

PENRITH CITY COUNCIL

MAJOR ASSESSMENT REPORT

Application number:	DA15/0542.03
Proposed development:	Modification to Application - Amendment to Approved Torrens Title Subdivision x 14 Residential Lots & Public Road - Proposal to Remove Condition 61 Related to the Creation of an Easement
Property address:	94 - 100 Explorers Way, ST CLAIR NSW 2759
Property description:	Lot 36 DP 239502
Date received:	31 July 2019
Assessing officer	James Heathcote
Zoning:	Zone R2 Low Density Residential - LEP 2010
Class of building:	N/A
Recommendations:	Approve

Executive Summary

Council is in receipt of a Section 4.55(1A) modification to the consent to delete condition 61, at 94-100 Explorers Way, St Clair NSW 2759.

The original consent, for Torrens Title Subdivision x 14 Residential Lots & Public Road, had several engineering conditions, including condition 61 which required that prior to the issue of a Construction Certificate that an easement be created over the drainage pipe that crosses the north-western corner of Council's land registered under Lot 10 DP 1001637. The applicant lodged the subject application, providing a cover letter which stated, following advice from Council's Development Engineering and Property Development teams, that:

- *"Condition 61 of DA15/0542.02, requests an easement to be created over Council land. This pipe which is to be constructed by the applicant is going to be dedicated to Penrith City Council, as this pipe takes road water through several sites and discharges to RMS land.*
- *I don't believe that it is acceptable to create a drainage easement which burdens and benefits the same owner.*
- *It is therefore recommended that to progress forward, the applicant seek a section 4.55 modification to the DA through Council's Planning Section, to remove the condition."*

Referral commentary from Council's Development Engineering team supported the proposed modification as described above, stating that to have a easement that both benefits and burdens Council is not preferred, which may have not been considered in the original consent, and that this aspect is currently holding up an active construction certificate process. Comment was also made regarding the pipe infrastructure in place, and that the removal of the easement condition will have no negative impacts as a result.

It is noted that the original consent, DA15/0542, was determined on 25 February 2016, with a 2 year expiry occurring on the 24 February 2018. Further to this, an extension of consent application was lodged, DA15/0542.02, which was determined on the 21 November 2017, extending the consent to 24 February 2019. Regarding whether the consent has been activated to verify the validity of the subject modification application, Council officers were contacted on the 26th February 2019 and were provided with photographic evidence of the site being 'pegged out' for surveying on the 23rd February 2019. Further to this, aerial footage shows that demolition works have occurred previous to this, of which form part of the conditions of consent. As such, sufficient evidence has been provided in this regard.

As such, no planning concerns are raised regarding the proposed modification(s), with the proposal being substantially the same as the previously approved subdivision development.

In accordance with Penrith Development Control Plan 2014 - Appendix F4 Notification and Advertising, the proposed modification application was not required for notification.

An assessment under Section 4.55(1A) and Section 4.15 of the Environmental Planning and Assessment Act 1979 has been undertaken and the application is recommended for approval.

Site & Surrounds

The site is located on the north side of Explorers Way in St Clair, with a total size of 1.057 Hectares. The site has a slope of 3m from the southern to the northern corner of the site and is currently occupied by a dwelling, with recent demolition works occurring on the site. The surrounding area is characterised by low density residential development. The site is located approximately 40m south from the M4 Motorway.

The site is identified as being bushfire prone land (partly). The site is also identified as being impacted by overland flow flooding.

Site History:

- PL19/0055 - Residential Aged Care Facility.
- DA15/0542.03 - Subject Application.
- CCX19/0012 - Engineering Construction Certificate - Servicing and Roads.
- DA15/0542.02 - Extension of Consent Period.
- DA15/0542 - Torrens Title Subdivision x 14 Residential Lots & Public Road.
- PL15/0026 - Torrens Title Subdivision x 14 Residential Lots & Public Road.
- DA11/1364 - Torrens Title Subdivision x 7 Residential Lots, 1 Residue Lot & Public Road.
- PL11/0048 - Affordable Housing - 48 x Townhouses.
- BA001656 - Custom Brick Dwelling - B/I Robes, Ensuite.

Site Attributes / Restrictions (Lot 36 DP 239502):

- No restrictions listed.

Proposal

The proposed modification application includes the following:

- Deletion of condition 61 of DA15/0542.02.

Condition 61 from the above mentioned application number reads as follows:

"Prior to the issue of a Construction Certificate, the Certifying Authority shall ensure that an easement is created over the pipe that crosses the north western corner of Council's land registered under Lot 10 DP 1001637. The easement width shall be in accordance with the requirements of Penrith City Council Design Guidelines for Engineering Works for Subdivisions and Developments."

