

PENRITH CITY COUNCIL

MAJOR ASSESSMENT REPORT

Application number:	DA20/0825
Proposed development:	Demolition of Existing Structures and Construction of 5 x Townhouses inc. Car Parking, Landscaping and Drainage Works pursuant to State Environmental Planning Policy (Affordable Rental Housing) 2009
Property address:	32 Sydney Street, ST MARYS NSW 2760
Property description:	Lot 328B DP 12590
Date received:	7 December 2020
Assessing officer	Lucy Goldstein
Zoning:	Zone R3 Medium Density Residential - LEP 2010
Class of building:	Class 1a
Recommendations:	Approve

Executive Summary

Council is in receipt of a Development Application for the Demolition of Existing Structures and Construction of 5x Townhouses including Car Parking, Landscaping and Drainage Works Pursuant to State Environmental Planning Policy (Affordable Rental Housing) 2009 at 32 Sydney Street St Marys 2760.

Under Penrith Local Environmental Plan 2010, the proposal is defined as Multi-unit Housing. The subject site is zoned R3 Medium Density Residential and the proposal is a permissible land use in the zone with consent.

Key issues identified in the assessment of the proposal include:

- Penrith Development Control Plan 2014 (DCP) requires a minimum lot frontage of 22m for Multi-Dwelling Housing development. The subject site is undersized, having a lot frontage of 16.5m. However, the site has been isolated by adjoining development to the north and west, which consist of existing Multi-Dwelling Housing developments. As permitted by Penrith DCP, merit consideration has been given to the proposal, as the site has been isolated. In this regard, the proposal has been designed to meet the standards under SEPP Affordable Rental Housing, including complying with the location and minimum lot size requirements under this policy. The proposal will not result in further lots becoming isolated, and has demonstrated that adequate vehicle access, onsite maneuvering, building setbacks and landscaping (subject to conditions) are provided on the site, despite the undersized lot width.

The application has been notified and advertised in accordance with Council's Community Engagement Strategy. Council received two (2)x submissions, raising a range of issues relating to local character, residential amenity, built form, boundary fencing, health and safety issues associated with demolition works. These matters have formed part of the assessment of the application, and are addressed in this report.

An assessment under Section 4.15 of the Environmental Planning and Assessment Act 1979 has been undertaken and the application is recommended for approval, subject to conditions.

Site & Surrounds

The subject site is legally described as Lot 328B in DP 12590, commonly known as 32 Sydney Street, St Marys NSW 2760.

The site is located on the eastern side of Sydney Street, approximately 70m from its intersection with Brisbane Street. The site is regular in shape with a 16.54m frontage to Sydney Street and lot dept of 60.9m. The site has a minor slope from east to west (rear to front), with a total cross fall of approximately 0.25m.

The surrounding area is characterised by a mix of traditional single dwellings and more recent dual occupancy and townhouse developments. Immediately adjoining the site to the east, west and south are townhouse development.

Proposal

The proposal involves the following aspects:

- Demolition of existing structures on the site;
- Construction of 5x 2-Storey Townhouse dwellings pursuant to the State Environmental Planning Policy (Affordable Housing) 2009. Units 1-4 contain 3-bedroom, and Unit 5 contains 4-bedroom;
- Provision of 7x onsite car parking spaces;
- Associated landscaping works and drainage works.

Plans that apply

- Local Environmental Plan 2010
- Development Control Plan 2014
- State Environmental Planning Policy (Affordable Rental Housing) 2009
- State Environmental Planning Policy No 55—Remediation of Land
- Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

Planning Assessment

• Section 4.15 - Evaluation

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

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

State Environmental Planning Policy (Affordable Rental Housing) 2009

The proposal has been assessed against relevant criteria of the State Environmental Planning Policy Affordable Rental Housing (SEPP ARH) 2009, and found to be satisfactory as summarised below:

SEPP Affordable Rental Housing 2009, Part 2 New Affordable Rental Housing	Standard	Proposal	Comment
Clause 10- Development to which Division applies	<p>(1) This division applies to residential development if-</p> <p>(a) the development is permitted with consent under another environmental planning instrument, and</p> <p>(b) the development is on land that does not contain a heritage item that is identified in an environmental planning instrument, an interim heritage order or on the State Heritage Register under the Heritage Act 1977, and</p> <p>(c) the percentage of the gross floor area of the development that is to be used for the purposes of affordable housing is at least 20%, and</p> <p>(d) for development on land in the Greater Sydney region, Newcastle region or Wollongong region—all or part of the development is within an accessible area, and</p> <p>(e) for development on other land—all or part of the development is within 400 metres walking distance of land within Zone B1 Neighbourhood Centre, Zone B2 Local Centre or Zone B4 Mixed Use, or within a land use zone that is equivalent to those zones.</p>	<p>Under Penrith LEP 2010, the site is zoned R3 Medium Density Residential, and Multi-Dwelling Housing is a permitted land use in the zone with consent.</p> <p>A minimum of 20% of the development is to be used as affordable housing. In this regard, one unit out of the total five units is to be used as affordable housing, and will be enforced by conditions of consent.</p> <p>The site does not contain a heritage item, and is located within an 'accessible area' as defined under Clause 4 of SEPP ARH. In this regard, the site is located approximately 140m walking distance from a bus stop on Brisbane Street, which provides regular bus services of minimum one bus per hour between 6:00am and 9:00pm Monday to Friday, and 8:00am and 6:00pm Saturday to Sunday (bus no.774).</p>	Complies
Clause 13- Floor Space Ratios	Clause 13 stipulates the maximum floor space ratio for development for a range of circumstances.	Under Penrith LEP 2010 the site is not subject to minimum floor space ratio requirements.	Not applicable

