

PENRITH CITY COUNCIL

NOTICE OF DETERMINATION

DEVELOPMENT APPLICATION DETAILS

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| Application number: | DA21/0348 |
| Description of development: | Demolition of Existing Structures, Removal of Trees & Construction of a Two Storey Boarding House Consisting of 16x Rooms |
| Classification of development: | Class 3 |
| Name of Applicant: | Fjk Group Pty Ltd |

DETAILS OF THE LAND TO BE DEVELOPED

| | |
|--------------------|-------------------------------------|
| Legal description: | Lot 2 DP 514876 |
| Property address: | 76 Hobart Street, ST MARYS NSW 2760 |

DECISION OF CONSENT AUTHORITY

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

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

| | |
|----------------------------------|---------------|
| Decision | Approve |
| Date from which consent operates | 30 March 2022 |
| Date the consent expires | 30 March 2027 |
| Date of this decision | 22 March 2022 |

POINT OF CONTACT

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

| | |
|---------------------------|----------------|
| Assessing Officer: | Lucy Goldstein |
| Contact telephone number: | +61247328136 |

NOTES

Reasons

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

Conditions

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

Certification and advisory notes

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

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

Review of determination

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

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

Appeals in the Land and Environment Court

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

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

Designated development

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

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

Sydney Western City Planning Panels

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

ATTACHMENT 1: CONDITIONS OF CONSENT

General

- 1 The development must be implemented substantially in accordance with the following plans and documents stamped approved by Council, the application form, BASIX Certificate 1194552M, 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:

| Plan | Reference | Prepared By | Dated |
|---|---|---------------------------------------|------------|
| Calculations | Job #28811, Drawing #0002, Issue B | Idraft Architects | 12/05/2021 |
| Calculation Diagrams | Job #28811, Drawing #0003, Issue B | Idraft Architects | 12/05/2021 |
| BASIX Commitments | Job #28811, Drawing #0004, Issue B | Idraft Architects | 12/05/2021 |
| Site Analysis | Job #28811, Drawing #0005, Issue B | Idraft Architects | 12/05/2021 |
| Demolition Plan | Job #28811, Drawing #0008, Issue B | Idraft Architects | 12/05/2021 |
| Sedimentation Plan | Job #28811, Drawing #0009, Issue B | Idraft Architects | 12/05/2021 |
| Site Plan | Job #28811, Drawing #0010, Issue B | Idraft Architects | 12/05/2021 |
| Shadow Diagram & Streetscape | Job #28811, Drawing #0011, Issue B | Idraft Architects | 12/05/2021 |
| Ground Floor Plan | Job #28811, Drawing #1001, Issue B | Idraft Architects | 12/05/2021 |
| First Floor Plan | Job #28811, Drawing #1002, Issue B | Idraft Architects | 12/05/2021 |
| Roof Plan | Job #28811, Drawing #1003, Issue B | Idraft Architects | 12/05/2021 |
| North & South Elevations; East & West Elevations | Job #28811, Drawing #2001-2002, Issue B | Idraft Architects | 12/05/2021 |
| Sections A-A & B-B; Sections C-C & D-D | Job #28811, Drawing #3001-3002, Issue B | Idraft Architects | 12/05/2021 |
| Adaptable Plan | Job #28811, Drawing #4001, Issue B | Idraft Architects | 12/05/2021 |
| Landscape Concept Plan | Drawing #21054 DA 1, Revision B | Vision Dynamics | 8/09/2021 |
| Stormwater Concept Plan | Project # 201191, Drawing # 000 to 106, Issue B | Ace Civil Stormwater Services Pty Ltd | 07/09/2021 |

Supporting Documents:

- Noise Impact Assessment, prepared by Rodney Stevens Acoustics Pty Ltd, Report Reference 200781R1, Revision 2, dated 15 November 2021
- Updated Operational Plan of Management, prepared by Specialist Town Planning Services, Version 3, dated December 2021
- Traffic and Parking Impact Assessment, prepared by Motion Traffic Engineers Pty Ltd, Reference N206413A (Version 1a), dated March 2021
- Waste Management Plan, dated 12 May 2021

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

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

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

- 5 Appropriate furniture and fittings must be provided and maintained in good repair. If the boarding house is one in which persons may lodge for 7 days or longer, an adequate number of beds (each provided with a mattress and pillow and an adequate supply of clean blankets or equivalent bed clothing), adequate storage space and blinds, curtains or similar devices to screen bedroom and dormitory windows for privacy must be provided for the occupants. Individual items must be listed in the Boarding House Plan of Management.