Please see the C3 Water Management section of this report for further discussion regarding the removal of the above condition.

Plans that apply

- Local Environmental Plan 2010 (Amendment 4)
- Development Control Plan 2014
- State Environmental Planning Policy No 55—Remediation of Land
- Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

Planning Assessment

- **Section 4.14 - Bushfire prone land assessment**

The subject site is identified as bushfire prone land (partly). However, specific considerations were already made regarding this in the original application.

As such, no further consideration is required regarding Section 4.14 of the Act.

- **Section 4.15 - Evaluation**

The development has been assessed in accordance with the matters for consideration under Section 4.15 of the *Environmental Planning and Assessment Act 1979*, and having regard to those matters, the following issues have been identified for further consideration.

- **Section 4.55(1A) - Modifications involving minimal environmental impact**

The development has been assessed in accordance with the matters for consideration under Section 4.55(1A) of the *Environmental Planning and Assessment Act 1979*, and having regard to those matters, the following issues have been identified for further consideration.

(a) The proposed modification is of minimal environmental impact.

(b) The development to which the consent as modified is substantially the same as originally granted.

(c) The modification application was not required to be notified in accordance with the regulations and Penrith Development Control Plan 2014.

(d) No submissions, complaints nor compliance action has occurred regarding the proposed development and site.

The requirements of Section 4.55(1A) have been satisfied and the consent is recommended for modification accordingly.

Section 79C(1)(a)(i) The provisions of any environmental planning instrument

State Environmental Planning Policy No 55—Remediation of Land

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

The site is currently used for residential purposes, which is unchanged as a result of the proposed development. There is no history of contamination or unauthorised earthworks recorded at the subject site. Consideration of any potential land contamination was also assessed under the original application.

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

Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

An assessment has been undertaken of the application against the relevant criteria with Sydney Regional Environmental Plan No 20 - Hawkesbury-Nepean River (No 2 - 1997) and the application is satisfactory subject to recommended conditions of consent.

Local Environmental Plan 2010 (Amendment 4)

Provision	Compliance
Clause 2.3 Permissibility	Complies
Clause 2.3 Zone objectives	Complies
Clause 2.6 Subdivision - consent requirements	Complies
Clause 7.2 Flood planning	Complies
Clause 7.7 Servicing	Complies

Section 79C(1)(a)(ii) The provisions of any draft environmental planning instrument

Draft Environment State Environmental Planning Policy

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

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

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

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

Draft Remediation of Land SEPP

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

The proposed new land remediation SEPP will:

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

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

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

Section 79C(1)(a)(iii) The provisions of any development control plan

Development Control Plan 2014

Provision	Compliance
C1 Site Planning and Design Principles	Complies
C2 Vegetation Management	N/A
C3 Water Management	Complies - see Appendix - Development Control Plan Compliance
C4 Land Management	Complies
C5 Waste Management	N/A
C6 Landscape Design	N/A
C7 Culture and Heritage	N/A
C8 Public Domain	N/A
C9 Advertising and Signage	N/A
C10 Transport, Access and Parking	N/A
C11 Subdivision	Complies
C12 Noise and Vibration	N/A
C13 Infrastructure and Services	Complies

Section 79C(1)(a)(iiia) The provisions of any planning agreement

There are no planning agreements applicable for the subject application.

Section 79C(1)(a)(iv) The provisions of the regulations

The requirements of the Regulations have been considered in the assessment this application, which is considered to be supportable.

Section 79C(1)(b) The likely impacts of the development

Site Drainage

Drainage from the site is unaffected by the proposed condition removal, with pipe infrastructure already in place. Referral to Council's Development Engineering team raised no objection to the proposed condition removal as they are satisfied that there are no negative impacts to the site nor adjoining properties as a result.

Section 79C(1)(c) The suitability of the site for the development

The proposed modifications are considered to be suitable in their context and still comply with the relevant controls for subdivision and residential development.

Section 79C(1)(d) Any Submissions

Community Consultation

In accordance with Penrith Development Control Plan 2014 - Appendix F4 Notification and Advertising, the proposed modification application was not required to be advertised/notified.

