

PENRITH CITY COUNCIL

NOTICE OF DETERMINATION

DESCRIPTION OF DEVELOPMENT

Application number:	DA16/0137.02
Description of development:	Extension of Deferred Commencement Consent Period - Demolition of Existing Structures & Construction of Six (6) Storey Residential Flat Building containing 61 Apartments & Two Levels of Basement Car Parking
Classification of development:	Class 2 , Class 7a

DETAILS OF THE LAND TO BE DEVELOPED

Legal description:	Lot 5 DP 24603 Lot 6 DP 24603 Lot 7 DP 24603
Property address:	119 Derby Street, PENRITH NSW 2750 115 Derby Street, PENRITH NSW 2750 117 Derby Street, PENRITH NSW 2750

DETAILS OF THE APPLICANT

Name & Address:	S Elias 23/3 West Terrace BANKSTOWN NSW 2200
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DECISION OF CONSENT AUTHORITY

In accordance with Sections 81(1) (a) and 95A 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	8 December 2016
Date the consent expires	8 June 2019
Date of this decision	8 June 2018

POINT OF CONTACT

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

Assessing Officer:	Jake Bentley
Contact telephone number:	+612 4732 8087

NOTES

Reasons

The conditions in the attached schedule have been imposed in accordance with Section 80A 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 Section 82A of the Environmental Planning and Assessment Act 1979 within 6 months of receiving this Notice of Determination.

You cannot make this request if the development is Designated Development, Integrated Development or State Significant development or if the application was decided by Sydney West Planning Panel.

Appeals in the Land and Environment Court

The applicant can appeal against this decision in the Land and Environment Court within six (6) months of receiving this Notice of Determination.

The applicant can appeal against this decision in the Land and Environment Court within twelve (12) months of receiving this Notice of Determination.

You cannot appeal if a Commission of Inquiry was held for the subject development application, or if the development is a State Significant Development.

An appeal to the Land and Environment Court is made by lodging an application to the Court in accordance with the Rules of the Court.

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 28 days after the date of this notice. The objector cannot appeal if a Commission of Inquiry was held.

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 28 days after the date of this appeal notice to attend the appeal and make submissions at that appeal.

Sydney West Planning Panels

If the application was decided by the Sydney West Planning Panel, please refer to Section 18 of the Greater Sydney Commission Act 2015 and Section 23H of the Environmental Planning and Assessment Act, 1979 (as amended) for any further regulations.

SCHEDULE 1: CONDITIONS TO BE COMPLIED WITH PRIOR TO CONSENT BECOMING OPERATIONAL

Schedule 1 (Deferred Commencement)

1	A.	An unconditional letter is to be submitted from the owner's of the adjoining downstream property in relation to the proposed drainage plan and drainage easement. A copy of the unconditional letter shall be submitted to Penrith City Council prior to the consent becoming operational.
	B.	An easement for drainage and overland flow shall be provided over Lot 100 DP 791049 pursuant to Section 88E of the Conveyancing Act 1919. Evidence of registration of the easement with Land and Property Information (LPI) shall be submitted to Penrith City Council. The easement width shall be in accordance with Penrith City Council's adopted Design Guidelines.
	C.	Revised stormwater concept plans shall be submitted to Penrith City Council for approval. The plans shall consider emergency overflows from the on-site detention system in the instance of system failure and shall demonstrate that the downstream existing pipeline located within the registered easement over Lot 100 DP1049487 has adequate capacity to convey the 100 year ARI stormwater flows. Should the existing stormwater infrastructure within registered easement Lot 100 DP1049487 have inadequate capacity, the system shall be upgraded. All stormwater drainage shall be in accordance with Penrith City Council's Stormwater Guidelines for Building Developments (Working Draft) Policy.
	D	A valid BASIX Certificate is to be provided, that is a certificate lodged to Council within 3 months of the date of issue.
	NOTE: The above matters must be completed within 30 months from the date of this consent or this consent shall lapse.	

As amended on the 8 June 2018 in accordance with Section 4.54 under the Environmental Planning and Assessment Act 1979.

