

PENRITH CITY COUNCIL

MAJOR ASSESSMENT REPORT

Application number:	DA20/0141.02
Proposed development:	Section 4.55(1A) Modifications for Addition of Balconies to Southern Elevation of Units 15 &16 - Demolition of Existing Structures & Construction of Five (5) Storey Residential Flat Building containing 16 Apartments & Two (2) Basement Levels for Car Parking & Building Facilities
Property address:	36 Rodley Avenue, PENRITH NSW 2750 38 Rodley Avenue, PENRITH NSW 2750
Property description:	Lot 59 DP 33490 Lot 58 DP 33490
Date received:	9 July 2021
Assessing officer	Donna Clarke
Zoning:	Zone R4 High Density Residential - LEP 2010
Class of building:	Class 2 , Class 7a
Recommendations:	Approve

Executive Summary

Council is in receipt of a Section 4.55(1A) modification application to an approved residential flat building at 36-38 Rodley Avenue, Penrith. The subject site is zoned R4 High Density Residential under the *Penrith Local Environmental Plan 2010* (LEP 2010) and a residential flat building is a permissible land use in the R4 zone with consent.

The application seeks to add rear (south) facing balconies to both of the two top floor units of the development. Key issues identified and addressed as part of the assessment of the modified proposal were in regard to urban design and privacy considerations. The addition of the proposed balconies is considered acceptable in terms of separation under the Apartment Design Guide and the balconies will have fixed privacy screens to the sides to ensure no privacy impacts.

The modified development proposal was notified to adjoining and nearby properties. The public exhibition period was between 26 July and 9 August 2021. No submissions were received in response.

An assessment of the modified proposal under Section 4.55(1A) of the Environmental Planning and Assessment (EP&A) Act 1979 has been undertaken and the modification application is recommended for approval, subject to recommended consent condition modifications.

Site & Surrounds

The subject site has a property address of 36-38 Rodley Avenue, Penrith and is legally described as Lots 58 and 59 DP 33490. The site has a combined land area of 1,112.8m² and is rectangular in shape, with a 30.5m frontage to Rodley Avenue and a 36.6m depth. The site is relatively flat and each lot previously accommodated a single storey dwelling and associated structures. A drainage easement is situated on the western side boundary of Lot 58 DP 33490, which connects to a drainage easement situated on the southern adjoining site, being Penrith Paceway (127-141 Station Street, Penrith). Penrith Paceway is a large parcel of land, which runs from the eastern side of Mulgoa Road to the western side of Station Street and accommodates a range of events and functions, including harness racing, Penrith markets, function rooms, etc.

Rodley Avenue and its surrounds is currently largely low density residential, however, the locality is currently transitioning to higher density development (reflecting its current R4 High Density Residential zoning) with a number of RFB approvals and construction in the area. In this regard, to the west of the site at 50-54 Rodley Avenue, is a 6 storey residential flat building containing 42 apartments with basement car parking (approved under DA16/0262) and to the north-west at 12 Vista Street, Penrith, is 6 storey residential apartment development containing 79 units and basement car parking (approved under DA17/0311).

Proposal

The subject modification application relates to level 4 (fifth storey) of the proposed building, with balconies being added to the southern elevation of the two top floor units, primarily in order to maximise internal amenity to those top floor units.

Plans that apply

- Local Environmental Plan 2010
- Development Control Plan 2014
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- State Environmental Planning Policy No 55—Remediation of Land
- State Environmental Planning Policy No 65—Design Quality of Residential Flat Development
- Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

Planning Assessment

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

The modified development proposal has been assessed against the provisions of Section 4.55(1A) and Section 4.15 (see below) of the EP&A Act 1979 and has been found to be satisfactory. In relation to Section 4.55(1A) of the Act, it is noted the modified proposal is substantially the same as the originally approved proposal and the modified proposal is of minimal environmental impact only.

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

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

The originally approved BASIX Certificate remains applicable and unaltered by the subject application.

State Environmental Planning Policy No 55—Remediation of Land

The modified development remains satisfactory with respect to SEPP 55.

State Environmental Planning Policy No 65—Design Quality of Residential Flat Development

The addition of balconies to two units on the upper floor on the southern elevation is acceptable in terms of separation under the Apartment Design Guide given the location of the Penrith Paceway on the adjoining land to the south. There are no residential units to the south to provide appropriate separation to in this regard.

The balconies will have fixed privacy screens to the side to ensure no privacy impacts to the east and west.

The original proposal went through numerous reviews by Council's Urban Design Review Panel which deemed that apartments oriented to the rear was entirely appropriate given Penrith Paceway is on the adjoining land to the south.

It is considered that the ADG provisions and SEPP 65 principles remain satisfied by the modified proposal.

Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

The modified development remains satisfactory with respect to SREP 20.