Referrals

The application was referred to the following stakeholders and their comments have formed part of the assessment:

Referral Body	Comments Received
Development Engineer	No objections - subject to conditions
Environmental - Environmental management	No objections - subject to conditions
Environmental - Waterways	Not supported, however conditions provided
Environmental - Biodiversity	No objections - subject to conditions
Waste Services	No objections - subject to conditions
Traffic Engineer	No objection subject to conditions
Tree Management Officer	No objections - subject to conditions

Environmental - Waterways

Non-support for the proposal from the Waterways Team related to the original development application. The matters raised were addressed via conditions of consent.

Section 79C(1)(e)The public interest

There are no significant impacts relating to the public interest envisioned as a result of the proposed development.

Conclusion

There being no outstanding planning considerations, the Section 4.55(1A) application is considered to be worthy of Council's support.

Recommendation

That DA15/0542.03 for the modification of the consent to delete condition 61, at 94-100 Explorers Way, St Clair NSW 2759, be approved subject to the attached conditions.

CONDITIONS

General

1 A001

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

Plan	Numbered	Drawn By	Dated
Plan of Subdivision	DA01 Rev B	Diversi Consulting	2 November 2015
Roadworks and Stormwater Drainage Layout Plan	DA03 Rev B	Diversi Consulting	2 November 2015
Road Longitudinal and Typical Sections	DA04 Rev B	Diversi Consulting	2 November 2015
Services Coordination Plan	DA05 Rev B	Diversi Consulting	2 November 2015
Stormwater Management Plan	DA06 Rev B	Diversi Consulting	2 November 2015
Erosion and Sediment Control Plan	DA07 Rev B	Diversi Consulting	2 November 2015
Earthworks Plan	DA08 Rev A	Diversi Consulting	2 November 2015

2 A046 - Obtain Construction Certificate before commencement of works

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

3 A Special (BLANK)

Detailed design plans and hydraulic calculations are to be submitted to Roads and Maritimes for approval **prior to the issue of a Construction Certificate.**

4 A special BLANK

Prior to the issue of the Subdivision Certificate, a positive covenant is to be registered against each new land title that refers to 'DA Acoustic Assessment - 94-100 Explorers Way, St Clair' prepared by Acoustic Logic Consultancy Pty Ltd dated 11 August 2015 (Ref. No. 20150462.1/1108A/R2/MF). The covenant is also to:

- stipulate the noise criteria as outlined in the above document.
- provide advice on the mechanisms required for each lot to meet the noise criteria, as outlined in the report.
- ensure that the noise criteria be achieved through the implementation of the recommendations of the 'DA Acoustic Assessment'.

5 A special BLANK

An Unexpected Finds Protocol (the Protocol) is to be developed by an appropriately qualified environmental consultant. Prior to the issue of the Construction Certificate, the Protocol is to be submitted to Council and approved. If Council is not the certifying authority for this development, the report 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 and construction phases 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 development.

Demolition

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

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

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

7 B003 - ASBESTOS

Prior to commencement of demolition works on site, a portaloos 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.

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

8 B006 - Hours of work

Demolition and subdivision 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.

9 BA Special (BLANK)

The two fibro cottages, timber gazebo, steel carport and timber shed on the subject site are to be demolished as part of the approved works.

Environmental Matters

10 D001 - Implement approved sediment& erosion control measures

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

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

11 D002 - Spraygrass

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

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

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

13 D009 - Covering of waste storage area

All waste materials stored on-site are to be contained within a designated area such as a waste bay or bin to ensure that no waste materials are allowed to enter the stormwater system or neighbouring properties. The designated waste storage areas shall provide at least two waste bays / bins so as to allow for the separation of wastes, and are to be fully enclosed when the site is unattended.

14 D026 - Liquid wastes

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

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

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

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

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 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 Contaminated Land 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.

An appropriately qualified person/s (as defined in the Penrith City Council Contaminated Land Development Control Plan) shall:

- Supervise the filling works,
- (On completion of filling works) carry out an independent review of all documentation relating to the filling of the site, and shall submit a review findings report to Council and any Principal Certifying Authority,
- Certify by way of a Compliance Certificate or other written documentation that fill materials have been placed on the site in accordance with all conditions of this consent and that the site will not pose an unacceptable risk to human health or the environment. A copy of the Compliance Certificate or other documentation shall be submitted to Council and any Principal Certifying Authority.

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

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

{Note: Penrith Contaminated Land 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, soilscience, 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."}

16 D - Dust

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

17 D - Mud/Soil

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

18 D Special - Provision of ammended site plan

Prior to the issue of a Subdivision Certificate, the applicant is to submit to Council for approval a site plan showing the proposed subdivision and all trees as identified in the Tree Assessment and Arborist Report prepared by Abel Ecology (2/6/2015). The Plan is to clearly show the retention of all trees outside of the subdivision works and future building footprints.