<p>Clause 14 – Standards that cannot be used to refuse consent</p>	<p>1(a) repealed</p> <p>1(b) minimum site area of 450sqm</p> <p>1(c) minimum landscaped area of 30% of the site</p> <p>1(d) minimum deep soil zone of 15% of the site, with minimum dimension of 3m</p> <p>1(e) minimum 3hrs solar access to living rooms and private open spaces of 70% of the dwellings between 9am and 3pm in mid-winter</p> <p>2(a) minimum car parking rate of 0.5 parking spaces per 1x bedroom dwelling, 1x parking space per 2-bedroom dwelling and 1.5 parking space per 3+ bedroom dwelling.</p> <p>2(b) minimum dwelling floor area of 95sqm for 3+ bedroom dwelling</p>	<p>1(b) The site has an area of more than 400m², being 1008m².</p> <p>1(c) The proposal provides 300sqm of landscaped area, which represents 30% of the site. This rate has been calculated when measuring all landscaped areas greater than 2m wide, and including patios and pathways to building and dwelling entrances as permitted under Chapter D2 of Penrith DCP.</p> <p>1(d) The proposal provides 15% of the site as deep soil zone with a minimum width of 3m.</p> <p>1(e) The proposal was supported by a Shadow Diagram (prepared by N.F Billyard, Ref. 1354.DA04/A, Revision B dated 28 April 2021) which demonstrates that Units 1-5 will achieve a minimum 3 hours solar access to living and private open space areas. It is noted that all proposed private open space and living areas have a norther aspect and likely to receive sufficient solar access.</p> <p>2(a) The development comprises of 4 x 3-bedroom units, and 1x 4-bedroom unit. As such, the proposal is required to provide a minimum of 8x car parking spaces (1.5 car spaces x 5 units = 7.5 car spaces, rounded up). The proposal provides 8x car parking spaces, complying with this requirement.</p> <p>2(b) All dwellings exceeds 95sqm in floor area, as detailed below:</p> <p>Unit 1: 137sqm Unit 2-4: 132sqm Unit 5: 148sqm</p>	<p>Complies</p>
<p>Clause 16A- Character of Local Area</p>	<p>A consent authority must not consent to development to which this Division applies unless it has taken into consideration whether the design of the development is compatible with the character of the local area.</p>	<p>The proposal is considered compatible with the character of the local area in terms of form, scale, building height, setbacks, and building separation. The proposal as lodged has undergone several design amendments, including a reduction in the overall number of units from 6 units to 5 units to ensure that the development is compatible with the surrounding character in terms of scale and amenity impacts. Further, conditions of consent have been imposed to increase the provision of landscaping on the site to assist in integrating the development with its surroundings.</p>	<p>Complies</p>

<p>Clause 17 – Must be used for affordable housing for 10 years</p>	<p>(1) A consent authority must not consent to development to which this Division applies unless conditions are imposed by the consent authority to the effect that—</p> <p>(a) for 10 years from the date of the issue of the occupation certificate—</p> <p>(i) the dwellings proposed to be used for the purposes of affordable housing will be used for the purposes of affordable housing, and</p> <p>(ii) all accommodation that is used for affordable housing will be managed by a registered community housing provider, and</p> <p>(b) a restriction will be registered, before the date of the issue of the occupation certificate, against the title of the property on which development is to be carried out, in accordance with section 88E of the Conveyancing Act 1919, that will ensure that the requirements of paragraph (a) are met.</p>	<p>One unit is to be provided as affordable housing. Conditions of consent have been included to this effect, and will enforce the requirements of Clause 17.</p>	<p>Complies</p>
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State Environmental Planning Policy No 55—Remediation of Land

The proposal has been assessed against relevant criteria of State Environmental Planning Policy No 55—Remediation of Land (SEPP 55), and is found to meet the objectives and requirements of this policy, as summarised below:

- In review of Council's records and historic aerial photographs of the site (available on Nearmaps), the subject site has been previously use for residential purposes only. The previous use for residential purposes is not considered a potentially contaminating or high risk activity. As such, it is considered that there is very low risk of land contamination issues on the site. It is noted that the proposal does not seek a change of use to a more sensitive use.
- The proposal involves the demolition of an existing dwelling and associated structures on the site. Given the age of the dwelling and associated structures, it is considered necessary that a Hazardous Materials Survey be conducted prior to demolition, to ensure that the demolition works will not impact health of surrounding sensitive receivers and the environment. As such, a condition to this effect has been included.