Local Environmental Plan 2010

Provision	Compliance
Clause 1.2 Aims of the plan	Complies
Clause 2.3 Permissibility	Complies
Clause 2.3 Zone objectives	Complies
Clause 2.7 Demolition requires development consent	Complies
Clause 4.1A Minimum lot sizes for dual occupancies, multi dwelling housing and residential flat buildings	Complies
Clause 4.3 Height of buildings	Complies
Clause 4.4 Floor Space Ratio	N/A
Clause 5.10 Heritage conservation	N/A
Clause 7.1 Earthworks	Complies
Clause 7.2 Flood planning	Complies
Clause 7.4 Sustainable development	Complies
Clause 7.6 Salinity	Complies
Clause 7.7 Servicing	Complies

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

The proposed modified development remains suitable with respect to applicable draft planning instruments.

Section 4.15(1)(a)(iii) The provisions of any development control plan

Development Control Plan 2014

Provision	Compliance
DCP Principles	Complies
C1 Site Planning and Design Principles	Complies
C2 Vegetation Management	Complies
C3 Water Management	Complies
C4 Land Management	Complies
C5 Waste Management	Complies
C6 Landscape Design	Complies
C7 Culture and Heritage	N/A
C8 Public Domain	Complies
C9 Advertising and Signage	N/A
C10 Transport, Access and Parking	Complies
C11 Subdivision	N/A
C12 Noise and Vibration	Complies
C13 Infrastructure and Services	Complies
D2.5 Residential Flat Buildings	Complies - see Appendix - Development Control Plan Compliance

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

There are no planning agreements in place, which are applicable to the development proposal.

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

The proposed modifications do not alter the development's compliance with the Regulations.

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

Context and Setting

The approved development proposal incorporates a compliant building height and setbacks. The approved and proposed modified built form is compatible with the immediate surrounding area given that the R4 zoned area is transitioning to a high density area.

Privacy and Appearance

The modified proposal makes provision for balconies to be added to the southern elevation of the two upper storey units, primarily in order to maximise internal amenity to those top floor units.

It is considered that the addition of the balconies will provide a high level of residential amenity, without impacting on the appearance and urban design of the building, or on the privacy of adjoining properties.

Section 4.15(1)(c) The suitability of the site for the development

The site remains suitable for the proposed modified development.

Section 4.15(1)(d) Any Submissions

Community Consultation

The modified development proposal was notified to adjoining and nearby properties. The public exhibition period was between 26 July and 9 August 2021. No submissions were received in response.

Referrals

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

Referral Body	Comments Received
Building Surveyor	No objections - subject to conditions
Development Engineer	No objections - subject to conditions
Environmental - Environmental management	No objections - subject to conditions
Environmental - Waterways	No objections - subject to conditions
Waste Services	No objections - subject to conditions
Traffic Engineer	No objection
Community Safety Officer	No objections - subject to conditions

Section 4.15(1)(e)The public interest

The modified proposal remains suitable with respect to the public interest.

Conclusion

The above assessment has demonstrated that the modified proposal has met the relevant provisions of the Environmental Planning and Assessment Act 1979. The approved and modified development is suitable for the site and the development does not generate any significant issues of public interest. Therefore, the modification application is worthy of support and is recommended for approval.

Recommendation

That DA20/0141.02 for Section 4.55(1A) modifications to an approved residential flat building at 36-38 Rodley Avenue, Penrith, be approved subject to following recommended modified conditions.

CONDITIONS

General

1 [A001 - Approved plans table](#)

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

Sheet Name	Prepared By	Drawing No.	Issue	Dated
Demolition Plan	Morson Group	DA05	A	16-03-2020
Site Plan	Morson Group	DA04	A	16-03-2020
Ground Level	Morson Group	DA06	C	15-06-2020
Level 1	Morson Group	DA07	B	04-05-2020
Level 2	Morson Group	DA08	B	04-05-2020
Level 3	Morson Group	DA09	A	16-03-2020
Level 4	Morson Group	A103	A	19-04-2021
Roof	Morson Group	DA11	A	16-03-2020
Basement 1	Morson Group	DA12	B	04-05-2020
Basement 2	Morson Group	DA13	A	16-03-2020
Elevation North & South	Morson Group	A200	A	19-04-2021
Elevation East & West	Morson Group	A201	A	19-04-2021
Sections	Morson Group	A220	A	19-04-2021
Section 1	Morson Group	DA18	A	16-03-2020
Section 2	Morson Group	DA19	B	04-05-2020
Section 3	Morson Group	DA20	A	16-03-2020
Material Schedule	Morson Group	DA23	A	16-03-2020
Section Details	Morson Group	DA25	A	04-05-2020
Landscape Plan	Paul Scrivener Landscape	1 of 2 (Job Ref: 20/2142)	D	16-03-2020
Planting Plan & Details	Paul Scrivener Landscape	2 of 2 (Job Ref: 20/2142)	D	16-03-2020
Stormwater Concept Design Basement 02 Plan	S&G Consultants Pty Ltd	SW200 (Project No. 20180061)	H	17-06-2020
Stormwater Concept Design Basement 01 Plan	S&G Consultants Pty Ltd	SW201 (Project No. 20180061)	H	17-06-2020
Stormwater Concept Design Ground Floor Plan	S&G Consultants Pty Ltd	SW202 (Project No. 20180061)	H	17-06-2020
Stormwater Concept Design Roof Plan	S&G Consultants Pty Ltd	SW203 (Project No. 20180061)	H	17-06-2020
Stormwater Concept Design Details Sheet 1 of 2	S&G Consultants Pty Ltd	SW300 (Project No. 20180061)	H	17-06-2020
Stormwater Concept Design Details Sheet 2 of 2	S&G Consultants Pty Ltd	SW301 (Project No. 20180061)	H	17-06-2020
Erosion and Sediment Control Plan and Details	S&G Consultants Pty Ltd	SW400 (Project No. 20180061)	H	17-06-2020
Stormwater Concept Design Music Catchment Plan	S&G Consultants Pty Ltd	S500 (Project No. 20180061)	H	17-06-2020