19 [D Special BLANK](#)

The new road is for the development to remain at 8m with an overall road reserve of 15.6m to allow waste services to access and service the development.

20 [D Special BLANK](#)

Bin bays to remain outside properties 10 & 5 with a minimum width of 6m and depth of 1m each.

Utility Services

21 [G001 - Installation of services and Service Clearances \(subdivision\)](#)

All services (water, sewer, electricity, telephone and gas) are to be installed within the proposed public roads before final inspection of the engineering works.

Prior to the release of the linen plan, the following service authority clearances shall be obtained:

- a Section 73 Compliance Certificate under the Sydney Water Act 1994 shall be obtained from Sydney Water. This is required prior to the issue of the Subdivision Certificate and
- a letter from Endeavour Energy stating that satisfactory arrangements have been made for electricity supply to all proposed allotments in the subdivision, including any necessary easements; and
- a letter from an approved telecommunications service provider that satisfactory arrangements have been made for underground telephone services to all proposed allotments in the subdivision, including any necessary easements.

These clearances are to be submitted to the Principal Certifying Authority.

22 [G006 -](#)

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

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

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

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

Construction

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

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

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

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

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

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

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

24 H002 - All forms of construction

Prior to the commencement of construction works:

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

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

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

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

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

25 H006 - Submission of and implement waste management plan

A completed waste management plan shall be submitted to Penrith City Council for consideration and approval. Council must approve the plan before works can commence on site.

The waste management plan shall be prepared in accordance with the Penrith Development Control Plan, 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.

26 H041 - Hours of work (other devt)

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

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

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

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

Engineering

27 K101 - Works at no cost to Council

All roadworks, stormwater works and dedications, required to effect the consented development shall be undertaken at no cost to Penrith City Council.

28 [K201 - Infrastructure Bond](#)

An Infrastructure Restoration Bond is to be lodged with Penrith City Council for development involving works around Penrith City Council's Public Infrastructure Assets. The bond is to be lodged with Penrith City Council prior to the issue of any Construction Certificate. The bond and applicable fees are in accordance with Councils adopted fees and charges.

An application form together with an information sheet and conditions are available on Councils website.

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

29 [K203 - S138 Roads Act – Works and structures - Roadworks requiring approval of civil drawings. CIVIL CONSTRUCTION IN THE ROAD RESERVE](#)

Prior to the issue of any Construction Certificate the Certifying Authority shall ensure that a S138 Roads Act application, including the 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

- Removal of two existing driveway laybacks along Explorers Way and restore with Kerb and Gutter to match existing.
- Four pram ramps to connect the existing path along the southern side of Explorers Way and the proposed footpath along the eastern and western side of Road 1.
- Removal of the existing barrier line on Explorers Way for proposed intersection of Road 1 and Explorers Way.

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 or visit Penrith City Councils website for more information.

Note:

1. 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.
2. All works associated with the Roads Act approval must be completed prior to the issue of any Occupation Certificate or Subdivision Certificate as applicable.

30 [K204 - Section 68 Local Government Act \(Stormwater drainage works\)](#)

Prior to the issue of a Construction Certificate, the Principal Certifying Authority and/ or Certifying Authority shall ensure that an application under S68 of the Local Government Act, including the payment of application and inspection fees, has been lodged with, and approved by Penrith City Council for:

- The stormwater drainage works and overland flowpath works from pit 8/A to pit 2/A.
- Remove existing pits and pipes downstream of pit 8/A within the easement registered under DP 808666 and within the development site (lot 36 DP 239502). The existing drainage pipeline and headwall within the RMS land shall be reconnected into proposed pit 2/A located in the north-eastern corner of proposed lot 6.

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 and best engineering practice.

Note:

1. Contact Penrith City Council's **Engineering Services Department** on (02) 4732 7777 to ascertain applicable fees.

31 **K205 - Construction Certificate for Subdivision Works**

Prior to the issue of a Construction Certificate for subdivision works the Certifying Authority shall ensure that engineering plans are consistent with the stamped approved concept plan/s prepared by Diversi Consulting, reference 14140, sheets DA00 - DA09, revisions A and B, dated 02/11/2015 as amended in red and that all subdivision works have been designed in accordance with conditions of this consent, Penrith City Council’s Design Guidelines for Engineering Works for Subdivisions and Developments, Engineering Construction Specification for Civil Works, any Roads Act approval issued, Austroad Guidelines and best engineering practice.