With regard to the above considerations, the proposal is considered to meet relevant criteria under SEPP 55.

Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

Sydney Regional Environmental Plan No. 20 - Hawkesbury-Nepean River (No. 2 -1997) (SREP 20) integrates planning with catchment management to protect the Hawkesbury-Nepean river system, requiring the impact of future land use to be considered in a regional context. The plan covers water quality and quantity, environmentally sensitive areas, riverine scenic quality, agriculture and urban and rural-residential development. It controls development that has the potential to impact on the river environment.

The application includes water management measures to ensure that the development will not result in adverse impacts to the surrounding waterways. Accordingly, the application was accompanied by Water Sensitive Urban Design (WSUD) documentation and associated MUSIC Modelling. The proposed development will comply with Council's WSUD Policy requirements with the use of a 10KL rainwater tank, and provision of an 11sqm rain-garden to treat stormwater located adjacent to the Onsite Detention basin at the front of the site.

In addition, during construction soil and erosion controls measures will be installed to ensure sediment as a result of the development is not deposited to the stormwater system.

With consideration to the above, the proposal is considered to meet the requirements under SREP 20.

Local Environmental Plan 2010

Provision	Compliance
Clause 2.3 Permissibility	Complies - See discussion
Clause 2.3 Zone objectives	Complies - See discussion
Clause 2.7 Demolition requires development consent	Complies - See discussion
Clause 4.1A Minimum lot sizes for dual occupancies, multi dwelling housing and residential flat buildings	Does not comply - See discussion
Clause 4.3 Height of buildings	Complies - See discussion

Clause 2.3 Permissibility

The subject site is zoned R3 Medium Density Residential under Penrith LEP 2010. The proposal is defined as 'Multi-Dwelling Housing' which is a permitted land use in the zone with consent.

Clause 2.3 Zone objectives

The proposal is considered consistent with the zone objectives, specifically:

- *To provide for the housing needs of the community within a medium density residential environment.*
- *To provide a variety of housing types within a medium density residential environment.*
- *To provide for a concentration of housing with access to services and facilities.*
- *To ensure that a high level of residential amenity is achieved and maintained.*

Clause 2.7 Demolition requires development consent

The proposal involves the demolition of an existing dwelling and associated structures, and the application seeks consent for these works in accordance with the requirements of Clause 2.7 of Penrith LEP 2010.

Clause 4.1A Minimum lot sizes for dual occupancies, multi dwelling housing and residential flat buildings

Clause 4.1A of Penrith LEP 2010 provides minimum lot size requirements for certain development types. Under Clause 4.1A, a minimum lot size of 1200m² is required for a Multi- Dwelling Housing development on land zoned R3 Medium Density Residential.

The proposal is non-compliant with this requirement, as the site has a total land area of 1008.5m². Notwithstanding this, the proposal has been lodged pursuant to the SEPP Affordable Rental Housing and is found to comply with this policy, which permits In-fill Affordable Housing on lots that are 450m² or more in area. As such, the proposal satisfies the minimum lot size requirement of 450m² (being 1008m²) required under SEPP Affordable Rental Housing, which prevails over the local provisions.

Clause 4.3 Height of buildings

A Maximum Building Height of 8.5m is permitted on the site pursuant to Clause 4.3 of Penrith LEP 2010. The proposal complies with the Maximum Building Height control, as the proposal has a Maximum Building Height of less than 8.5m (being approximately 7.67m) with a maximum ridge height of 49.67AHD. Therefore, the proposal is satisfactory in regards to Clause 4.3 of Penrith LEP 2010.

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

Development Control Plan 2014

Provision	Compliance
C1 Site Planning and Design Principles	Complies
C2 Vegetation Management	Complies
C3 Water Management	Complies
C4 Land Management	Complies
C5 Waste Management	Does not comply - see Appendix - Development Control Plan Compliance
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	Does not comply - see Appendix - Development Control Plan Compliance
C11 Subdivision	N/A
C12 Noise and Vibration	Complies
C13 Infrastructure and Services	Complies
D2.1 Single Dwellings	N/A
D2.2. Dual Occupancies	N/A
D2.4 Multi Dwelling Housing	Complies - see Appendix - Development Control Plan Compliance
D2.5 Residential Flat Buildings	N/A
D2.6 Non Residential Developments	N/A

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

The proposal is considered capable of complying with the requirements under the Environmental Planning and Assessment Regulation 2000, subject to conditions that enforce the development to comply with all relevant requirements under the Building Code of Australia.