- 6 **Prior to the issue of a Construction Certificate**, the accompanying Access Report, Reference 21083, dated 26/04/21 is to be updated (where relevant) to reflect the amended design as approved by the stamped architectural plans.

The Principal Certifying Authority shall ensure that the requirements of the Access Report prepared by Vista Access Architects, Reference 21083 dated 26/04/21 (as amended to meet the above requirement) are incorporated into the Construction Certificate plans and the necessary works completed **prior to the issue of an Occupation Certificate**.

- 7 **Prior to the issue of a Construction Certificate**, the BASIX Certificate 1194552M dated May 2021 is to be updated where relevant, to reflect the amended design as per the stamped approved architectural plans. **Prior to the issue of an Occupation Certificate**, the Principal Certifier shall ensure that the commitments required by the BASIX Certificate have been implemented.

- 8 The boarding house "house rules" are to be provided to each tenant and displayed in a prominent position within the communal rooms. The ground floor communal open space and common rooms must be available for the use of lodgers of the building.

- 9 A maximum of 16x lodgers are permitted to reside at the boarding house at any one time. All boarding rooms within the development must be used as single rooms, with a maximum of one lodger per boarding room.

- 10 In accordance with the provisions of Clause 52 of *State Environmental Planning Policy (Affordable Rental Housing) 2009* and *Penrith Development Control Plan 2014*, the boarding house cannot be strata subdivided.

- 11 The premises must be managed in perpetuity in accordance with the endorsed Plan of Management (Titled Updated Operational Plan of Management, prepared by Specialist Town Planning Services, Version 3, dated December 2021.) The Plan of Management is permitted to be updated and amended when required so as to improve management practices, but this can only occur with the written approval of Penrith City Council.
- 12 To minimise opportunities for overlooking, all windows on the southern (rear) elevation at first floor are to be partially obscured/frosted. The Principal Certifying Authority shall ensure this is incorporated into the Construction Certificate plans, and installed prior to the issue of an Occupation Certificate.
- 13 **Prior to the issue of an Occupation Certificate**, the following community safety and crime prevention through environmental design (CPTED) requirements must be implemented:

Lighting

- A lighting system is to 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).
- 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.

Car Parking

- A security system must be installed on any pedestrian and vehicle entry/exit points to the car park 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, including at side entry points to the property.
- Australian Standard 220 – door and window locks must be installed in all dwellings.
- CCTV is to be provided to cover communal public space areas, in particular car park entry/exit point. 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.
- Mailboxes must be 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.

- 14 The development is to comply with the following Sydney Train requirements:

(a) The development is to comply with the deemed-to-satisfy provisions in the Department of Planning’s document titled “Development Near Rail Corridors and Busy Roads- Interim Guidelines”.

(b) **Prior to the issue of a Construction Certificate**, the Applicant is to engage an Electrolysis Expert to prepare a report on the Electrolysis Risk to the development from stray currents. The Applicant must incorporate in the development all the measures recommended in the report to control that risk. A copy of the report is to be provided to the Principal Certifying Authority with the application for a Construction Certificate. The Principal Certifying Authority must ensure that the recommendations of the electrolysis report are incorporated in the construction drawings and documentation prior to the issuing of the relevant Construction Certificate.

(c) During all stages of the development the Applicant must take extreme care to prevent any form of pollution entering the rail corridor. Any form of pollution that arises as a consequence of the development activities shall remain the full responsibility of the Applicant.

(d) Excess soil is not allowed to enter, be spread, or stockpiled within the rail corridor (and its easements) and must be adequately managed/disposed of.

(e) The Applicant must ensure that all drainage from the development is adequately disposed of and managed and not allowed to be discharged into the rail corridor unless prior written approval has been obtained from Sydney Trains.