Documents

- Acoustic Report prepared by Rodney Stevens Acoustics, Reference No. 180128R1, Revision 1, dated 10 June 2020,
- Asbestos Management Register prepared by JMB Environmental Consulting, Reference No. 19380, dated August 2019,
- DA Access Report prepared by Vista Access Architect, Reference No. 18167, Issue C, dated 16 March 2020,
- Flood Impact Statement, prepared by S&G Consultants Pty Ltd, Reference No. 2018.0061-L06, dated 16 March

2020,

- Geotechnical Report prepared by Morrow, Reference No. P1720_01 rev1, dated 13 August 2019,
- Road Noise and Race Track Impact Assessment - Proposed Residential Development at 36-38 Rodley Avenue, Penrith prepared by Rodney Stevens Acoustics, Reference No. 180128R1, Revision 1, dated 10/6/2020,
- Tier 1 Preliminary Site Investigation prepared by SESL Australia, Reference No. J001922, Revision 1.0, dated 9 August 2019,
- Traffic & Parking Impact Assessment prepared by Stanbury Traffic Planning, Reference No. 18-045-2, dated March 2020, and
- Waste Management Plan prepared by Peter Morson, dated 16 March 2020.

As amended on 19 August 2021 under Section 4.55(1A) of the Environmental Planning and Assessment Act 1979.

2 **A014 - LOT CONSOLIDATION**

Lot 58 DP 33490 and Lot 59 DP 33490 are to be consolidated as one lot. A copy of the registered plan of consolidation from NSW Land Registry Services is to be submitted to the Principal Certifying Authority (PCA) and Penrith City Council, if Council is not the PCA, prior to the issue of an Occupation Certificate for the development.

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

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

4 **A038 - LIGHTING LOCATIONS**

Prior to the issue of an Occupation Certificate, a lighting system shall be installed for the development to provide uniform lighting across common areas and driveways. Exterior lighting shall be located and directed in such a manner so as not to create a nuisance to surrounding land uses. The lighting shall be the minimum level of illumination necessary for safe operation. The lighting shall be in accordance with AS 4282 "Control of the obtrusive effects of outdoor lighting" (1997).

5 **A039 - Graffiti**

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

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

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

7 **A Special (BLANK)**

Prior to the issue of a Construction Certificate, an amended BASIX Certificate that reflects the stamped approved plans shall be submitted with and approved by the Certifying Authority.

8 **A Special (BLANK)**

Prior to the erection of any crane or any temporary construction structure at a height greater than the roof of the subject development, written notice shall be provided to Council and the Nepean Blue Mountains Local Health District at least 21 days prior to the erection, indicating at least the following:

- Name of responsible company and relevant contact details,
- Dimensions (height, length, etc.),
- Position and orientation of boom/jib and counterboom/jib,
- Length of time that such a crane or structure will be erected on the site, and
- The management plan and measures that will ensure that the crane or structure will be of least possible impact on flight operations for Ambulance NSW.

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

- A medium intensity, steady red lighting positioned at the highest point and both ends of the boom/jib and counterboom/jib, so that such lighting will provide an indication of the height of the crane and the radius of the crane boom/jib. Such lighting, which should be displayed at night, should be positioned so that when displayed it is visible from all directions,
- When a crane is unattended for an extended period of time ensure the crane's boom is retracted and lowered as far as possible, and
- No part of the crane or structure shall extend beyond the boundaries of the development site unless approved by Penrith City Council in consultation with the Nepean Blue Mountains Local Health District. Any encroachment beyond the boundaries of the subject site shall be the minimum amount required to facilitate construction and access all parts of the construction site.