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

Context and Setting

The proposal is a permissible land use in the zone and is compatible with the surrounding residential uses. The proposal has been designed to be in keeping with the character of the surrounding area. In this regard, the proposal provides a compliant building height (being two-storey), and adequately breaks up with the building mass by providing three distinct buildings that are less than 20m in length and that have a minimum separation of 4m to provide some relief to the site. The proposal provides sufficient building setbacks to front, rear and side boundaries to enable landscaped buffers between adjoining properties.

Vehicle Access, Driveway Design and Maneuvering

The proposal provides direct vehicle access to the site via Sydney Street. Whilst the site is constrained in terms of lot width, the proposal provides adequate onsite vehicle access and maneuvering. It is noted that the proposal has been reviewed by Council's Development Engineer and Traffic Engineer, who raised no objections to the proposal subject to conditions. During the assessment process, the proposal has been amended to delete a car parking space at the head of the driveway to ensure that all car parking spaces will not be visible from the street and achieve a better streetscape outcome. It is noted that the driveway is proposed over an existing service lid. Relocation of this service lid will need to be organised as part of the Roads Act Approval for the driveway and stormwater works. The proposed driveway is 2m+ from existing light pole, which is sufficient.

Engineering (Stormwater Management)

The proposal includes associated stormwater drainage works and onsite detention. It is noted that there is a minor non-compliance with Council's stormwater specifications regarding the additional volume for planting. In this regard, the basin volume is proposed as 4.86m³, which would trigger 50% additional volume for planting. However, the plans have adopted 25%, representing a shortfall. However, this variation is considered acceptable on merit, given the constraints of site in terms of lot width, and that the volume is very close to 5m³ (which only requires 25%). It is noted that the proposed retaining wall along rear boundary will not divert/ pond overland flows. Flows naturally fall to the north towards Braddon Street.

Tree Removal and Landscaping

On the site currently are two Claret Ash trees located at the rear, north-eastern corner of the lot. The proposal seeks the removal of these two trees, and was accordingly supported by an Arborist Report (Ref #2163, dated 25 February 2021). Due to the location of Unit 5, being setback approximately 1m from both Claret Ash trees, the proposal will substantially encroach upon the Tree Protection Zone of each tree. Whilst preference is to retain existing trees on the site, given that the dwelling provides a sufficient rear setback (of a minimum 4m) to enable substantial provision of landscaping along the full length of the rear boundary, the proposed tree removal is considered acceptable on merit, subject to replacement planting of canopy trees within the rear setback area and across the site. In this regard, the amended landscape plan provides 7x canopy trees (being 6x Watergums and 1x Tuckeroo) on the site, which have a mature height between 6-10m. Further, conditions of consent have been imposed to provide an additional two canopy trees in common areas, to assist in softening the presentation of the development, noting that a rain garden is located in the front setback area which limits planting capacity at the front of the site.

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

The site is considered suitable for the proposal for the following reasons:

- The site is zoned to permit the proposed use;
- The proposal is compatible with surrounding and adjoining land uses; and
- The site is able to drain to the satisfaction of Council's Development Engineer.

Section 4.15(1)(d) Any Submissions

Community Consultation

In accordance with Council's Community Engagement Strategy the proposed development was notified to

nearby and adjoining residents, and advertised in the local newspaper.

Council notified thirty-five (35) residences in the area, and the exhibition period occurred between 21 December 2020 and 1 February 2021. The application was also advertised in the local newspaper on 17 December 2021.

Council has received two (2) submissions. The issues raised by the submissions have formed part of the assessment of the application, as detailed below:

Submission	Issue	Comment
#1	<p>-Potential health and safety issues as a result of demolition works (asbestos), particularly given the age of the dwelling.</p> <p>- Side boundary fence requested between no 30/32 Sydney Street.</p> <p>Submission requests fencing be of beige colour</p>	<p>- Concerns noted. Conditions of consent have included that require a Hazardous Buildings Materials Survey to be completed by a suitably qualified professional and submitted to and approved by Penrith City Council prior to demolition works occurring. A further condition has been imposed that requires all works to cease in the event that hazardous materials (including asbestos) are identified, and a risk assessment and a safe work method statement will be required to address health and safety issues. In addition, the proposal will be required to comply with all relevant legislation including: Work Health and Safety Act 2011, 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</p> <p>- The architectural plan provides boundary fencing on the northern (side) elevation adjoining no. 30 Sydney Street. The boundary fencing is internal (located on the subject property) and is colourbond of 1.8m in height. In respect to colour of the fence, a condition has been imposed to require fencing to be of a suitable colour, compatible with the surrounding character.</p>