(f) Copies of any certificates, drawings, approvals/certification, or documents endorsed by, given to, or issued by Sydney Trains or TAHE (Transport Asset Holding Entity) must be submitted to Council for its records **prior to the issuing of the applicable Construction Certificate or Occupation Certificate.**

(g) The Applicant must ensure that at all times they have a representative (which has been notified to Sydney Trains in writing),

- who oversees the carrying out of the Applicant's obligations under the conditions of this consent and in accordance with correspondence issued by Sydney Trains;
- acts as the authorised representative of the Applicant; and is available (or has a delegate notified in writing to Sydney Trains that is available) on a 7 day a week basis to liaise with the representative of Sydney Trains, as notified to the Applicant.

(h) Without in any way limiting the operation of any other condition of this consent, the Applicant must, during demolition, excavation and construction works, consult in good faith with Sydney Trains in relation to the carrying out of the development works and must respond or provide documentation as soon as practicable to any queries raised by Sydney Trains in relation to the works.

Note: Where a condition of consent requires consultation with Sydney Trains, the Applicant shall forward all requests and/or documentation to the relevant Sydney Trains External Interface Management team. In this instance the relevant interface team is West Interface, and they can be contacted via email on West_Interface@transport.nsw.gov.au

Demolition

- 15 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**.

- 16 Regulatory obligations (including licensing and notification requirements) for the management, control and removal of asbestos are prescribed in the:

- *Work Health and Safety Act 2011*
- *Work Health and Safety Regulation 2017*
- *SafeWork NSW Code of Practice How to Manage and Control Asbestos in the Workplace August 2019, and the*
- *SafeWork NSW Code of Practice How to Safely Remove Asbestos August 2019, and*
- *Australian Standard AS2601-2001 The demolition of structures*

Compliance with the above legislation is required and reference should be made to SafeWork NSW and to the *Asbestos Policy Penrith City Council 2014*.

Prior to commencement of demolition works, a portaloo with appropriate washing facilities shall be located on the site and the Principal Certifying Authority is to be satisfied that the person employed to undertake the works is a licensed asbestos removal contractor who has a current WorkCover Asbestos Licence.

All asbestos laden waste must be disposed of at a waste management facility licensed by the NSW Environment Protection Authority to receive asbestos waste.

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

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

- 19 Demolition works are restricted to the following hours in accordance with the NSW Environment Protection Authority Noise Control Guidelines:

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

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

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

Environmental Matters

- 20 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.
- 21 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 Contaminated Land Development Control Plan) 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 and unacceptable risk to human health or the environment.

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."

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.

- 22 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.
- 23 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.

- 24 Noise levels from the premises shall not exceed the relevant noise criteria detailed in the 'Noise Impact Assessment - Proposed Boarding House Development' (200781R1 Rev 2) for 76 Hobart St, St Marys prepared by Rodney Stevens Acoustics dated 15/11/2021. 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.

Particular attention is drawn to the following requirements contained in the Noise Impact Assessment Report:

- Provision of solid barrier 1.8m in height along the rear and side boundaries as shown in the Noise Impact Assessment;
- No music is to be played in the outdoor communal area at any time, and tenants are not permitted to use outdoor communal area between 10pm-7am.

A certificate is to be obtained from a qualified acoustic consultant certifying that the building has been constructed (including mechanical ventilation) 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.

- 25 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.

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

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

The direct contact details of the owner/manager of the development are to be provided to Councils Waste and Resource Recovery Department prior to the issue of an Occupation Certificate.

Note:

- By entering into an agreement with Council for Waste Collection, the development will be required to operate in full compliance with Penrith City Councils Waste Collection and Processing Contracts for

Standard Waste Collection. The provision of Councils waste collection service will not commence until formalisation of the agreement.

- Councils Waste and Resource Recovery Department to conduct a site inspection of the on-site infrastructure with Councils collection contractors. The inspection to review the on-site waste collection infrastructure for the provision of a safe and efficient waste collection service in accordance with the stamped plans and Councils policy provisions.