9 [A Special \(BLANK\)](#)

In the event that a hydrant booster is necessary to service the approved development, the booster shall be integrated into the design of the development. **Prior to the issue of a Construction Certificate**, Council shall be consulted regarding the proposed location of the booster, (as the location of the booster may impact on other services and buildings, driveway or landscape design). Confirmation will also be required with regard to any heat shield or other such structures required to be installed with the booster.

10 [A Special \(BLANK\)](#)

Prior to the issue of a Construction Certificate, the design recommendations of the 'DA Access Report' prepared by Vista Access Architects, Reference No. 18167, Issue C, dated 16 March 2020 shall be incorporated into the Construction Certificate plans.

11 [A Special \(BLANK\)](#)

All mechanical ventilation equipment, including ducts, air conditioner services and the like must be shown on the Construction Certificate documentation as being contained within the approved buildings. Any gutters and down pipes shall be integrated into the architecture of the buildings. Any plant or unsightly structures installed on the rooftop must be screened from view.

12 [A Special \(BLANK\)](#)

A minimum of two (2) apartments shall be constructed as adaptable apartments to meet the requirements for persons with a disability and in accordance with the stamped approved plans. The adaptable units shall each be allocated an accessible car parking space compliant with AS 2890.6.

The Construction Certificate application 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**.

13 [A Special \(BLANK\)](#)

Prior to the issue of an Occupation Certificate, all street trees are to be provided as identified on the landscape plan forming part of Condition 1 of this consent.

14 [A Special \(BLANK\)](#)

Prior to the issue of a Construction Certificate, the sides of all upper level rear balconies shall be amended to incorporate vertical privacy louvres. This amendment shall be shown on the Construction Certificate plans.

15 [A Special \(BLANK\)](#)

All fencing and retaining wall works shall be at the full cost of the applicant/property owner. The materials and colours of any fencing and retaining walls shall match or complement the external materials of the approved dwellings. All retaining walls shall be of masonry (or similar) construction (not timber). All fencing forward of front building lines is to be lower than 1.2m in height.

16 [A Special \(BLANK\)](#)

Prior to the issue of a Construction Certificate, an updated BASIX Certificate that reflects the stamp approved plans shall be submitted with and approved to the Principal Certifying Authority.

17 [A Special \(BLANK\)](#)

Prior to the issue of a construction certificate, it must be demonstrated that no combustible cladding is to be used in the development.

18 [A Special CPTED Requirements](#)

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

Lighting

- All outdoor/public spaces throughout the development must be lit to the minimum Australian Standard of AS 1158. Lighting must be consistent in order to reduce the contrast between shadows and illuminated areas and must be designed in accordance with AS 4282 - Control of the obtrusive effects of outdoor lighting.

Basement Car Parking

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

Building Security & Access Control

- Intercom, code or card locks or similar must be installed for all entries to the building, and all resident only areas within the complex.
- Australian Standard 220 – door and window locks must be installed in all dwellings.
- CCTV is to be provided to cover communal public space areas, including the entrance to the basement car park. Cameras must be of sufficient standard to be useful for police in the event of criminal investigations. Lighting must be provided to support cameras at night (alternatively infra-red cameras are recommended). Signage must be displayed to indicate that CCTV cameras are in use.
- Letterboxes must be positioned from with a secure area (i.e internal lobby) to minimise opportunities for mail theft.
- Storage cages in the basement car park must be sturdy and well secured.

Graffiti/Vandalism

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

Landscaping

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

Demolition

19 [B001 - Demolition of existing structures](#)

Structures nominated for demolition on the approved plans shall be demolished as part of the approved works.

20 [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" and in accordance with the 'Asbestos Management Register' prepared for 36 and 38 Rodley Avenue, Penrith prepared by JMB Environmental Consulting, Reference No. 19380, dated 09/08/2019. **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**.

21 B003 - ASBESTOS

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

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 SafeWork NSW "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 SafeWork NSW 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 SafeWork NSW Asbestos Licence.

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

22 B004 - Dust

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

23 B005 - Mud/Soil

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

24 B006 - Hours of work

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

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

In the event that the demolition relates to works inside the building that 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

25 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.

The sediment and erosion control measures are to be installed **prior to and maintained throughout the construction phase of the development until the land, that was subject to the works, has been stabilised and grass cover established.** These measures shall ensure that mud and soil from vehicular movements to and from the site does not occur during the construction of the development.

26 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.