#2	<ul style="list-style-type: none"> - Incompatibility of the proposal with the surrounding character - Insufficient setbacks, scale and massing of buildings resulting in negative residential amenity - Unreasonable visual bulk and overshadowing impacts - over development of the site - inadequate landscaping - application does not address water sensitive urban design requirements, and environmentally sustainable outcomes. - light spill affecting adjoining properties 	<p>Issues raised have been addressed in the body of this assessment report, as summarised below:</p> <ul style="list-style-type: none"> - The proposal is compatible with the surrounding character in terms of form, building height, building length, massing and design. The proposal complies with the maximum building height control for the site, breaks up the building mass by providing 3-buildings that are less than 20m in length, and are separated by a minimum 4m. The proposal provides compliant front, rear and side setbacks. - The scale of the development has been reduced from 6x units to 5x units, to minimise amenity impacts and visual bulk of the development. - The proposal provides 30% of the site as landscaped area, meeting the minimum standard for landscaped area under the State Environmental Planning Policy (Affordable Rental Housing) 2009. - In respect to Water Sensitive Urban Design, the proposal and supporting Music Model has been reviewed by Council's Waterways Management Officer. Based on this review, the proposal complies with the objectives and provisions of Council's Water Sensitive Urban Design policy, and found to be satisfactory subject to conditions. - The proposal is for residential development and is considered unlikely to result in unreasonable light spill impacts. Notwithstanding, a condition of consent has been imposed to require that exterior lighting is to be located and directed in such a manner so as not to create a nuisance to surrounding land uses, and is to be in accordance with Australian Standard AS 4282 "Control of the obtrusive effects of outdoor lighting" (1997).
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Referrals

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

Referral Body	Comments Received
Development Engineer	No objections - subject to conditions
Environmental - Waterways	No objections - subject to conditions
Waste Services	Not supported
Traffic Engineer	No objection subject to conditions

Section 4.15(1)(e)The public interest

The proposed development is unlikely to generate significant issues of public interest, as the (amended) proposal has been designed to minimise impacts on the surrounding streetscape and residential amenity. The proposal will provide an additional affordable rental housing dwelling for a minimum of 10-years, as enforced by conditions of consent in accordance with the provisions of the SEPP Affordable Rental Housing 2009.

Section 94 - Developer Contributions Plans

The following Section 7.11 plans apply to the site:

- Section 7.11 - District Open Space Facilities
- Section 7.11 - Cultural Facilities
- Section 7.11 - Penrith City Local Open Space

The following Section 7.11 calculations apply to the proposed development:

Calculation for Multi-Unit Housing					
<i>Open Space</i>					
No. of units	x	Rate	-	Credit for existing dwelling/s	Contribution rate
5	x	2.0	-	3.1	6.9
<i>Cultural Facilities</i>					
No. of units	x	Rate	-	Credit for existing dwelling/s	Contribution rate
5	x	2.4		3.0	9.0
AMOUNT					
S.7.11 Contribution Plan		Calculation Rate x Rate			Total
District Open Space		6.9 x \$2,2028.00			\$13,993.00
Local Open Space		6.9 x \$733.00			\$5,057.00
Cultural facilities		9.0 x \$191.00			\$1,719.00
		NET TOTAL			\$20,769.00

Conclusion

In assessing this application against the relevant environmental planning policies, being State Environmental Planning Policy (Affordable Rental Housing) 2009, Penrith Local Environmental Plan 2010 and Penrith Development Control Plan 2014, the proposal satisfies the aims, objectives and provisions of these policies.

The site is suitable for the proposed development, and the proposal has been designed to suitably mitigate environmental, streetscape and amenity impacts as a result of the development.

Therefore, the application recommended for approval, subject to the attached conditions.

Recommendation

1. That Development Application DA20/0825 for the Demolition of Existing Structures and Construction of 5x Townhouses including Car Parking, Landscaping and Drainage Works Pursuant to State environmental Planning Policy (Affordable Rental Housing) 2009 be approved subject to the attached conditions (Development Assessment Report Part B)
2. That those making submissions are notified of the determination.

CONDITIONS

General

1 [A001 - Approved plans table](#)

The development must be implemented substantially in accordance with the following plans stamped approved by Council, the application form, BASIX Certificate No. 1120086M_02 dated 14 May 2021, and any supporting information received with the application, except as may be amended in red on the attached plans and by the following conditions.