27 The following waste management requirements must be complied with and details of compliance demonstrated to Council **prior to the issue of a Construction Certificate**:

•The Waste Collection Area and Bulky Households Goods Area to incorporate the following infrastructure:

- a) Floor graded to a central drainage point connected to the sewer
- b) Floor waterproofed across all intersections and extend a minimum 1200mm high on each wall
- c) Hot and cold water taps to permit scheduled cleaning
- d) Incorporate mechanical ventilation
- e) Sensor lights provided within structure and adjacent access pathways
- f) Minimum unobstructed internal height clearance of 2700mm
- g) All doors to be self-closing, sealed and 180 degree outwards opening
- h) The western door of the Waste Collection Area to incorporate the following:
 - i) Centred on the western wall to permit 1000mm clearance on both the northern and southern sides to permit unobstructed bin placement
 - j)The door to be self-closing, sealed and 180 degree outwards opening to inhibit the permeation of odour within the residential corridor

• The waste collection area and bulky goods collection to incorporate the following:

- a)The northern external doors to be locked/accessed through Councils abloy key system organised through Olympic Lock Smiths (Lock System 5OL092)
- b)The western door of the waste collection and eastern door of the bulky waste area to be locked through an automated resident lock system to inhibit unauthorised external access to residential dwelling.

28 **Prior to the issue of a Construction Certificate**, an Unexpected Finds Protocol (the Protocol) is to be developed by an appropriately qualified environmental consultant and is to be submitted to Council for approval.

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

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

BCA Issues

- 29 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

- 30 Boarding House is to be operated in accordance with the requirements set out under the Local Government (General) Regulation 2005, Cl 83 and Schedule 2 - Standards Enforceable by Orders, Part 1 – Standards for Places of Shared Accommodation.
- 31 Boarding House is to be operated in accordance with the requirements set out under the Public Health Regulation 2012.
- 32 Boarding House is to be operated in accordance with the requirements set out under the Boarding House Act 2012 and Regulation.
- 33 The operator/owner of the boarding house must book a compliance inspection with Penrith City Council within 3 months of the boarding house commencing operation in accordance with the requirements set out under the Boarding House Act 2012 and Regulation 2013.
- 34 Boarding House proprietor is required to register the boarding house, as a “general” boarding house on the register administered by NSW Department of Fair Trading within 28 days from commencement of operation of the boarding house.
- 35 **Prior to the issuing of an Occupation Certificate**, the following information must to be submitted to and approved by Penrith City Council:
- (a) waste minimisation, recycling and collection arrangements, including the servicing of ‘sharps’ and sanitary napkin receptacles;

(b) professional cleaning and pest and vermin control arrangements;

(c) inclusion of safety and security measures regarding perimeter lighting;

(d) a landline telephone for residents to ring emergency services;

(e) internal signage must include floor plans that will be permanently fixed to the inside of the door of each bedroom to indicate the available emergency egress routes from the respective bedroom.

(f) A pest management plan that clearly indicates how pest prevention, monitoring, and eradication will be completed. The pest management program shall include but not be limited to:

- frequency of pest service
- maintenance and cleaning
- area of service
- time of service
- sighting of pests and a response plan reporting
- methods of treatment
- approved products and chemicals
- Specific consideration in the plan needs to be given to bed bugs particularly in regard to monitoring and a response plan should they be identified. The plan shall clearly indicate how, and in what time frame, pests can be eradicated and what measures will be put in place to prevent the further harbourage of pests.

(g) Room furnishings. The Plan of Management is to include how and when a resident can have a mattress replaced.

(h) A cleaning and sanitation program is to be developed including written cleaning schedules and cleaning procedures. The schedule and procedures shall cover all areas external to occupied resident's rooms but should include the room clean when a room is vacated. The following shall also be addressed in the procedures:

- how cleaning and sanitising is conducted,
- frequency of cleaning and sanitising,
- use of chemicals,
- cleaning chemical and sanitising solution strengths,
- record keeping of cleaning and sanitising and signing off on cleaning and sanitising.

(i) Laundry and Clothes Line Guide Shared facilities are to be provided unless separate laundry facilities are provided within rooms for all residents. As a guide:

- one 8.5 kg capacity automatic washing machine and one domestic dryer for every 12 residents;
- at least one large laundry tub and one cleaner's sink with running hot and cold water

36 **Prior to the issue of an Occupation Certificate**, the operator of the boarding house must notify Council in writing of the business name, address, owner or company name, 24-hour contact person/details, and number of approved occupants for the boarding house.