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

- Public roads
- Interallotment drainage
- Private access driveways
- Sediment and erosion control measures
- Overland flowpaths
- Flood control measures
- Traffic facilities including roundabouts, intersection treatments, car parks, bus stops, cycleways, pathways etc.
- Earthworks
- Bridges, culverts, retaining walls and other structures
- Landscaping and embellishment works

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

Note:

1. Contact Penrith City Council’s **Engineering Services Department** on (02) 4732 7777 to ascertain applicable fees.

32 **K207 - Road design criteria table**

Prior to the issue of any Construction Certificate the Certifying Authority shall ensure that the proposed roads have been designed in accordance with Penrith City Council’s Design Guidelines for Engineering Works for Subdivisions and Developments, Engineering Construction Specification for Civil Works and the following criteria:

Road No.	Road Reserve Width (m)	Carriageway Width (m)	Verge (m)	Footpath (1.5m wide)	ESA
1	15.6	8	3.8	Both the eastern and western side of Road 1 as per the plan by Diversi Consulting, reference 14140, sheet DA03, revision B, dated 02/11/2015	5 x 10 ⁴

A copy of the pavement design prepared by a suitably qualified geotechnical engineer must accompany the application for Construction Certificate

Note: Road 1 shall be in accordance with Penrith City Council Development Control Plan 2014 Figure C10.2 Local Road.

33 **K208 - Road Safety Audit**

A Stage 3 (detailed design) Road Safety Audit (RSA) shall be undertaken in accordance with Austroads Guide to Road Safety Part 6: Road Safety Audit; on the proposed roadworks by an accredited auditor who is independent of the design consultant. A copy of the RSA shall accompany the design plans submitted with the Construction Certificate or Roads Act application.

Prior to the issue of the Construction Certificate or S138 Roads Act approval, the Certifying Authority shall ensure that the recommendations of the RSA have been considered in the final design, through review of the Road Safety Audit Checklist, including Findings, Recommendations and Corrective Actions.

A copy of the Road Safety Audit shall be submitted to Penrith City Council by the applicant or Certifying Authority for information purposes.

34 **K210 - Stormwater Management**

The stormwater management system shall be provided generally in accordance with the concept plan/s lodged for development approval, prepared by Diversi Consulting, reference 14140, sheets DA00 - DA09, revisions A and B, dated 02/11/2015 as amended in red and referenced in condition 1.

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) Policy.

35 **K212 - No loading on easements**

Prior to the issue of any Construction Certificate the Certifying Authority shall ensure that the foundations of proposed structures adjoining the drainage and/ or services easement have been designed clear of the zone of influence.

36 **K213 - Flooding - Flood Report Recommendations**

Prior to the issue of any Construction Certificate the Certifying Authority shall ensure that the proposed development is compatible with the recommendations of the Flood Report prepared by Diversi Consulting, reference Flood Study Report, revision B, dated October 2015.

37 **K224 - Construction Traffic Management Plan**

Prior to the issue of a Construction Certificate the Certifying Authority shall ensure that a Construction Traffic Management Plan (CTMP) has been submitted and approved by Penrith City Council. Approval of the CTMP may require endorsement from the Local Traffic Committee. The CTMP shall include but not limited to the following, vehicle routes, number of construction vehicles, hours of operation, access arrangements, pedestrian management, parking management for patrons. The CTMP shall be certified by an appropriately accredited person and/or Roads and Traffic Authority Traffic Controller. The CTMP shall ensure that adequate parking is provided for the development and not severely impacted by the construction of this development.

38 **K225 - Performance Bond**

Prior to the issue of any Construction Certificate a performance bond is to be lodged with Penrith City Council for the works approved under the S138 Roads Act Approval and S68 Local Government Act Approval.

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 Unit on 4732 7777 for further information relating to bond requirements.

39 **K301 - Sediment & Erosion Control**

Prior to commencement of any works associated with the development 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 and Managing Urban Stormwater series from the office of Environment and Heritage.

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

40 **K302 - Traffic Control Plan**

Prior to commencement of any works associated with the development a Traffic Control Plan including details for pedestrian management, shall be prepared in accordance with AS1742.3 "Traffic Control Devices for Works on Roads" and the Roads and Maritime Service's publication "Traffic Control at Worksites" and certified by an appropriately accredited Roads and Maritime Services Traffic Controller.

Traffic control measures shall be implemented during the construction phase of the development in accordance with the certified plan. A copy of the plan shall be available on site at all times.