Drawing Title	Drawing Reference	Prepared by	Dated
<i>Site Plan, Landscape Plan and Waste Details</i>	1354.DA01/C	N.F. Billyard P/L	11 June 2021
<i>Floor Plans</i>	1354.DA02/C	N.F. Billyard P/L	11 June 2021
<i>Elevations</i>	1354.DA03/C	N.F. Billyard P/L	11 June 2021
<i>Proposed Development- 32 Sydney Street, St Marys Stormwater Plans</i>	SW01; SW02; SW03; SW04 Revision C	Uber Engineering	25 May 2021
<i>Proposed SEPP 2009 Development - Landscape Plan</i>	Plan no. 1865LAN2-C; Revision C	Bio Engineered Solutions Pty Ltd	22 June 2021

2 [A001a - Affordable Rental Housing restriction on title](#)

Prior to the issue of any Occupation Certificate, the Principal Certifying Authority is to be provided with copy of the registered Title for Unit 1, which notes that:

- A restriction is registered against the title of the property, in accordance with Section 88E of the Conveyancing Act 1919 requiring that Unit 1 must be used for the purposes of '*affordable housing*' as defined by State Environmental Planning Policy (Affordable Rental Housing) 2009, and
- that the unit must be managed by a 'registered community housing provider' (as defined by the Housing Act 2001), for a minimum period of 10 years from the date of the issue of any **Occupation Certificate**. The name of the authority having the power to release, vary or modify the restriction referred to is to be Penrith City Council.
- Prior to the occupation of Unit 1, details of the 'Registered Community Housing Provider' managing the affordable housing are to be provided to Penrith City Council.

Note:

(i) Under State Environmental Planning Policy (Affordable Rental Housing) 2009 a 'Registered Community Housing Provider' is defined as an entity that provides community housing.

(ii) Evidence that Unit 1 is being utilised for the purposes of affordable housing, in accordance with the above requirements, must be retained by the owner of the property and made available for Council inspection upon request.

3 [A008 - Works to BCA requirements](#)

The work must be carried out in accordance with the requirements of the Building Code of Australia. If the work relates to a residential building and is valued in excess of \$20,000, then a contract of insurance for the residential development shall be in force in accordance with Part 6 of the Home Building Act 1989.

{Note: Residential building includes alterations and additions to a dwelling, and structures associated with a dwelling house/dwelling such as a carport, garage, shed, rural shed, swimming pool and the like}.

4 [A019 - OCCUPATION CERTIFICATE](#)

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

5 [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).

6 [A039 - Graffiti](#)

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

7 [A046 - Obtain Construction Certificate before commencement of works](#)

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

8 [A Special - Fencing and Retaining Walls](#)

All boundary retaining walls and fencing required by the development are to be constructed at the full cost of the developer. All retaining walls are to be of masonry construction and be a maximum height of 500mm as per Penrith Development Control Plan 2014.

The fencing associated with the waste bin bay is to be a maximum height of 1.4m, and be of high quality material and colour that is compatible with the character of the surrounding area. All boundary fencing is to be a maximum height of 1.8m and be of a suitable colour that is compatible with the character of the surrounding area.

Demolition

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

The existing dwelling and associated structures on the site are to be demolished as part of the approved work.

10 **B002 - Demolition and Disposal to Approved Landfill Site**

All demolition works are to be conducted in accordance with the provisions of AS 2601-1991 "The Demolition of Structures".

Prior to demolition works, all services shall be suitably disconnected and capped off or sealed to the satisfaction of the relevant service authority requirements.

In accordance with AS 2601-1991, a Hazardous Buildings Materials Survey is to be completed by a suitably qualified professional and submitted to and approved by Penrith City Council **prior to demolition works**. Where relevant, the Survey shall be accompanied by general recommendations for the removal of hazardous materials, including the preparation of safe work method statements and risk assessments to appropriately address health and safety issues. During demolition works, the approved Hazardous Building Materials Assessment must be implemented and complied with at all times.

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**.

11 **B003 - ASBESTOS**

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.
- Australian Standard AS2601

Compliance with the above legislation is required and reference should be made to SafeWork NSW and to the Asbestos Policy Penrith City Council 2014. **Any demolition works involving the removal of all asbestos shall only be carried out by a licensed asbestos removal contractor who has a current WorkCover Asbestos Licence. All asbestos laden waste must be disposed of at a waste management facility licensed by the NSW Environment Protection Authority to receive asbestos waste.**

12 **B004 - Dust**

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

13 **B005 - Mud/Soil**

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

14 [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 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

15 [D007 - Cut and fill of land requiring Validation Certificate –limited to footprint](#)

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

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

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

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

16 [D009 - Covering of waste storage area](#)

All waste materials stored onsite 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 the areas are to be fully enclosed when the site is unattended.

17 [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.

18 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.

19 D026 - Liquid wastes

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

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

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

20 D Special - Unexpected Finds

Should any "unexpected finds" occur during site excavation and earthworks including, but not limited to, the identification/finding of contaminated soils, buried building materials, asbestos, odour and/or staining, works are to cease immediately and Penrith City Council is to be notified. Any such "unexpected finds" shall be addressed by an appropriately qualified person.