ATTACHMENT 1: CONDITIONS OF CONSENT

General

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

Drawing	Drawing No./Revision	Project No.	Prepared By	Dated
Site Plan, as amended by Ground Floor Plan, dated 04/10/16	A105 (D)	15035-06	CK Design	04/10/2016
Streetscape Elevation	A104 (C)	15035-06	CK Design	05/06/16
Ground Floor	A108 (D)	15035-06	CK Design	04/10/2016
Level 1	A109 (E)	15035-06	CK Design	-
Level 2	A110 (E)	15035-06	CK Design	-
Level 3	A111 (E)	15035-06	CK Design	-
Level 4	A112 (D)	15035-06	CK Design	04/10/2016
Level 5	A113 (D)	15035-06	CK Design	04/10/2016
Proposed Basement 2	A106 (D)	15035-06	CK Design	04/10/2016
Proposed Basement 1	A107 (E)	15035-06	CK Design	-
Roof Plan	A114 (C)	15035-06	CK Design	05/06/16
North Elevation	A115 (C)	15035-06	CK Design	05/06/16
South Elevation	A116 (C)	15035-06	CK Design	05/06/16
East Elevation	A117 (C)	15035-06	CK Design	05/06/16
West	A118 (C)	15035-06	CK Design	05/06/16
Section	A119 (C)	15035-06	CK Design	05/06/16
Section	A120 (D)	15035-06	CK Design	04/10/16
Section	A121 (C)	15035-06	CK Design	05/06/16
Waste Management Plan	-	-	Chris Khoury	24/04/15

Stormwater Details, as amended by Basement Plan 2, A107 (E), Date 5	Revision F, Sheets 1 to 7	7604	Natasi & Associates	10/10/16
Landscape Plan	L-01, Issue A	3958a	Ray Fuggle Associates	10/12/15

2 All 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 Lots 5, 6 and 7 in Deposited Plan 24603 are to be consolidated as one lot. A copy of the registered plan of consolidation from the Land and Property Information division of the Department of Lands is to be submitted to the Principal Certifying Authority (PCA) and Penrith City Council, if Council is not the PCA, **prior to the issue of the Occupation Certificate** for the development.

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

5 **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 landuses. 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).

6 The finishes of all structures and buildings are to be maintained at all times and any graffiti or vandalism immediately removed/repaired.

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

8 To preserve visual privacy of the adjoining development and the subject apartments, any balconies and windows that encroach upon the minimum setbacks specified by the Apartment Design Guide, that being 6m up to a height of 4 storeys and 9m above 4 storeys, shall be screened via moveable louvres. Details shall be submitted in this regard **prior to the issue of an Occupation Certificate**.

9 A total of 6 accessible dwellings are to be provided in accordance with the requirements of Penrith Development Control Plan 2014. **The Construction Certificate must be accompanied by certification** from a person suitably qualified by the Association of Consultants in Access Australia confirming that the adaptable dwellings are capable of being modified, when required by the occupant, to comply with the Australian Housing Standard (AS 4299- 2009). A Compliance Certificate in this regard shall be provided **prior to the issue of an Occupation Certificate**.

10 **Prior to the issue of an Occupation Certificate**, all balconies on the ground floor along the northern elevation shall be screened by moveable louvres to provide privacy.

11 **Prior to the issue of a Construction Certificate and/or Occupation Certificate**, the following Crime Prevention Through Environmental Design measures shall be incorporated into the development:

- Car Parking**
 - A security system must be installed on any pedestrian and vehicle entry/exit points to the car park, including the lift and stairwell, to minimise opportunities for unauthorised access.
 - All areas of the car park (including lift lobbies, stairwells, garbage rooms and storage areas) must be well-lit, with consistent lighting to prevent shadowing or glare.
 - Signage must be in place to clearly identify exit and access points, the location of lifts and stairwells.
 - All surfaces in the car park should be painted in light coloured paint or finished in light coloured concrete to reflect as much light as possible.
- Residential Developments Building Identification Building Security & Access Control**
 - Each building entry should clearly state the unit numbers accessed from that entry.
 - Each individual dwelling should be clearly numbered.
 - Unit numbers should be clearly provided on each level.
 - Intercom, code or swipe card locks or similar must be installed for main entries to buildings including car parks.
 - Main entry doors for apartment buildings should be signed requesting residents to not leave doors wedged open.
 - Australian Standard 220 door and window locks must be installed in all dwellings including doors onto balconies, to minimise the risk of break and enter offences.
 - If security grills are used on windows they should be operable from inside in case of emergencies.
 - Ensure skylights and /or roof tiles cannot be readily removed or opened from outside.
 - Consider monitored alarm systems.
 - CCTV cameras must be provided to public areas of the development. As a minimum, cameras must be positioned to provide coverage of vehicular and pedestrian entry/exit points (including entries/exits to buildings), key thoroughfares and activity nodes as well as all areas of the car park. Signage must be provided to indicate that CCTV cameras are in operation.
- Graffiti/Vandalism**
 - Procedures must be in place to ensure the prompt removal and/or repair of graffiti or vandalism to the buildings, fencing, commercial tenancies and common areas. This includes reporting incidents to police and/or relevant authorities.
 - Graffiti resistant coatings must be used to external surfaces where possible, including signage, furniture, retaining walls, the architectural screen shielding the car park etc.
- Way Finding/Finding Help**
 - Signs should be strategically located at entrances and near activity nodes such as intersections of corridors or paths.
 - Signs should indicate how to report maintenance problems in the complex.
 - Signs throughout the development should be large and legible, and strong colours, standard symbols and simple graphics. They should indicate where to go for help or assistance.

Fencing

- Front fences should preferably be no higher than 1.2 metres. Where a higher fence is proposed, it will only be considered if it is constructed of open materials e.g. spaced pickets, wrought iron etc.
- Fence design to the ground floor units should maximise natural surveillance from the street to the building and from the building to the street, and minimise the opportunities for intruders to hide.

- 12 Any plant or unsightly structures installed on the external facades or rooftop must be screened from view.
- 13 In order to protect the visual privacy of the adjoining properties, a 500mm screen shall be provided on top of the northern, eastern and western boundary fences. Details of compliance in this regard shall be provided to the Certifying Authority **prior to the issue of an Occupation Certificate**.
- 14 **Prior to the issue of a Construction Certificate**, a design verification statement from a qualified designer shall be submitted. The design verification statement shall verify that the Construction Certificate plans and specifications achieve or improve the design quality of the development for which development consent was granted, having regard to the design quality principles set out in Schedule 1 of State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development.
- 15 **Prior to the issue of an Occupation Certificate**, a design verification statement from a qualified designer shall be submitted. The design verification statement shall verify that the development achieves the design quality shown in the approved Construction Certificate plans and specifications, having regard to the design quality principles set out in Schedule 1 of State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development.
- 16 **Prior to the issue of a Construction Certificate**, details of all proposed fencing and retaining walls are to be provided to Penrith Council for approval. The fence type shall be consistent with the controls for fences for residential flat buildings, as outlined in Penrith Development Control Plan 2014. Front fencing shall be substantially in accordance with the streetscape elevation on the site analysis drawn by CK Design, reference no. A104(C), dated 15/06/16.
- 17 **Prior to the issue of a Construction Certificate**, the Certifying Authority shall ensure that a draft operation and maintenance plan is prepared and submitted for all stormwater treatment measures as part of the treatment train. The plan must include details on the cleaning/maintenance requirements of the proposed treatment measures as well as detail on how this will be managed (nominate who will be responsible).

Prior to the issue of a Construction Certificate, the Certifying Authority is to ensure appropriate access for ongoing cleaning and maintenance of the Stormfilter device is provided and clearly indicated on the detailed design plans.

Demolition

- 18 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**.

- 19 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.

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

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

- 22 Demolition works shall be restricted to the following hours in accordance with the NSW Environment Protection Authority Noise Control Guidelines:

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

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

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

Environmental Matters

- 23 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).

- 24 Cut and fill operations on the property are only permitted in conjunction with the building works as detailed on the approved plans and specifications, and shall not extend more than 2 metres past the defined building footprint.

Before any fill material is imported to site, a validation certificate issued by an appropriately qualified person is to be provided to the Principal Certifying Authority. The validation certificate must demonstrate that the fill material is free from contaminants and weeds, that it is suitable for its intended purpose and land use, and that it will not pose an unacceptable risk to human health or the environment.

If Penrith City Council is not the Principal Certifying Authority, a copy of the validation certificate is to be submitted to Council for their reference.