Note:

1. A copy of the Traffic Control Plan shall accompany the Notice of Commencement to Penrith City Council.

41 **K303 - Dilapidation report**

Prior to the Commencement of Works, a dilapidation report of all infrastructures fronting the development in Explorers Way is to be submitted to Penrith City Council. The report is to include, but not limited to, the road pavement, kerb and gutter, footpath, services and street trees and is to extend 15m either side of the development.

42 **K304 - Matters to be addressed prior to commencement of Subdivision Works**

Work on the subdivision shall not commence until:

- a Construction Certificate has been issued,
- a Principal Certifying Authority has been appointed for the project, and
- any other matters prescribed in the development consent for the subdivision and the Environmental Planning and Assessment Act and Regulation have been complied with.

A Notice of Commencement is to be submitted to Penrith City Council two (2) days prior to commencement of engineering works or clearing associated with the subdivision.

43 **K402 - Street Lighting**

Street lighting is to be provided for all new and existing streets within the proposed subdivision to Penrith City Council's standards.

44 **K404 - Soil testing - Subdivisions**

Soil Testing is to be carried out to enable each lot to be classified according to AS2870 "Residential Slabs and Footings". The results shall be submitted to Penrith City Council prior to the issue of the Subdivision Certificate.

45 **K405 - Turf to Verge**

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

46 **K501 - Penrith City Council clearance – Roads Act/ Local Government Act**

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

47 **K502 - Completion of subdivision works**

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

48 **K504 - Stormwater Compliance**

Prior to the issue of any Subdivision Certificate the Principal Certifying Authority shall ensure that the:

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

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

49 **K505 - Restriction as to User and Positive Covenant**

Prior to the issue of any Subdivision Certificate a restriction as to user and positive covenant relating to the:

- a) Overland flowpath works
- b) Flood control works
- c) Raingarden requirements and restrictions

Shall be registered on the title of the property. The restriction as to user and positive covenant shall be in Penrith City Council's standard wording as detailed in Penrith City Council's Stormwater Drainage for Building Development. Verification on raingarden wording will be provided upon request.

50 **K506 - Easement to Penrith City Council**

The applicant shall grant an easement to Penrith City Council for drainage and overland flow purposes on the location shown on the plan accompanying this consent and on the basis that no claim for compensation will be made and that the applicant will meet all associated survey and legal costs.

51 **K507 - Easements for Drainage - New Common Drainage Lines**

Prior to the issue of a Subdivision Certificate an easement for drainage and overland flow 6m wide shall be provided over the proposed pipe and overland flow path from pit 6/A to pit 2/A and evidence of registration of the easement with the Land and Property Information (LPI) shall be submitted to the Principal Certifying Authority and Penrith City Council, if Penrith City Council is not the Principal Certifying Authority. Easement widths shall be in accordance with Penrith City Council's adopted Design Guidelines.

52 **K509 - Linemarking & Signage**

Prior to the issue of a Subdivision 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.

Notes:

1. Contact Penrith City Council's Engineering Services Department on (02) 4732 7777 for further information on this process.
2. Allow eight (8) weeks for approval by the Local Traffic Committee.
3. Applicable fees are indicated in Council's fees and charges

53 **K512 - Street Naming**

Prior to the issue of a Subdivision Certificate an application for proposed street names must be lodged with and approved by Penrith City Council and the signs erected on-site.

The proposed names must be in accordance with Penrith City Council's Street Naming Policy.

Notes:

1. Contact Penrith City Council's Engineering Services Department on (02) 4732 7777 for advice regarding the application process and applicable fees.
2. Allow eight (8) weeks for notification, advertising and approval.

54 **K513 - Bond for final wearing course**

Prior to the issue of the Subdivision Certificate a bond for the final layer of outstanding asphalt works (AC Bond) is to be lodged with Penrith City Council.

The final layer of asphalt on all roads shall not be placed without the written consent of Penrith City Council (Consent will generally be provided when 80% of the housing within the subdivision has been completed).

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

Note:

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

55 **K515 - Maintenance Bond**

Prior to the issue of a Subdivision Certificate a maintenance bond is to be lodged with Penrith City Council for all subdivision works. The value of the bond shall be determined in accordance with Penrith City Council's adopted Fees and Charges.

