

PENRITH CITY COUNCIL

NOTICE OF DETERMINATION

DESCRIPTION OF DEVELOPMENT

Application number:	DA21/0154
Description of development:	Demolition of Existing Structures & Construction of Five (5) Storey Residential Flat Building including 29 Apartments & Two (2) Levels of Basement Car Parking
Classification of development:	Class 2 , Class 7a

DETAILS OF THE LAND TO BE DEVELOPED

Legal description:	Lot 63 DP 33490 Lot 64 DP 33490 Lot 62 DP 33490
Property address:	44 Rodley Avenue, PENRITH NSW 2750 46 Rodley Avenue, PENRITH NSW 2750 48 Rodley Avenue, PENRITH NSW 2750

DETAILS OF THE APPLICANT

Name & Address:	Morson Group Pty Ltd PO Box 170 POTTS POINT NSW 1335
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DECISION OF CONSENT AUTHORITY

In accordance with Section 2.17 and 4.18(1) (a) of the Environmental Planning and Assessment Act 1979 (as amended), consent is granted subject to the conditions implementation in attachment 1.

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

Date from which deferred commencement consent operates	20 December 2021
Date the deferred commencement consent expires	20 December 2023
Date of this decision	24 November 2021

POINT OF CONTACT

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

Assessing Officer:	Lauren Van Etten
Contact telephone number:	+61247328222

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 Schedule 1 requiring compliance prior to the development consent becoming operational.

Council will issue an operational development consent on compliance of all conditions listed in Schedule 1 by the given timeframe.

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 twelve 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 twelve 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.

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

Schedule 1 (Deferred Commencement)

- 1 Prior to the issue of an operational consent, documentary evidence shall be submitted to Council of the agreement from the landowner of Lot 12 DP 1176987 in relation to the proposed stormwater stub easement and related works within the Council trunk drainage channel.

The above matter shall be satisfied within 24 months from the date of this consent notice.

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, BASIX Certificate number 1168254M, the application form and any supporting information received with the application, except as may be amended in red on the stamped approved plans and by the following conditions.

Plan Title	Prepared By	Drawing No.	Issue	Date
Demolition Plan	Morson Group	DA09	A	04/03/21
Site Plan	Morson Group	DA07	A	04/03/21
Ground Level	Morson Group	DA12	B	22/06/21
Level 1	Morson Group	DA13	C	22/09/21
Level 2	Morson Group	DA14	C	22/09/21
Level 3	Morson Group	DA15	C	22/09/21
Level 4	Morson Group	DA16	C	22/09/21
Roof	Morson Group	DA17	C	22/09/21
Basement 1	Morson Group	DA11	C	22/09/21
Basement 2	Morson Group	DA10	A	04/03/21
North Facade	Morson Group	DA18	C	22/09/21
South Facade	Morson Group	DA19	B	22/09/21
West Facade	Morson Group	DA20	C	22/09/21
East Facade	Morson Group	DA21	B	22/09/21
Cross Section 1	Morson Group	DA22	C	22/09/21
Cross Section 2	Morson Group	DA23	C	22/09/21
Long Section	Morson Group	DA24	C	22/09/21
Section 1-50	Morson Group	DA27	A	04/03/21
Material Schedule	Morson Group	DA28	A	04/03/21
Landscape Plan	Paul Scrivener Landscape	1 of 3 (Job Ref: 20/2185)	F	22/06/21
Planting Plan & Details	Paul Scrivener Landscape	2 of 3 (Job Ref: 20/2185)	F	22/06/21
Landscape Plan - Level 4	Paul Scrivener Landscape	3 of 3 (Job Ref: 20/2185)	F	22/06/21
Stormwater Concept Design Basement 2 Plan	S&G Consultants Pty Ltd	SW200 (Project No. 20180061)	G	21/09/21
Stormwater Concept Design Ground Floor Plan	S&G Consultants Pty Ltd	SW201 (Project No. 20180061)	G	21/09/21
Stormwater Concept Design Roof Plan	S&G Consultants Pty Ltd	SW202 (Project No. 20180061)	G	21/09/21
Stormwater Concept Design Details Sheet	S&G Consultants Pty Ltd	SW300 (Project No. 20180061)	G	21/09/21
Erosion and Sediment Control Plan and Details	S&G Consultants Pty Ltd	SW400 (Project No. 20180061)	G	21/09/21