{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, soil science, eco-toxicology, sampling and analytical procedures, risk evaluation and remediation technologies. In addition, the person will be required to have appropriate professional indemnity and public risk insurance."}

- 25 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.
- 26 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.

- 27 All vehicle washing, engine degreasing and steam cleaning shall be conducted in a wash bay and shall be installed and connected to the sewer in accordance with Sydney Water's requirements.

Details of the vehicle wash bay including the Section 73 Certificate issued by Sydney Water for the discharge of trade waste from the premises shall be submitted to the Principal Certifying Authority before the wash bay can be installed.

28 Should any "unexpected finds" occur during site excavation and earthworks including, but not limited to, the identification/finding of contaminated soils, buried building materials, asbestos, odour and/or staining, works on the site are to cease immediately and Council is to be notified. Any such "unexpected finds" shall be investigated and addressed by an appropriately qualified environmental consultant, in line with the relevant EPA Guidelines and the National Environment Protection (Assessment of Site Contamination) Measure 2013.

All remediation works within the Penrith Local Government Area are considered to be Category 1 works under State Environmental Planning Policy No. 55-Remediation of Land. Should any contamination be found during development works and should remediation be required, development consent is to be sought from Penrith City Council before the remediation works commence.

29 The property owner or agent acting for the owner shall arrange for the commencement of a domestic waste service with Council. The service is to be arranged no earlier than two days **prior to occupancy** and no later than two days after occupancy of the development. All requirements of Council's domestic collection service must be complied with at all times. Please telephone Council on (02) 4732 7615 for the commencement of waste services.

30 **Prior to the issue of a Construction Certificate**, revised basement plans must be submitted to, and approved by, Council's Waste Services Department with the following revisions:

- The chute room located in the basement must allow for a minimum 900mm clearance around the carousel system on the southern aspect and a minimum 900mm clearance on the western aspect of the room for maintenance and accessibility.
- The chute room is to provide a single 900mm door access which permits unobstructed access to the chute room and roller shutter door.
- The loading dock located in the basement is to be built to a width of 5600mm that is unobstructed and level. This will allow for adequate clearance for truck manoeuvres and bin collection.
- The loading dock is to provide a 12.5m long unobstructed loading bay that can accommodate Council's Heavy Rigid vehicle. Bollards are to be installed behind the vehicle to separate the 12.5m loading bay from the ramp to Basement 2.
- The bin storage room located in the basement is to provide a 900mm door access that does not obstruct access to the chute room doorway. This door will allow access to the 2500mm roller shutter door.
- The bulky household's goods room is to provide a total storage area of 10 square metres that excludes areas required for swing door operations. A minimum 1.8m internal room width is required for the storage of goods.
- The bulky household's goods room is to provide suitable door access with a minimum 1800mm diameter. The doors will need to incorporate an abloy key locking system.
- The basement is to incorporate adequate exhaust fans to service the emission produced during collection operations of Council's Heavy Rigid Vehicle. The vehicles require high revs to operate the mechanical lift arms during collection.

31 **Prior to the issue of an Occupation Certificate**, the developer is to enter into a formal agreement with Penrith City Council for the utilization of Council's Waste Collection Service. This is to include Council being provided with indemnity against claims for loss or damage.

Note: By entering into an agreement with Council for waste collection, the development will be required to operate in full compliance with Penrith City Council's Waste Collection and Processing Contracts for Standard Waste Collection. The provision of Council's waste collection service will not commence until formalisation of the agreement.

BCA Issues

32 The owner of a building, to which an essential fire safety measure is applicable, shall provide Penrith City Council with an annual fire safety statement for the building. The annual fire safety statement for a building must:

- (a) deal with each essential fire safety measure in the building premises, and
- (b) be given:

- within 12 months after the last such statement was given, or
- if no such statement has previously been given, within 12 months after a final fire safety certificate was first issued for the building.

As soon as practicable after the annual fire safety statement is issued, the owner of the building to which the statement relates:

- must also provide a copy of the statement (together with a copy of the current fire safety schedule) to the Commissioner of New South Wales Fire Brigades, and
- prominently display a copy of the statement (together with a copy of the current fire safety schedule) in the building.