Note:

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

56 **K516 - Subdivision Compliance documentation**

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

- a) Work As Executed (WAE) drawings of all civil works. The WAE drawings shall be marked in red on copies of the stamped Construction Certificate drawings signed, certified and dated by a registered surveyor or the design engineer. The Work As Executed drawings shall be prepared in accordance with Penrith City Council's Engineering Construction Specification for Civil Works.
- b) The WAE drawings shall clearly indicate the 1% Annual Exceedence Probability flood lines (local and mainstream flooding).
- c) The WAE drawings shall be accompanied by plans indicating the depth of fill for the entire development site. The plans must show, by various shadings or cross hatchings, the depth of any fill within 0.3m depth ranges.
- d) CCTV footage in DVD format to Penrith City Council's requirements and a report in "SEWRAT" format for all drainage within future public roads and public land. Any damage that is identified is to be rectified in consultation with Penrith City Council.
- e) Surveyor's Certificate certifying that all pipes and services are located wholly within the property or within appropriate easements and that no services encroach boundaries.
- f) Documentation for all road pavement materials used demonstrating compliance with Penrith City Council's Engineering Construction Specification for Civil Works.
- g) A Geotechnical Report certifying that all earthworks and road formation have been completed in accordance with AS3798 and Penrith City Council's Design Guidelines and Construction specifications. The report shall include:
 - Compaction reports for road pavement construction
 - Compaction reports for bulk earthworks and lot regrading.
 - Soil classification for all residential lots
 - Statement of Compliance
- h) Structural Engineer's construction certification of all structures
- i) A slope junction plan for interallotment drainage lines indicating distances to boundaries and depths.
- j) Soil Testing for each lot to be classified according to AS2870 "Residential Slabs and Footings".

57 **K Special Condition BLANK**

Prior to the issue of a Construction Certificate, the Certifying Authority is to gain written approval from the RMS for the drainage works in the RMS land (M4 Motorway). The RMS shall grant written approval for the following works

- Surcharge of overland flows through RMS land.
- Construction of a tail out drainage path in the RMS land from the north eastern corner of the development site at pit 2/A to the existing drainage path downstream of the existing headwall.

58 **K Special Condition BLANK**

Prior to the issue of a Construction Certificate, the certifying authority shall ensure that the top of retaining wall levels and the natural ground surface levels are at or above the flood planning levels (standard flood level + 0.5m freeboard). The flood planning levels shall correspond with the approved flood levels from the cross-sections determined in the Flood Study Report, prepared by Diversi Consulting, revision B, Dated October 2015.

59 [K Special Condition BLANK](#)

Prior to the issue of a Construction Certificate, a plan is to be submitted to and approved by Council, which indicates the required size, general location and design requirements of raingardens for each allotment within the approved subdivision. The plan is to be prepared by a suitably qualified consultant which responds to Council's Water Sensitive Urban Design Policy and the concept stormwater drainage plans approved as part of this consent.

60 [K Special Condition BLANK](#)

Prior to the issue of a Construction Certificate, the Certifying Authority shall ensure that the GPT or an equivalent system is to be removed from pit 1/B. Water quality treatment along Road 1 is not required.

61 [K Special Condition BLANK](#)

Deleted on the 3 September 2019 in accordance with Section 4.55(1A) of the Environmental Planning and Assessment Act 1979.

62 [K Special Condition BLANK](#)

Prior to the issue of a Construction Certificate, the Certifying Authority shall ensure open style pool fencing for a height of 300mm from ground level is to be detailed on the plans to permit the passage of overland flows.

The extent of the open style fencing shall be for the full width of the drainage/overland flow easement along the western boundary of lot 10, the full width of the drainage/overland flow easement along the eastern boundary of lot 5 and the full width of the drainage/overland flow easement along the northern boundary of lot 6.

Note: Standard colour bond fencing or fencing of the like, can be placed above the open style pool fencing.

Landscaping

63 [L008 - Tree Preservation Order](#)

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

64 [L009 - Tree Preservation Order \(subdivision\)](#)

All trees within areas outside the identified building footprints and subdivision works are to be retained. Tree protection measures are to be implemented for all retained trees as outlined in Australian Standard AS 4970-2009 'Protection of trees on development sites'. Prior to the commencement of works, an inspection of tree protection measures implemented within the site may be undertaken by Penrith Council Officers if requested.

No native trees or other vegetation (including shrubs and other understory vegetation) are to be removed, ringbarked, cut, topped, lopped, slashed or wilfully destroyed (other than those within the proposed building footprints and locations of subdivision works) without the prior consent of Penrith City Council and in accordance with Council's Tree Preservation Order and Policy.

65 [L Special \(Protection of trees to remain on site\)](#)

All trees approved by Council for removal shall be removed in a manner so as to prevent damage to those trees that are to be retained

66 [L Special \(Tree protection - Australian Standards\)](#)

The tree/s must be retained and protected in accordance with Australian Standards, Protection of trees on development sites, AS 4970 -2009.