27 **D006 - No filling without prior approval (Use always, except for bulk earthworks/ major fill 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, considered and approved by Council. The Validation Certificate shall:

- state the legal property description of the fill material source site,
- be prepared by an appropriately qualified person (as defined in *Penrith Development Control Plan 2014*) with consideration of all relevant guidelines (e.g. EPA, ANZECC, NH&MRC), standards, planning instruments and legislation,
- provide details of the volume of fill material to be used in the filling operations,
- provide a classification of the fill material to be imported to the site in accordance with the Environment Protection Authority's "Environmental Guidelines: Assessment, Classification & Management of Non-Liquid Wastes" 1997, and
- (based on the fill classification) determine whether the fill material is suitable for its intended purpose and land use and whether the fill material will or will not pose an unacceptable risk to human health or the environment.

{**Note:** *Penrith Development Control Plan 2014* defines an appropriately qualified person as "a person who, in the opinion of Council, has a demonstrated experience, or access to experience in hydrology, environmental chemistry, soil science, eco-toxicology, sampling and analytical procedures, risk evaluation and remediation technologies. In addition, the person will be required to have appropriate professional indemnity and public risk insurance."}.

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

28 **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.

29 **D010 – Appropriate disposal of excavated or other waste**

All excavated material and other wastes generated as a result of the development are to be re-used, recycled or disposed of in accordance with the approved waste management plan.

Waste materials not specified in the approved waste management plan are to be disposed of at a lawful waste management facility. Where the disposal location or waste materials have not been identified in the waste management plan, details shall be provided to the Certifying Authority as part of the waste management documentation accompanying the Construction Certificate application.

All receipts and supporting documentation must be retained in order to verify lawful disposal of materials and are to be made available to Penrith City Council on request.

30 **D013 - Approved noise level 1**

Noise levels for the premises shall not exceed the relevant noise criteria detailed in 'Road Noise and Race Track Impact Assessment - Proposed Residential Development at 36-38 Rodley Avenue, Penrith' prepared by Rodney Stevens Acoustics, Reference No. 180128R1, Revision 1, dated 10/6/2020. The recommendations provided in the above-mentioned acoustic report shall be implemented and incorporated into the design and construction of the development, and shall be shown on plans accompanying the Construction Certificate application. A certificate is to be obtained from a qualified acoustic consultant certifying that the building has been constructed to meet the noise criteria in accordance with the approved acoustic report. This certificate is to be submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

The provisions of the *Protection of the Environment Operations Act 1997* apply to the development, in terms of regulating offensive noise.

31 **D014 - Plant and equipment noise**

The operating noise level of plant and equipment shall not exceed 5dB(A) above the background noise level when measured at the boundaries of the premises. The provisions of the *Protection of the Environment Operations Act 1997* apply to the development, in terms of regulating offensive noise.

32 **D020 - Vehicle wash bay**

All vehicle washing shall be conducted in a wash bay approved, installed and connected to the sewer in accordance with Sydney Water's requirements.

33 [D Special BLANK](#)

Councils bin infrastructure and collection service will be provided/commenced for the development upon the completion of all on-site waste collection infrastructure and the attainment of an Occupation Certificate.

34 [D Special BLANK](#)

Prior to the issue of an Occupation Certificate, the following waste management requirements must be complied with and details of compliance demonstrated to Council:

- The developer is to enter into a formal agreement with Penrith City Council for the utilisation of Councils Waste Collection Service. This is to include Council being provided with indemnity against claims for loss and damage.

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

- All on-site waste collection infrastructure, doors and access points (waste collection room, bulky household goods collection room and main foyer doors) are to be locked/accessed through Councils Abloy Key System. System specifications are outlined in Section 3.5.5 of the 'Residential Flat Building Waste Management Guideline' document.,
- All on-site waste collection infrastructure (waste collection room, bulky household goods collection room, chute rooms, chute cupboards) are to be provided with wash facilities through the use of a centralised mixing valve and hose cock. Respective drainage and water proofing is to be installed to support the use of hose facilities,
- The waste collection room, bulky household goods collection room, chute room, chute cupboards are to be provided with a minimum 2.7m high unobstructed ceiling height clearances throughout all intersections,
- The chute cupboards on each residential level are to incorporate self-closing sealed doors to inhibit the permeation of odour within the residential corridor,
- The chute cupboards on each residential level are to be waterproofed in accordance with the Building Code of Australia to permit scheduled cleaning,
- The bulky goods, waste collection and chute room to incorporate dual, 180-degree outwards opening, sealed self-closing doors,
- 'No Parking – Waste Collection and Removalist Vehicle Excepted' signage is to be installed on the loading bay to permit unobstructed access for scheduled waste collection servicing, and
- Council's Waste and Resource Recovery Department is to conduct a site inspection of the on-site infrastructure to permit a safe and efficient waste collection service.

BCA Issues

35 [E01A - BCA compliance for Class 2-9](#)

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 a performance 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.

Utility Services

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

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

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

37 **G004 - Integral Energy**

Prior to the issue of a Construction Certificate, a written clearance is to be obtained from Endeavour Energy stating that electrical services have been made available to the development or that arrangements have been entered into for the provision of services to the development.