Utility Services

37 A Section 73 Compliance Certificate under the Sydney Water Act 1994 shall be obtained from Sydney Water. The application must be made through an authorised Water Servicing Coordinator. Please refer to “Your Business” section of Sydney Water’s website at www.sydneywater.com.au 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 a Subdivision Certificate.

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

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

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

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

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

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

Construction

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

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

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

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

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

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

41 Prior to the commencement of construction works:

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

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

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

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

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

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

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

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

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

Other construction works carried out inside a building/tenancy and 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

- 43 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.
- 44 An Infrastructure Restoration Bond is to be lodged with Penrith City Council for development involving works around Penrith City Council's Public Infrastructure Assets. The bond is to be lodged with Penrith City Council prior to commencement of any works on site or prior to the issue of any Construction Certificate, whichever occurs first. The bond and applicable fees are in accordance with Council's adopted Fees and Charges.

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

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

- 45 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 (including temporary construction work zones and tower crane operation)
 - e) The placement of hoardings, structures, containers, waste 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 Asset Management Department on 4732 7777 or 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.
- Separate approval may be required from Transport for NSW for classified roads.
- All works associated with the Roads Act approval must be completed prior to the issue of any Occupation Certificate.
- On completion of any awning over the road reserve, a certificate from a practicing structural engineer certifying the structural adequacy of the awning is to be submitted to Council before Council will inspect

the works and issue its final approval under the Roads Act.

- 46 The stormwater management system shall be consistent with the plan/s lodged for development approval, prepared by ACE Civil Stormwater Services, reference number 201191, revision B, dated 07/09/2021.

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, Water Sensitive Urban Design (WSUD) Policy and addresses the following:

- The below ground OSD tank shall be extended into the driveway area so that the access grates above the orifice and Overflow Pit are lower than the carpark. This will provide protection to the carpark and dwelling in the event of a blockage in the OSD system, directing emergency overflow from the grates towards the road.

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

- 47 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 Penrith City Council's Development Control Plan, AS2890.1, AS2890.2 and AS2890.6.

- 48 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 for the development then the dilapidation report shall be submitted to Council prior to the issue of any Construction Certificate and then updated and submitted prior to the issue of any Occupation Certificate confirming no damage has occurred.

- 49 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.

- 50 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.

- 51 Prior to the issue of any Occupation Certificate, the Principal Certifier shall ensure that all works associated with a S138 Roads Act approval have been inspected and signed off by Penrith City Council.

- 52 Prior to the issue of any Occupation Certificate, Works As Executed drawings, final operation and maintenance management plans and any other compliance documentation for the stormwater management system shall be submitted to the Principal Certifier in accordance with Penrith City Council's Engineering Construction Specification for Civil Works, Stormwater Drainage Specification for Building Developments and

WSUD Technical Guidelines.

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

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

- a) Stormwater management systems (including on-site detention and water sensitive urban design)
 - have been satisfactorily completed in accordance with the approved Construction Certificate and the requirements of this consent;
 - have met the design intent with regard to any construction variations to the approved design, and;
 - Any remedial works required to be undertaken have been satisfactorily completed.

Details of the approved and constructed system/s shall be provided as part of the Works As Executed drawings.

54 Prior to the issue of any Occupation Certificate, a restriction on the use of land and positive covenant relating to the:

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

shall be registered on the title of the property. The restriction on the use of land and positive covenant shall be in Penrith City Council's standard wording as detailed in Council's Stormwater Specification for Building Developments - Appendix F.

55 The stormwater management systems shall continue to be operated and maintained in perpetuity to the satisfaction of Council in accordance with the final operation and maintenance management plan. Regular inspection records are required to be maintained and made available to Council upon request. All necessary improvements are required to be made immediately upon awareness of any deficiencies in the treatment measure/s

56 All car spaces are to be sealed/line marked and dedicated for the parking of vehicles only and not be used for storage of materials/products/waste materials etc.