Stormwater Concept Design Music Model Catchment Plan	S&G Consultants Pty Ltd	SW500 (Project No. 20180061)	G	21/09/21
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Documents

- Access Report prepared by Vista Access Architect, Reference No. 20349, Issue A, dated 6 December 2020,
 - Flood Impact Statement prepared by S&G Consultants Pty Ltd, Reference No. 20200104_R02, dated 17 February 2021,
 - Geotechnical Report prepared by Geotechnique, Reference No. 14816/1-AA, dated 25 January 2021,
 - Road Noise and Race Track Impact Assessment prepared by Rodney Stevens Acoustics, Reference No. R200541R1, Revision 1, dated 21 September 2021,
 - Preliminary Site Investigation prepared by Banksia EnviroSciences, Reference No. 3212/44-48, Revision 1.0, dated 20 December 2020,
 - Traffic and Parking Impact Assessment prepared by Stanbury Traffic Planning, Reference No. 20-066-3, dated June 2021, and
 - Waste Management Plan prepared by Peter Morson, dated 11 March 2021.
- 2 Lots 62, 63 and 64 in DP 33490 are to be consolidated as one lot. A copy of the registered plan of consolidation from NSW Land Registry Services is to be submitted to the Principal Certifying Authority (PCA) and Penrith City Council, if Council is not the PCA, prior to the issue of an Occupation Certificate for the development.
- 3 The development shall not be used or occupied until an Occupation Certificate has been issued.**
- 4 Prior to the issue of an Occupation Certificate**, a lighting system shall be installed for the development to provide uniform lighting across common areas and driveways. Exterior lighting shall be located and directed in such a manner so as not to create a nuisance to surrounding land uses. The lighting shall be the minimum level of illumination necessary for safe operation. The lighting shall be in accordance with AS 4282 "Control of the obtrusive effects of outdoor lighting" (1997).
- 5 The finishes of all structures and the building are to be maintained at all times and any graffiti or vandalism immediately removed/repaired.
- 6 A **Construction Certificate** shall be obtained prior to commencement of any building works.
- 7 Prior to the issue of a Construction Certificate**, an alternative material is required to the vertical screens or louvres to units facing the street to differentiate from the balustrades proposed. This shall be submitted to and approved by the Manager of Development Services
- 8 Prior to the erection of any crane or any temporary construction structure at a height greater than the roof of the subject development, written notice shall be provided to Council and the Nepean Blue Mountains Local Health District at least 21 days prior to the erection, indicating at least the following:
- Name of responsible company and relevant contact details,
 - Dimensions (height, length, etc.),
 - Position and orientation of boom/jib and counterboom/jib,
 - Length of time that such a crane or structure will be erected on the site, and
 - The management plan and measures that will ensure that the crane or structure will be of least possible impact on flight operations for Ambulance NSW.