33 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).

It is the owner's responsibility to place on display, in a prominent position within the building at all times, a copy of the latest fire safety schedule and fire safety certificate/statement for the building.

Health Matters and OSSM installations

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

Utility Services

- 35 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.**

- 36 **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.

Prior to the issue of a Construction Certificate, details of any required electrical substation location and electrical authority’s requirements in relation to the substation shall be submitted to Council for approval. The location of the substation shall not impact on other services or the building, driveway or landscape design approved by Council. Subject to Endeavour Energy’s requirements, the location of the substation shall be integrated with the built form to reduce visual impacts on the streetscape.

- 37 **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.

- 38 **Prior to the issue of a Construction Certificate**, the location and position of any required fire hydrants and boosters shall be submitted to and approved by Council. The location of these service requirements shall be integrated with the built form to reduce visual impacts along the street frontages.

Construction

39 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.

40 Prior to the commencement of construction works:

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

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

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

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

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

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

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

41 Prior to the issue of a Construction Certificate, all mechanical ventilation equipment, ducts, air conditioner services and the like shall be shown on the Construction Certificate documentation as contained within the building. These services shall not be visible from any public location along Derby Street.

Any downpipes or stormwater pipes shall be integrated and blend with the architecture of the building.

42 Prior to the issue of an Occupation Certificate, the building is to be painted internally and externally in accordance with the approved colour schedule.

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

44 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 an Occupation Certificate**.

45 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.

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

47 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.

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

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

Other construction works carried out inside a building/tenancy that does 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.

- 49 **Prior to the issue of a Construction Certificate**, the developer shall obtain a Geotechnical Report to determine any construction requirements for the excavation of the basement car park.

Engineering

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

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

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

- a) Vehicular crossings (including kerb reinstatement of redundant vehicular crossings)
- b) Concrete footpaths and or cycleways
- c) Road opening for utilities and stormwater (stormwater connection to the existing kerb inlet pit in Hope Street, Penrith)
- d) Road occupancy or road closures
- e) The placement of hoardings, structures, containers, waste skips, signs, etc in the road reserve
- f) Temporary construction access

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

Contact Penrith City Council's City Works Department on (02) 4732 7777 or visit Penrith City Council's website for more information.

Note:

- a) 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.
- b) Separate approvals may also be required from the Roads and Maritime Services for classified roads.
- c) All works associated with the Roads Act approval must be completed prior to the issue of any Occupation Certificate.

53 Prior to the issue of a Construction Certificate, the Principal Certifying Authority and/or Certifying Authority shall ensure that an application under Section 68 of the Local Government Act, including payment of application and inspection fees, has been lodged with, and approved by Penrith City Council for provision of stormwater drainage works from the proposed development (115-119 Derby Street), through Lot 100 DP 791049, to connect into the existing kerb inlet pit in Hope Street.

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

Contact Penrith City Council's Development Engineering Department on (02) 4732 7777 or visit Penrith City Council's website for more information.

Note:

- a) All works associated with the S68 Local Government Act Approval must be completed prior to the issue of any Occupation Certificate or Subdivision Certificate as applicable.

54 The stormwater management system shall be provided generally in accordance with the concept plan/s lodged for development approval, prepared by Natasi & Associates, reference number 7604, revision F, dated 10/10/16.

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

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

55 Prior to the issue of a Construction Certificate, the Certifying Authority shall ensure that the stormwater drainage system for the basement car park has been designed in accordance with the requirements for pumped systems in AS 3500.3:2015 (Plumbing and Drainage – Stormwater Drainage).

56 Prior to the issue of a Construction Certificate, the Certifying Authority shall ensure that vehicular access, circulation, manoeuvring, pedestrian and parking areas associated with the subject development are in accordance with AS 2890.1, AS 2890.2, AS 2890.6 and Penrith City Council's Development Control Plan 2014.

57 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.

- 58 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 AS 1742.3 "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.
- 59 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.
- 60 Prior to the issue of an Occupation Certificate, the Principal Certifying Authority shall ensure that all works associated with a Section 138 Roads Act approval or Section 68 Local Government Act approval have been inspected and signed off by Penrith City Council.
- 61 Prior to the issue of an Occupation Certificate, works-as-executed drawings, final operation and maintenance management plans and any other compliance documentation shall be submitted to the Principal Certifying Authority in accordance with Penrith City Council's Engineering Construction Specification for Civil Works, WSUD Technical Guidelines and Stormwater Drainage for Building Developments Policy.