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

38 **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 development, 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

39 **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-site:

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

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

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

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

40 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 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 H041 - Hours of work (other devt)

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

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

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

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

Engineering

42 K101 - Works at no cost to Council

All roadworks, stormwater drainage works, signage, line marking, associated civil works and dedications, required to effect the consented development shall be undertaken by the applicant at no cost to Penrith City Council.

43 [K201 - Infrastructure Bond](#)

An Infrastructure Restoration Bond is to be lodged with Penrith City Council for development involving works around Penrith City Council's Public Infrastructure Assets. The bond is to be lodged with Penrith City Council prior to commencement of any works on site or prior to the issue of any Construction Certificate, whichever occurs first. The bond and applicable fees are in accordance with Council's adopted Fees and Charges.

An application form together with an information sheet and conditions are available on Council's website.

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

44 [K202 - S138 Roads Act – Works and Structures - Minor Works in the public road DRIVEWAYS ROAD OPENINGS](#)

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

- a) Vehicular crossings (including kerb reinstatement of redundant vehicular crossings)
- b) Concrete footpaths and or cycleways
- c) Road opening for utilities and stormwater (including stormwater connection to Penrith City Council roads and other Penrith City Council owned drainage)
- d) Road occupancy or road closures
- e) The placement of hoardings, structures, containers, waster skips, signs etc. in the road reserve
- f) Temporary construction access
- g) Temporary ground anchors (for basement construction)

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

Note:

- a) Where Penrith City Council is the Certifier for the development, the Roads Act approval for the above works may be issued concurrently with the Construction Certificate or Subdivision Works Certificate.
- b) All works associated with the Roads Act approval must be completed **prior to the issue of an Occupation Certificate**.

45 [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 Certifier shall ensure that a Section 138 Roads Act application, including payment of application and inspection fees, has been lodged with and approved by Penrith City Council (being the Roads Authority under the Roads Act) for the diversion of Council's road drainage system and construction of an indented waste collection bay in Rodley Avenue, Penrith.

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 Policy, Engineering Construction Specification for Civil Works, Austroads Guidelines, and best engineering practice.

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

Note:

- Where Penrith City Council is the Certifier for the development the Roads Act approval for the above works may be issued concurrently with the Construction Certificate.
- All works associated with the Roads Act approval must be completed **prior to the issue of an Occupation Certificate**, as applicable.

46 [K205 - S68 Local Government Act – Stormwater drainage works CIVIL CONSTRUCTION IN LOTS](#)

Prior to the issue of any Construction Certificate, the Certifier 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 relocation of Council's stormwater drainage line through the site. The new drainage line shall be fully constructed and the old drainage line decommissioned prior to the commencement of any building works.

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 Policy, Engineering Construction Specification for Civil Works, Austroads Guidelines, and best engineering practice.

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

Note:

- All works associated with the Section 68 Local Government Act approval must be completed **prior to the issue of an Occupation Certificate**, as applicable.

47 [K210 - Stormwater Management](#)

The stormwater management system shall be consistent with the plans lodged for development approval prepared by SGC, Project No. 20180061, Drawing Numbers SW100 to SW500, Revision H, dated 17/06/2020.

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

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

48 [K211 - Stormwater Discharge – Basement Car parks](#)

Prior to the issue of any Construction Certificate, the Certifier 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 (or as amended) (Plumbing and Drainage – Stormwater Drainage).

49 [K212 - No loading on easements](#)

Prior to the issue of any Construction Certificate, the Certifier shall ensure that the foundations of proposed structures adjoining the drainage easement have been designed clear of the zone of influence.

50 [K214 - Flooding – Floor levels](#)

Prior to the issue of any Construction Certificate, the Certifier shall ensure that all habitable floor levels are in accordance with the stamped approved plans with a minimum floor level of RL 27.6m AHD (1% AEP flood level +0.5m freeboard).

51 [K217 - Flooding – Flood Compatible Materials](#)

Prior to the issue of any Construction Certificate, the Certifier shall ensure that any structures below RL 27.6m AHD (1% AEP flood level +0.5m freeboard) have been detailed with flood compatible building components in accordance with the publication 'Reducing the Vulnerability of Buildings to Flood Damage' produced by the Hawkesbury-Nepean Floodplain Management Steering Committee.

52 [K218 - Flooding – Structural Adequacy](#)

Prior to the issue of any Construction Certificate, the Certifier shall ensure that the structure/s can withstand the forces of floodwater including debris and buoyancy up to the 1% Annual Exceedance Probability Event in accordance with the requirements of the Building Code of Australia (BCA).