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

- A medium intensity, steady red lighting positioned at the highest point and both ends of the boom/jib and counterboom/jib, so that such lighting will provide an indication of the height of the crane and the radius of the crane boom/jib. Such lighting, which should be displayed at night, should be positioned so that when displayed it is visible from all directions,
 - When a crane is unattended for an extended period of time ensure the crane's boom is retracted and lowered as far as possible, and
 - No part of the crane or structure shall extend beyond the boundaries of the development site unless approved by Penrith City Council in consultation with the Nepean Blue Mountains Local Health District. Any encroachment beyond the boundaries of the subject site shall be the minimum amount required to facilitate construction and access all parts of the construction site.
- 9 In the event that a hydrant booster is necessary to service the approved development, the booster shall be integrated into the design of the development. **Prior to the issue of a Construction Certificate**, Council shall be consulted regarding the proposed location of the booster, (as the location of the booster may impact on other services and buildings, driveway or landscape design). Confirmation will also be required with regard to any heat shield or other such structures required to be installed with the booster.
- 10 **Prior to the issue of a Construction Certificate**, the design recommendations of the Access Report prepared by Vista Access Architect, Reference No. 20349, Issue A, dated 6 December 2020, shall be incorporated into the Construction Certificate plans.
- 11 All mechanical ventilation equipment, including ducts, air conditioner services and the like must be shown on the Construction Certificate documentation as being contained within the approved buildings. Any gutters and down pipes shall be integrated into the architecture of the buildings. Any plant or unsightly structures installed on the rooftop must be screened from view.
- 12 A minimum of three (3) apartments shall be constructed as adaptable apartments to meet the requirements for persons with a disability and in accordance with the stamped approved plans. The adaptable units shall each be allocated an accessible car parking space compliant with AS 2890.6.
- The Construction Certificate application must be accompanied by certification** from a person suitably qualified by the Association of Consultants in Access Australia confirming that the adaptable dwellings are capable of being modified, when required by the occupant, to comply with the Australian Housing Standard (AS 4299-2009). A Compliance Certificate in this regard, shall be provided **prior to the issue of an Occupation Certificate**.
- 13 **Prior to the issue of a Construction Certificate**, the following amendments shall be shown on the Construction Certificate plans
- Storage cages located in basement levels shall be numbered and allocated to each apartment accordingly, including Units 11, 16 and 17 and excluding Units 1, 41 and 42.
 - Legible signage shall be provided for apartment numbers, common areas and general wayfinding.
 - All dwellings are to be provided with a gas instantaneous 6 star system in accordance with the BASIX Certificate.
- 14 All fencing and retaining wall works shall be at the full cost of the applicant/property owner. The materials and colours of any fencing and retaining walls shall match or complement the external materials of the approved dwellings. All retaining walls shall be of masonry (or similar) construction (not timber). All fencing forward of front building lines is to be lower than 1.2m in height.

15 **Prior to the issue of a Construction Certificate**, the balustrade treatment and associated landscaping to the terraces of Units 41 and 43 shall be increased in height to provide an adequate visual buffer to the neighbouring units. Details in this regard shall be submitted to and approved by the Manager of Development Services.

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

(a) Lighting

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

(b) Basement Car Parking

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

(c) Building Security and Access Control

- Intercom, code or card locks or similar must be installed for all entries to the buildings, side access points to the property and the car park.
- Australian Standard 220 door and window locks must be installed in all dwellings.
- CCTV is to be provided to cover communal public space areas, including basement parking entry/exit. Cameras must be of sufficient standard to be useful for police in the event of criminal investigations. Lighting must be provided to support cameras at night (alternatively infra-red cameras are recommended). Signage must be displayed to indicate that CCTV cameras are in use.
- Letterboxes must be positioned to be opened from private open space.

(d) 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.

(e) Landscaping

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

Demolition

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

- 18 All demolition works are to be conducted in accordance with the provisions of AS 2601-2001 "The Demolition of Structures". **Prior to demolition**, all services shall be suitably disconnected and capped off or sealed to the satisfaction of the relevant service authority requirements.

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

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

Prior to commencement of demolition works on site, a portaloos with appropriate washing facilities shall be located on the site and the Principal Certifying Authority is to be satisfied that:

- Measures are in place so as to comply with the WorkCover Authority's "Short Guide to Working with Asbestos Cement" and
- The person employed to undertake the works is a licensed asbestos removal contractor and is holder of a current WorkCover Asbestos Licence.