67 [L Special \(Trees of public property\)](#)

Trees on Public Property: All precautions shall be taken to adequately protect trees on public property (ie. footpaths, roads, reserves, etc.) against damage during construction. No trees on public property shall be removed, pruned or damaged during construction – this includes the erection of any fences, hoardings or other temporary works. The placement of construction materials beneath the canopy of street trees is prohibited.

Subdivision

68 **M001 - Prior to subdivision work (Applies to subdivision except strata)**

Work on the subdivision is not to commence until:

- a Construction Certificate has been issued,
- a Principal Certifying Authority has been appointed for the project, and
- any other matters prescribed in the development consent for the subdivision and the Environmental Planning and Assessment Act and Regulation have been complied with.

Penrith City Council is to be notified 48 hours prior to commencement of engineering works or clearing associated with the subdivision.

69 **M008 - Linen Plan**

Submission of the original Linen Plan and ten (10) copies. The Linen Plan must indicate that:

- a) "It is intended to dedicate all new roads to the public as road"

All drainage easements, rights of way, restrictions and covenants are to be included on the linen plan.

All dedications of roads/drainage are to be undertaken at no cost to Penrith City Council.

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

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

70 **M009 - 88B Instrument**

The linen plan of subdivision is to be supported by an 88B instrument creating a Restriction as to User or easement regarding the following:

- a) No dwelling is permitted to be erected on any allotment without the provision of a rain garden to Penrith City Council's requirements.

Council shall be nominated as the only authority permitted to modify, vary or rescind such restriction as to user.

Development Contributions

71 **N001 - Section 7.11 contribution (Cultural Facilities)**

This condition is imposed in accordance with Penrith City Council's Section 7.11 Contributions Plan(s) for Cultural Facilities. Based on the current rates detailed in the accompanying schedule attached to this Notice, \$6,747.00 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 Cultural Facilities may be inspected at Council's Civic Centre, 601 High Street, Penrith.

As amended on the 3 September 2019 in accordance with Section 4.55(1A) of the Environmental Planning and Assessment Act 1979.

72 **N001 - Section 7.11 contribution (District Open Space)**

This condition is imposed in accordance with Penrith City Council's Section 7.11 Contributions Plan(s) for District Open Space. Based on the current rates detailed in the accompanying schedule attached to this Notice, \$79,794.00 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.

As amended on the 3 September 2019 in accordance with Section 4.55(1A) of the Environmental Planning and Assessment Act 1979.

Payment of Fees

73 **P001 - Costs**

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

74 **P002 - Fees associated with Council land (Applies to all works & add K019)**

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

75 **Q001 - Notice of Commencement & Appointment of PCA1**

Prior to the commencement of any earthworks, construction or demolition 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.

76 **Q008 - Subdivision Certificate**

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

Operation of OSSM

77 **R113 - Decommission old system**

The contents of the existing septic tank are to be removed by a licensed waste contractor and deposited to an approved waste facility. The disconnected tank shall be removed. Documentation of the collection and disposal of waste are to be retained and provided to Council on request.

Appendix - Development Control Plan Compliance

Development Control Plan 2014

Part C - City-wide Controls

C3 Water Management

An objective of this section is for development to provide a stormwater system which can be maintained economically.

The original consent, DA15/0542, allowed for the torrens title subdivision x 14 residential lots & public road with associated drainage works at the subject site. This original application was referred to Council's Development Engineering team at the time, who recommended several conditions be added to the consent, including condition 61 that states:

"Prior to the issue of a Construction Certificate, the Certifying Authority shall ensure that an easement is created over the pipe that crosses the north western corner of Council's land registered under Lot 10 DP 1001637. The easement width shall be in accordance with the requirements of Penrith City Council Design Guidelines for Engineering Works for Subdivisions and Developments."

The requirements of the above condition include that an easement be placed over an existing Council owned drainage pipe on Council land, where Council is both benefitted and burdened by the subject easement. This aspect was raised by Council's Development Engineering team through the assessment of CCX19/0012 (Engineering Construction Certificate - Servicing and Roads). Advice from the Engineers to the applicant included lodging the subject modification application to remove the easement condition (no.61) as it is a redundant condition that is not supported by Council's engineers.

The subject modification was referred to Council's Engineers for confirmation of the above, with no objection given to the removal of condition 61.

Considering the above, support is given to the removal of condition 61. As such, the subject application satisfies the requirements of Chapter C3 of Penrith DCP 2014.