53 [K219 - Flooding - Flood Proofing](#)

Prior to the issue of any Construction Certificate, the Certifier shall ensure that all electrical services associated with the proposed building works are adequately flood proofed in accordance with *Penrith Development Control Plan 2014* relating to flood liable land. Flood sensitive equipment (including electric motors and switches) shall also be located above RL 27.1m AHD.

54 [K221 - Overland Flow - General](#)

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

- a) The proposed development will not concentrate, dam or divert overland flows onto adjoining properties.
- b) The crest in the access ramp to the basement car park is a minimum of RL 27.4m AHD.
- c) That all new fencing within the overland flowpath is open style to allow the free passage of overland flows.

Details prepared by a qualified person, demonstrating compliance with these requirements, shall form part of any Construction Certificate issued.

55 [K222 - Access, Car Parking and Manoeuvring – General](#)

Prior to the issue of any Construction Certificate, the Certifier shall ensure that vehicular access, circulation, manoeuvring, pedestrian and parking areas associated with the subject development are in accordance with AS 2890.1, AS 2890.2, AS 2890.6 and *Penrith Development Control Plan 2014*.

56 [K224 - Construction Traffic Management Plan](#)

Prior to the commencement of any works on-site (including demolition works) or prior to the issue of any Construction Certificate, whichever occurs first, a Construction Traffic Management Plan (CTMP) shall be submitted to Council's City Assets Department for endorsement. The CTMP shall be prepared by a suitably qualified consultant with appropriate training and certification from the Traffic for NSW (TfNSW). The CTMP shall include details of any required road closures, work zones, loading zones and the like. Approval of the CTMP may require approval of the Local Traffic Committee. Please contact Council's City Assets Department on 4732 7777 and refer to Council's website for a copy of the Temporary Road Reserve Occupancy Application Form.

57 [K225 - Performance Bond](#)

Prior to the issue of a Roads Act Approval, a Performance Bond is to be lodged with Penrith City Council for the the diversion of Council's road drainage system and construction of an indented waste collection bay in Rodley Avenue, Penrith.

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

Note:

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

58 [K226 - Basement Geotechnical Testing/ Dilapidation Report](#)

Prior to the issue of a Construction Certificate, a Geotechnical investigation report and strategy shall be submitted to the Certifier to ensure stability of the Council infrastructure and surrounding developments. The geotechnical investigation, report and strategy shall comply with the recommendations contained in the technical direction GTD 2012/001 prepared by the Road and Maritime Services, as amended.

59 [K227 - Stormwater Legal Discharge Point](#)

Prior to the issue of any Construction Certificate, associated with the development, the site must be serviced by a legal point of discharge including the required infrastructure drainage works. The drainage works may include inter-allotment drainage construction, upgrades and/or road drainage extensions located on lands owned by others.

60 [K228 - Dilapidation Report](#)

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

61 [K301 - Sediment & Erosion Control](#)

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

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

62 **K401 - Flooding – Surveyor Verification of floor levels**

A certificate by a registered surveyor verifying that all habitable floor levels are at or above RL 27.6m AHD (1% AEP flood level +0.5m freeboard) shall be submitted upon completion of the building to that level. No further construction of the building is to be carried out until approval to proceed is issued by the Certifier.

63 **K405 - Turf to Verge**

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

64 **K406 - Underground Services**

The existing power pole and proposed electricity supply services for the development need to be located (or relocated) in accordance with the relevant authorities' regulations and standards.

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

Prior to the issue of an Occupation Certificate, the Principal Certifier shall ensure that all works associated with a Section 138 Roads Act approval and Section 68 Local Government Act approval have been inspected and signed off by Penrith City Council.

66 **K503 - Works as executed – General and Compliance Documentation**

Prior to the issue of an Occupation Certificate, works-as-executed drawings, final operation and maintenance management plans and any other compliance documentation for the stormwater management systems 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.

67 **K504 - Stormwater Compliance**

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

- a) Stormwater management systems (including water sensitive urban design), and
 - b) Overland flowpath works
- Have been satisfactorily completed in accordance with the approved Construction Certificate 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.

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

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

- a) Stormwater management systems (including water sensitive urban design)
- b) Overland flowpath works

Shall be registered on the title of the property. The restriction as to user and positive covenant shall be in Penrith City Council's standard wording as detailed in Penrith City Council's Stormwater Drainage Specification for Building Developments.

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

Prior the issue of an Occupation Certificate, the applicant shall grant a 2.5m wide easement for drainage to Penrith City Council over the drainage line that is to be relocated to the western boundary of the site, including extinguishment of the existing easement for drainage through the site, and evidence of registration of the easement with Land and Registry (LRS) shall be submitted to the Principal Certifying Authority and Penrith City Council, if Penrith City Council is not the Principal Certifying Authority, and on the basis that no claim for compensation will be made and that the applicant will meet all associated survey and legal costs. No part of the basement wall shall encroach the drainage easement.