Any demolition works involving the removal of all asbestos shall only be carried out by a licensed asbestos removal contractor who has a current WorkCover Asbestos Licence.

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

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

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

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

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

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

- 22 Prior to demolition works commencing, a Hazardous Building Materials Survey is to be conducted and provided to the Principal Certifying Authority. Demolition works are to be conducted in accordance with the Hazardous Building Materials Survey and hazardous wastes are to be disposed of at a lawful waste management facility.

- 23 **Prior to demolition, an Unexpected Finds Protocol**, is to be prepared and submitted to the Certifying Authority. The Unexpected Finds Protocol is to be implemented throughout the demolition and construction phase of the development.

Environmental Matters

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

The approved sediment and erosion control measures are to be **maintained throughout the construction phase of the development until the land, that was subject to the works, has been stabilised and grass cover established.**

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

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

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

28 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,
- clearly indicate the legal property description of the fill material source site,
- provide details of the volume of fill material to be used in the filling operations,
- provide a classification of the fill material to be imported to the site in accordance with the Environment Protection Authority's "Environmental Guidelines: Assessment, Classification & Management of Non-Liquid Wastes" 1997, and
- (based on the fill classification) determine whether the fill material is suitable for its intended purpose and land use and whether the fill material will or will not pose an unacceptable risk to human health or the environment.

{Note: Penrith 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.

29 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.

- 30 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.

- 31 Noise levels from the premises shall not exceed the relevant noise criteria detailed in the *Road Noise and Race Track Impact Assessment Proposed Residential Development 44 - 48 Rodley Avenue, Penrith* prepared by Rodney Stevens Acoustics dated 21/09/2021 (report number R200541R1). The recommendations provided in the abovementioned acoustic report shall be implemented and incorporated into the design and construction of the development, and shall be shown on plans accompanying the Construction Certificate application. A certificate is to be obtained from a qualified acoustic consultant certifying that the building has been constructed to meet the noise criteria in accordance with the approved acoustic report. This certificate is to be submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

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

- 32 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.

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

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

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

- All on-site waste collection infrastructure, doors and access points (Waste Collection Room, Bulky Goods Collection Room, Basement Roller Door, Chute Room) are to be locked/accessed through Council's Abloy Key System. System specifications are outlined in Section 3.5.5 of the 'Residential Flat Building Waste Management Guideline' document.
- All on-site waste collection infrastructure (Waste Collection Room, Bulky Goods Collection Room, Basement Roller Door, Chute Room) is to provide wash facilities through the use of a centralised mixing valve and hose cock. Respective drainage and water proofing to be installed to support the use of hose facilities.
- The chute inlets on each residential level are to be located within cupboards (maximum depth of 150mm) and incorporate dual self-closing sealed doors, ventilation, waterproofing and permit accessible resident access.
- The chute room located in basement 1 is to provide 200mm clearances around the service bin infrastructure (2 x 1100L bins) to permit unobstructed manoeuvring of bin infrastructure.
- A bin wash bay is to be provided in basement 1 to permit the scheduled cleaning of bin infrastructure by

caretaker/cleaners

- A separate and enclosed residential caretaker/cleaner cupboard is to be provided within basement 1 for the storage of chemicals and associated cleaning items. The room to provide a minimum area of 2.5m² and minimum internal width of 1.8m.
- All on-site waste collection infrastructure (Waste Collection Room, Bulky Goods Collection Rooms) are to provide:
 - Automatic lighting and mechanical ventilation;
 - 180-degree, outwards opening, self-closing, sealed doors;
 - unobstructed internal height clearances of 2600mm free from external services and utilities.
- Amended swept path models are to be provided responsive to Section 2.2.3 of the 'Residential Flat Building Waste Management Guideline' document. Unobstructed 500mm clearances are to be provided through all ingress/egress manoeuvres and on-street parking vehicles on both sides of Rodley Avenue.

35 **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 Council's Waste Collection Service. This is to include Council being provided with indemnity against claims for loss and damage.