All remediation works within the Penrith Local Government Area are considered to be Category 1 works under State Environmental Planning Policy 55-Remediation of Land. Should any contamination be found during development works and should remediation works be required, development consent is to be sought from Penrith City Council before the remediation works commence.

Note: An appropriately qualified person is defined as "a person who, in the opinion of Council, has a demonstrated experience, or access to experience in hydrology, environmental chemistry, soil science, ecotoxicology, 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.

BCA Issues

21 E001 - BCA compliance

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).

Utility Services

22 [G002 - Section 73](#)

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**.

23 [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.

24 [G006 - Services](#)

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

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

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

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

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

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

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

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

26 H002 - All forms of construction

Prior to the commencement of construction works:

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

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

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

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

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

(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.

27 H032 - Painting

Prior to the issue of an Occupation Certificate, the building is to be painted internally and externally (as applicable).

28 H033 – Clothes line

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

29 [H041 - Hours of work](#)

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

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

Other construction works carried out inside a building/tenancy 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

30 [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.

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

32 [K202 - S138 Roads Act - Minor Works in the Public Road](#)

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 and any required adjustments to existing service lids)
- b) Concrete footpaths and or cycleways
- c) Road opening for utilities and stormwater (including stormwater connection to Penrith City Council roads)
- 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

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

33 [K209 - Stormwater Concept Plan](#)

The stormwater management system shall be provided generally in accordance with the concept plan/s lodged for development approval, prepared by UBER Engineering, reference number U20119, revision C, dated 25/05/21

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

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

34 [K210 - Stormwater Management](#)

The stormwater management system shall be consistent with plans lodged for development approval, prepared by Uber Engineering, reference number U20119, revision C, dated 25/05/2021.

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 Australian Standard AS3500.3.

In particular, the proposed kerb outlet shall be in accordance with clause 5.1.1 g) of Council's Stormwater Drainage Specification for Building Developments.

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.

35 **K223 - Access, Car Parking and Manoeuvring - Minor Development**

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

- a) Off street access and parking complies with Penrith City Council's Development Control Plan and AS2890.1.
- b) Sight distances at the street frontage have been provided in accordance with AS2890.1.
- c) The minimum clear internal width is 3.1m for single garages and 5.6m for double garages.
- d) All cars can enter and exit the site in a forward direction.

36 **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.

37 **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.

38 **K501 - Penrith City Council Clearance - Roads Act / Local Government Act**

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.

39 **K502 - 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 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.

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 Council is not the Principal Certifying Authority.

40 **K503 - Works As Executed - Stormwater Management**

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.

41 [K504 - Stormwater Compliance](#)

Prior to the issue of any Occupation Certificate, the Principal Certifier shall ensure that the 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 systems shall be provided as part of the Works As Executed drawings.

42 [K505 - Restriction on the Use of Land and Positive Covenant](#)

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

43 [K601 - Stormwater Management System Operation and Maintenance](#)

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

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

44 [K Special - Car Parking Spaces to be Sealed and Line Marked](#)

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.

45 [K Special - Sight Lines](#)

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

46 [K Special - Subleasing of Parking not permitted](#)

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

47 [K Special - Vehicle Parking](#)

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.

48 [K Special - Vehicles to Enter/Exit in Forward Direction](#)

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

Landscaping

49 L001 - General

All landscape works are to be constructed in accordance with the stamped approved Landscape Plan, prepared by Bio Engineered Solutions (Plan no. 1865LAN22-C, dated 22 June 2021) as amended in red, and Council's Development Control Plan 2014.

Landscaping must 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.

50 L002 - Landscape construction

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

51 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.

52 L Special - Amendments to Landscape Details As Marked in Red

The Construction Certificate plans are to incorporate the amendments to the landscape design as shown in red on the stamped approved Landscape Plan, and outlined below:

To ensure suitable landscaping is provided in common areas:

- (a) the courtyard fencing located between Units 2 and 3 is to be relocated as shown in red on the approved landscape plan to allow for increased garden bed at the head of car parking spaces 1 and 2 to accommodate a canopy tree of minimum 45L pot size.
- (b) The courtyard fence associated with Unit 5 located at the head of the common driveway is to be relocated as shown in red on the approved landscape plan to allow for increased garden bed at the head of the driveway to accommodate a canopy tree of minimum 45L pot size.

Prior to the issue of an Occupation Certificate, the Principal Certifying Authority is to ensure that the landscaping has been provided in accordance with stamped approved Landscape Plan as amended in red.

Development Contributions

53 [N001a - Section 7.11 contribution - Cultural Facilities](#)

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, \$1,719.00 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.

