tree Protection Plan (Drawing) shall be amended to include the retention of Tree 12 as detailed in the abovementioned report.

Design of the retaining wall adjacent to Trees 1, 2 and 7 (numbering in accordance with the abovementioned report) shall be constructed so that strip footings are not required and preferably using post and rail construction methods. Natural ground levels are to be retained within the Tree Protection Zone of trees to be retained [Page 11 of 32, Point 16 of the Tree Protection Plan (Specifications)].

All construction plans are to be in accordance with the requirements of this condition, with all trees to be retained and protected together with their relevant Protection Zones marked on all demolition and construction drawings.

- 62 Prior to the commencement of any works, an Arborist with a minimum AQF (Australian Qualification Framework) Level 5 shall be engaged for the duration of the approved works to ensure that tree protection measures on the site are implemented and complied with as per the Tree Protection Plan (Specifications) and Tree Protection Plan (Drawing) as provided in the Arboricultural Impact Assessment Report (2020 Redesign), prepared by the Arborist Network, author Mark Hartley, Report No CD2001B, dated 9 June 2020 and the conditions contained in this consent.
- a. The Project Arborist shall clearly identify those trees to be removed (Trees 3, 4, 5, 6, 8, 9, 11 & 13) as detailed in the arborist report.
- b. The project Arborist shall ensure that all tree removal works comply with the Amenity Tree Industry – Code of Practice, 1998 (Workcover, NSW) and Guide to Managing Risks of Tree Trimming and Removal Work (Safe Work Australia 2016).
- The appointed Project Arborist shall:
- a. Ensure that the appropriate Tree protection measures are imposed on the site as per the approved Tree Protection Plan (Specifications) and Tree Protection Plan (Drawing) and any relevant conditions of consent.
- b. Undertake inspections not less than monthly and at the critical checkpoints listed in the Tree Protection Plan (Specifications) (Point 27, page 12 of 32, Arboricultural Impact Assessment Report (2020 Redesign),

prepared by the Arborist Network, author Mark Hartley, Report No CD2001B, dated 9 June 2020 (page 10 of 32).

- c. Ensure all TPZs are maintained as per AS 4970 - 2009, Section 4.6. Access to the TPZ is permitted to undertake necessary maintenance such as mowing, watering & weed control.
- d. Keep a written record (e.g. field notes and photos) to provide evidence of compliance with the approved Tree Protection Plan (Specifications) and Tree Protection Plan (Drawing) at times when they are present on site and when inspection at critical checkpoints is required.
- e. Forward the written record of inspection to the Principal Certifying Authority within 1 week of that inspection occurring.
- f. Where there is a breach of the Tree Protection Plan, the project arborist must specify any remedial works and the timeframe in which these works must be completed.
- g. If an inspection reveals that there has been a significant breach of the Tree Protection Plan (specifications), inspections from then on must be carried out weekly.

63 The Project Arborist shall also be required to be present on site to supervise when:

- a. There are works undertaken within an area designated by a Tree Protection Fence
- b. Any in ground work within a TPZ is to be undertaken (fenced or unfenced)
- c. There is a requirement for a change the alignment of tree protection fences, and
- d. At any other times that the approved Tree Protection Plan (Specifications) and Tree Protection Plan (Drawing) prescribes.

Section 94

64 This condition is imposed in accordance with Penrith City Council's Section 7.11 Contributions Plan for Local Open Space. Based on the current rates detailed in the accompanying schedule attached to this Notice, \$3,274.00 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 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.

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.

65 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, \$9,051.00 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 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 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.

66 This condition is imposed in accordance with Penrith City Council's Section 94 Contributions Plan for Cultural Facilities. Based on the current rates detailed in the accompanying schedule attached to this Notice, \$855.00 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 94 plan. The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule.

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

Payment of Fees

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

68 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

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

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

Information to accompany the Notice of Commencement

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

- 70 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 buildings.

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

Name:	Lauren Van Etten
Signature:	

For the Development Services Manager