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

- Council's Waste and Resource Recovery Department is to conduct a site inspection of the on-site infrastructure with Council's collection contractors. The inspection is 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 Council's policy provisions.
- The assigned strata manager for the development and direct contact details are to be provided to Council's Waste and Resource Recovery Department.

BCA Issues

36 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.

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 an Occupation 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 development, which complies with the following:

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

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

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

Construction

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 on site, and
- in a prominent position on the work site and in a manner that can be easily read by pedestrian traffic.

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

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 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 work carried out inside a building/tenancy and that do not involve the use of equipment that emits noise is 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 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 a 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.

- 44 Prior to the issue of a 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.
- All works associated with the Roads Act approval must be completed prior to the issue of an Occupation Certificate.

- 45 Prior to the issue of a Construction Certificate, the Certifier shall ensure that an application under Section 68 of the Local Government Act, including payment of application and inspection fees, has been lodged with and approved by Penrith City Council for connection of stormwater to the Council drainage channel at the rear of the property.

Engineering plans are to be prepared in accordance with the development consent, Penrith City Council's

Design Guidelines for Engineering Works for Subdivisions and Developments, Engineering Construction Specification for Civil Works, Austroads Guidelines, and best engineering practice.

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

Note:

- All works associated with the Section 68 Local Government Act approval must be completed prior to the issue of an Occupation Certificate.
- 46 The stormwater management system shall be consistent with plans lodged for development approval, prepared by SGC Consulting Engineers, Project No. 20200104, Drawing No. SW100 to SW500, Revision G, dated 21/09/2021.
- Prior to the issue of a Construction Certificate, the Certifier shall ensure that the stormwater management system has been designed in accordance with Penrith City Council's Stormwater Drainage Specification for Building Developments and Water Sensitive Urban Design (WSUD) Policy.
- 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 a Construction Certificate, the Certifier shall ensure that the stormwater drainage system for the basement car park has been designed in accordance with the requirements for pumped systems in AS 3500.3 Plumbing and Drainage – Stormwater Drainage.
- 48 Prior to the issue of a Construction Certificate, the Certifier shall ensure that all habitable floor levels are in accordance with the stamped approved plans with a minimum floor level of RL 27.6m AHD (1% AEP flood level + 0.5m freeboard).
- 49 Prior to the issue of a Construction Certificate, the Certifier shall ensure that any structures below RL 27.6m AHD (1% AEP flood level + 0.5m freeboard) have been detailed with flood compatible building components in accordance with the publication 'Reducing the Vulnerability of Buildings to Flood Damage' produced by the Hawkesbury-Nepean Floodplain Management Steering Committee.
- 50 Prior to the issue of a Construction Certificate, the Certifier shall ensure that all electrical services associated with the proposed building works are adequately flood proofed in accordance with Penrith City Council's Development Control Plan relating to flood liable land. Flood sensitive equipment (including electric motors and switches) shall also be located above the 1% AEP flood level of RL 27.1m AHD.
- 51 Prior to the issue of a 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 Development Control Plan, AS 2890.1, AS 2890.2 and AS 2890.6.
- 52 Prior to the commencement of any works on-site (including demolition works) or prior to the issue of a

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

- 53 Prior to the issue of a Local Government Act approval, a Performance Bond is to be lodged with Penrith City Council for connection of stormwater to the Council drainage channel at the rear of the property.