54 [N001b - Section 7.11 contribution - District Open Space](#)

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, \$13,993.00 **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.

55 [N001c - Section 7.11 contribution - Local Open Space](#)

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, \$5,057.00 **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

56 **Q01F - Notice of Commencement & Appointment of PCA**

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 1979, 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 of 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.

57 **Q05F - Occupation Certificate**

An Occupation Certificate is to be obtained from the Principal Certifying Authority on completion of all works and prior to the occupation of the development.

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.

Appendix - Development Control Plan Compliance

Development Control Plan 2014

Part C - City-wide Controls

C5. Waste Management

In accordance with the requirements under C.5 of Penrith DCP and the supporting 'Multi-unit Dwelling Waste Management Guideline', the proposal provides a waste collection bay to accommodate 6x 240L bins, and associated bulky waste area. The waste infrastructure is located at the front of the site and will be partially screened by landscaping to minimise streetscape impacts (providing a minimum 1.4m setback from boundaries). The waste collection bay is sufficient in size, having internal dimensions of approximately 4.2m x 2.2m (minimum 3.5m x 2.2m required). The bulky waste area is sufficient in size, having internal dimensions of 1.8m x 1.4m meeting the minimum size requirement of 2.5sqm. However, conditions of consent have been imposed to address requirements under the 'Multi-unit Dwelling Waste Management Guideline', specifically relating to provision of an adequate supply of water through a centralised mixing valve with hock cock.

C10. Transport, Access and Parking

In accordance with Table C10.2 -Car Parking Rates, the following rate of onsite car parking is required for multi-unit housing:

- *1x car space per 1-bedroom dwelling;*
- *1.5x car space per 2-bedroom dwelling or part thereof;*
- *2x car spaces per 3+bedroom dwelling; and*
- *Visitor parking is to be provided for development that have 5 or more dwelling: 1 space for every 5 dwellings or part thereof.*

Using the above calculation, the proposal is required to provide 10x resident car spaces and 1x visitor car space. The proposal provides 8x onsite car parking spaces, being non-compliant with Council's controls. Notwithstanding this, the proposal has been lodged pursuant to the State Environmental Planning Policy (Affordable Rental Housing) 2009. The proposal meets the minimum standard relating to rate of car parking under this state policy. As the state policy overrides local provisions, the proposal is considered acceptable in respect to the provision of car parking.

D2 Residential Development

Section 2.4.3 Development Site

Section 2.4.3(1) requires that a minimum lot frontage of 22m is needed for a multi-dwelling housing development. The proposal does not meet this minimum lot frontage requirement, as the site has a lot frontage of 16.5m. Notwithstanding this, the proposal relies on the provisions under Section 2.4.3(3), which states that if a property has been isolated by adjacent development, despite the minimum lot frontage control, development applications for multi-dwelling housing will be considered on a merit basis. The subject site has been isolated by adjoining development, which consist of existing multi-unit housing developments on either side of the site.

As such, the proposal has been considered on merit, and found to be acceptable. In this regard, the proposal has been designed to meet the standards under SEPP Affordable Rental Housing, including complying with the location and minimum lot size requirements under this policy. The proposal will not result in further lots becoming isolated, and has demonstrated that adequate vehicle access, onsite maneuvering, and landscaping (subject to conditions) are provided on the site, despite the undersized lot width.

Section 2.4.4 Urban Form

The proposal complies with the aims and objectives of Section 2.4.4, as summarised below:

- Unit 1 addresses the street and provides passive surveillance of the street.
- The development is grouped into three buildings, and each building is no longer than 20m in length.
- The development provides a minimum 4m corridor between buildings to provide relief to the built form.
- The proposal has been amended to delete a car parking space at the head of the driveway, to ensure that car parking is screened from the street.

Section 2.4.5 Front and Rear Setback and Section 2.4.6 Building Envelopes and Side Setbacks

The proposal complies with the aims and objectives of Section 2.4.5, as summarised below:

- The proposal provides a front setback of 7.2m, which is compatible with the established setback pattern.
- The proposal provides a rear setback of 4m at ground floor and 6m at first floor.
- The proposal provides a minimum side setback of 2m or not more than 50% of the northern side boundary.

Section 2.4.14 Design of Dwellings and Private Courtyards

A minimum of 25sqm of Private Open Space (POS) is required to be provided per dwelling, located immediately beside living areas, including an area of 5x4m suitable for outdoor dining. The proposal provides POS areas for each unit including an area of 5x4m, comprising the following:

- Unit 1: 31sqm
- Unit 2: 35sqm
- Unit 3: 35sqm
- Unit 4: 37sqm
- Unit 5: 93sqm

The provision of POS for each unit is considered acceptable, noting the POS areas are designed to be connected to the main living areas and have a northern aspect.