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

- 62 Prior to the issue of an Occupation Certificate, the Principal Certifying Authority shall ensure that the:
- a) Stormwater management system (including on-site detention and water sensitive urban design)
 - Has been satisfactorily completed in accordance with the approved Construction Certificate and the requirements of this consent.
 - Has 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.

63 Prior to the issue of an Occupation Certificate, a restriction as to user and positive covenant relating to the:

- a) Stormwater management system (including on-site detention and water sensitive urban design)

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.

64 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.

65 A total of 78 off-street parking spaces are to be provided, line marked and maintained for the development, in accordance with the stamped approved plans. The parking space dimensions and manoeuvring areas are to comply with AS 2890.1 and AS 2890.2, the Building Code of Australia and the Commonwealth Disability Discrimination Act.

Of the 78 spaces, 6 accessible car parking spaces are to be provided in accordance with AS 1428.1.

Parking is to be allocated to each unit and the development in accordance with the car parking rates specified in Chapter C10 Transport, Access and Parking of Penrith Development Control Plan 2014 and the information submitted as part of DA16/0137.01.

66 The subleasing of car parking spaces is not permitted or endorsed by this consent.

67 **Prior to the issue of an Occupation Certificate**, secure bicycle parking is to be provided in accordance with AS 2890.3:2015 Bicycle Parking Facilities.

Landscaping

68 All landscape works are to be constructed in accordance with the stamped approved plan and Landscape Design section of Penrith Council's 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.

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

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

70 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.

71 All plant material associated with the construction of approved landscaping is to be planted in accordance with the Landscape Design Section of Penrith Development Control Plan 2014.

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

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

73 All trees that are required to be retained as part of the development are to be protected in accordance with

the minimum tree protection standards prescribed in Penrith's Development Control Plan 2014, the arborist's report recommendations, prepared by Mackay Tree Management, dated 14/12/15, and in accordance with AS 4970 -2009 Protection of Trees on Development Sites.

- 74 No trees are to be removed, ringbarked, cut, topped or lopped or wilfully destroyed (other than those within the proposed building footprint or as shown on the approved plans) without the prior consent of Penrith City Council and in accordance with Council's Tree Preservation Order and Policy.
- 75 **Prior to the issue of an Occupation Certificate**, at least 11 suitable replacement tree/s (preferably native trees) capable of and nurtured to grow to about 10m in height at maturity, must be planted in suitable locations within the property, and, in particular, not be planted closer than 2 metres to any building.

Section 94

- 76 This condition is imposed in accordance with Penrith City Council's Section 94 Contributions Plan for District Open Space. Based on the current rates detailed in the accompanying schedule attached to this Notice, \$210,636 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 District Open Space may be inspected at Council's Civic Centre, 601 High Street, Penrith.

- 77 This condition is imposed in accordance with Penrith City Council's Section 94 Contributions Plan Local Open Space. Based on the current rates detailed in the accompanying schedule attached to this Notice, \$76,185 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 Local Open Space may be inspected at Council's Civic Centre, 601 High Street, Penrith.

- 78 This condition is imposed in accordance with Penrith City Council's Section 94 Contributions Plan Cultural Facilities. Based on the current rates detailed in the accompanying schedule attached to this Notice, \$20,610 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

- 79 All roadworks, dedications and drainage works are to be carried out at the applicant's cost.
- 80 **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

- 81 An Occupation Certificate is to be obtained from the Principal Certifying Authority on completion of all works and **prior to the occupation of the residential flat building**. The Occupation Certificate shall not be issued if any conditions of this consent, but not the conditions relating to the operation of the development, are outstanding, and the development does not comply with the provisions of the Environmental Planning and Assessment Act and Regulation.

Before the Occupation Certificate can be issued for the development, Fire Safety Certificates issued for the building are to be submitted to Penrith City Council and the New South Wales Fire Brigades.

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

- 82 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.

SIGNATURE

Name:	Jake Bentley
Signature:	

For the Development Services Manager