70 [K515 - Maintenance Bond](#)

Prior to the issue of an Occupation Certificate, a Maintenance Bond is to be lodged with Penrith City Council for the diversion of Council's road drainage system and construction of an indented waste collection bay in Rodley Avenue, Penrith

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 Engineering Services Department on 4732 7777 for further information relating to bond requirements.

71 [K601 - Stormwater management system operation and maintenance](#)

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

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

72 [K Special \(BLANK\)](#)

Prior to the issue of an Occupation Certificate, a "Loading Zone" restriction is to be implemented for the on-street waste collection bay on Rodley Avenue. This arrangement is to be approved by Council's Local Traffic Committee prior to the implementation and installed at not cost to Council.

73 [K Special \(BLANK\)](#)

The subleasing of car parking spaces is not permitted by this consent. All car parking spaces are to be line marked and dedicated for the parking of vehicles only and not to be used for storage of materials, products, waste materials, etc.

74 [K Special \(BLANK\)](#)

- (a) Each 2 bedroom apartment is to be allocated a minimum of one car parking space within the development.
- (b) Each 3 bedroom apartment is to be allocated a minimum of two car parking spaces within the development.
- (c) Stacked car parking spaces are to be allocated to 3 bedroom units to prevent user conflict.
- (d) All adaptable units are to be allocated with a minimum of one accessible car parking space within the development.

75 [K Special Condition BLANK](#)

Prior to the issue of any Construction Certificate, a traffic management plan for the basement car park shall be submitted to and approved by Penrith City Council. The plan shall address the operation and management requirements for the single width basement ramp, including the locations of sensors/detectors, vehicle circulation, locations of waiting areas, passing opportunity at the street frontage, satisfactory operation of the proposed signal system and safety measures if the system fails.

Landscaping

76 [L001 - General](#)

All landscape works are to be constructed in accordance with the stamped approved plans and *Penrith Development Control Plan 2014*, in particular Section F5 "Planting Techniques", Appendix F5 - 2.9.1 Tree/Vegetation Protection during Construction and 2.9.2 Landscape Quality Assurance Standards and C2 Vegetation Management.

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.

77 [L002 - Landscape construction](#)

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

78 [L003 - Report requirement](#)

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 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.

79 [L005 - Planting of plant](#)

All plant material associated with the construction of approved landscaping is to be planted in accordance with the Tree Planting Specification prescribed in *Penrith Development Control Plan 2014*.

80 [L006 - Aust Standard](#)

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

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

81 [L007 - Tree protection measures – no TMP with DA](#)

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 Development Control Plan 2014*.

82 [L008 - Tree Preservation Order](#)

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

Development Contributions

83 [N001 - Section 94 contribution \(apply separate condition for each Contribution Plan\)](#)

This condition is imposed in accordance with Penrith City Council's Development Contributions Plan for Cultural Facilities. Based on the current rates detailed in the accompanying schedule attached to this Notice, **\$5,897.00 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 contributions plan. The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule.

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

84 [N001 - Section 94 contribution \(apply separate condition for each Contribution Plan\)](#)

This condition is imposed in accordance with Penrith City Council's Development Contributions Plan for District Open Space. Based on the current rates detailed in the accompanying schedule attached to this Notice, **\$51,910.00 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 contributions plan. The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule.

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

85 **N001 - Section 94 contribution (apply separate condition for each Contribution Plan)**

This condition is imposed in accordance with Penrith City Council's Development Contributions Plan for Local Open Space. Based on the current rates detailed in the accompanying schedule attached to this Notice, **\$18,783.00 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 contributions plan. The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule.

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

Certification

86 **Q006 - Occupation Certificate (Class 2 - 9)**

An Occupation Certificate is to be obtained from the Principal Certifying Authority on completion of all works and prior to the occupation of the building and commencement of the approved use. 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 including the above mentioned documents shall be submitted to Penrith City Council, if Council is not the Principal Certifying Authority.

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

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

- (a) employ a Principal Certifying Authority to oversee that the said works carried out on the site are in accordance with the development consent and related Construction Certificate issued for the approved development, and with the relevant provisions of the Environmental Planning and Assessment Act 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 6.6 of the *Environmental Planning and Assessment Act 1979*.

Information to accompany the Notice of Commencement

Two (2) days before any earthworks or construction/demolition works are to commence on site (including the clearing site vegetation), the proponent shall submit a "Notice of Commencement" to Council in accordance with Section 6.6 of the *Environmental Planning and Assessment Act 1979*.

Appendix - Development Control Plan Compliance

Development Control Plan 2014

D2 Residential Development

D2.5 Residential Flat Buildings

The modified development proposal is considered to remain compliant with the applicable and specific development controls in the DCP, noting that many provisions either overlap or are superseded by SEPP 65 and/or ADG requirements or are previously discussed in other sections in this report.