57 All vehicle parking spaces, parking aisles and driveways/circulating roads must be designed and built in accordance with AS2890.1-2004; AS2890.6-2009 and Council's requirements.

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

59 Subleasing of car parking spaces is not permitted by this Consent.

60 All vehicles are to enter/exit the site in a forward direction.

Landscaping

61 All landscape works are to be constructed in accordance with the stamped approved Landscape Concept Plan (Drawing No. 21054 Reference DA1, Revision B, Prepared by Vision Dynamics dated 8/09/2021) and Penrith Council's Landscape 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.

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

63 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 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.

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.

64 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.

65 No trees are to be removed, ring barked, cut, topped or lopped or willfully 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 Part C, C2 Vegetation section of Penrith Development Control Plan 2014.

This consent does not permit the removal of any trees, landscaping or vegetation located outside of the subject site.

66 All fencing and retaining walls permitted by this consent are to be at the full cost of the developer/proponent.

Boundary fencing permitted by this consent is to have a maximum height of 1.8m, and be of material and colour that complement the external materials of the approved building. Any fencing located forward of the building line is to be no taller than 1.2m in accordance with Chapter D2 of Penrith Development Control Plan 2014.

All retaining walls subject of this consent must be of masonry construction.

67 All vegetation must be regularly pruned to ensure that sight lines are maintained for safety purposes.

68 The awning over the outdoor Communal Open Space shall not project more than 2m beyond the external wall of the building, to minimise visual impacts on adjoining properties. **Prior to the issue of a Construction Certificate**, the Principal Certifier is to ensure that this is shown on the construction certificate plans.

Section 94

69 This condition is imposed in accordance with Penrith City Council's Section 7.11 Contributions Plan for Cultural Facilities. Based on the current rates detailed in the accompanying schedule attached to this Notice, **\$3,633.00 is to be paid to Council prior to a Construction Certificate being** issued for this development (the rates are subject to quarterly reviews). If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted Section 7.11 Contributions plan. The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule.

Council should be contacted prior to payment to ascertain the rate for the current quarterly period. The Section 7.11 invoice accompanying this consent should accompany the contribution payment. The Section 7.11 Contributions Plan may be inspected at Council's Civic Centre, 601 High Street, Penrith.

Note: The timing of contributions payable may be otherwise affected in accordance with Planning Circular PS20-003 dated 3 July 2020 and the associated NSW Government Ministerial Direction - Infrastructure Contributions.

70 This condition is imposed in accordance with Penrith City Council's Section 7.11 Contributions Plan for District Open Space. Based on the current rates detailed in the accompanying schedule attached to this Notice, **\$37,743.00 is to be paid to Council prior to a Construction Certificate being** issued for this development (the rates are subject to quarterly reviews). If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted Section 7.11 Contributions plan. The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule.

Council should be contacted prior to payment to ascertain the rate for the current quarterly period. The Section 7.11 invoice accompanying this consent should accompany the contribution payment. The Section 7.11 Contributions Plan may be inspected at Council's Civic Centre, 601 High Street, Penrith.

Note: The timing of contributions payable may be otherwise affected in accordance with Planning Circular PS20-003 dated 3 July 2020 and the associated NSW Government Ministerial Direction - Infrastructure Contributions.

71 This condition is imposed in accordance with Penrith City Council's Section 7.11 Contributions Plan for Local Open Space. Based on the current rates detailed in the accompanying schedule attached to this Notice, **\$13,644.00 is to be paid to Council prior to a Construction Certificate** being issued for this development (the rates are subject to quarterly reviews). If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted Section 7.11 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 S7.11 invoice accompanying this consent should accompany the contribution payment. The Section 7.11 Contributions Plan may be inspected at Council's Civic Centre, 601 High Street, Penrith.

Note: The timing of contributions payable may be otherwise affected in accordance with Planning Circular PS20-003 dated 3 July 2020 and the associated NSW Government Ministerial Direction - Infrastructure Contributions.

Certification

- 72 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.

- 73 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.

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

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

SIGNATURE

| | |
|------------|----------------|
| Name: | Lucy Goldstein |
| Signature: | |

For the Development Services Manager