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

Note:

- Contact Penrith City Council's Development Engineering Department on 4732 7777 for further information relating to bond requirements.
- 54 Prior to the issue of a Construction Certificate, a geotechnical investigation report and strategy shall be submitted to the Certifier to ensure the stability of any adjoining Council owned infrastructure and surrounding developments. The geotechnical investigation, report and strategy shall comply with the recommendations contained in the technical direction GTD 2012/001 prepared by Transport for NSW.
- 55 A certificate by a registered surveyor verifying that all habitable floor levels are at or above RL 27.6m AHD (1% AEP flood level + 0.5m freeboard) shall be submitted upon completion of the building to that level. No further construction of the building is to be carried out until approval to proceed is issued by the Certifier.
- 56 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.
- 57 All existing (aerial) and proposed services for the development, including those across the frontage of the development, are to be re-located underground in accordance with the relevant authorities' regulations and standards.
- 58 Prior to the issue of an Occupation Certificate, the Principal Certifier shall ensure that all works associated with a Section 138 Roads Act approval or Section 68 Local Government Act approval have been inspected and signed off by Penrith City Council.
- 59 Prior to the issue of an Occupation Certificate, works-as-executed drawings, final operation and maintenance management plans and any other compliance documentation for the stormwater management 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.

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

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

- have been satisfactorily completed in accordance with the approved Construction Certificate and the requirements of this consent;
- have met the design intent with regard to any construction variations to the approved design, 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.

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

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

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 Policy - Appendix F.

62 Prior to the issue of an Occupation Certificate, a stub easement for drainage shall be provided over the stormwater connection to Council's drainage channel at the rear of the property (i.e. within Lot 12 DP 1176987), and evidence of registration of the easement with Land Registry Services (LRS) shall be submitted to the Principal Certifier and Penrith City Council, if Penrith City Council is not the Principal Certifier. Easement widths shall be in accordance with Penrith City Council's Stormwater Drainage Specification for Building Developments.

63 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.

64 Prior to the issue of an Occupation Certificate, to facilitate the entry and exit swept paths for the waste collection truck, "No Stopping" restrictions are to be installed on the southern side of Rodley Avenue either

side of the driveway removing the 3 required on-street parking spaces as shown by the swept path diagrams in the traffic report. A signage and linemarking plan is to be provided showing the proposed parking restrictions and this is to be approved by Council's Local Traffic Committee prior to implementation and installed at no cost to Council.

- 65 All vehicle parking spaces, parking aisles and driveways/circulating roads must be designed and built in accordance with AS 2890.1-2004, AS 2890.6-2009 and Council's requirements.
- 66 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.
- 67 The required sight lines around the driveway entrances are not to be compromised by landscaping, fencing or signage.
- 68 All vehicles are to enter/exit the site in a forward direction.
- 69 Sub-leasing of car parking spaces is not permitted by this consent.

Landscaping

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

Landscaping shall be maintained:

- in accordance with the approved plan, and
- in a healthy state, and in perpetuity by the existing or future owners and occupiers of the property.

If any of the vegetation comprising that landscaping dies or is removed, it is to be replaced with vegetation of the same species and, to the greatest extent practicable, the same maturity as the vegetation which died or was removed.

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

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The following series of reports relating to landscaping are to be submitted to the nominated consent authority at the appropriate time periods as listed below. These reports shall be prepared by a suitably qualified and experienced landscape professional.

i. Implementation Report

Upon completion of the landscape works associated with the development and prior to the issue of an Occupation Certificate for the development, an Implementation Report must be submitted to the Principal Certifying Authority attesting to the satisfactory completion of the landscaping works for the development. The report is to be prepared by suitably qualified and experienced landscape professional.

An Occupation Certificate should not be issued until such time as a satisfactory Implementation Report has been received. If Penrith City Council is not the Principal Certifying Authority, a copy of the satisfactory Implementation Report is to be submitted to Council together with the Occupation Certificate

for the development.

ii. Maintenance Report

On the first anniversary of the date of the Occupation Certificate issued for the development, a Landscape Maintenance Report is to be submitted to Penrith City Council certifying that the landscape works are still in accordance with the development consent and the plant material is alive and thriving.

- 73 All plant material associated with the construction of approved landscaping is to be planted in accordance with the Tree Planting Specification prescribed in *Penrith Development Control Plan 2014*.
- 74 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.
- 75 All trees that are required to be retained as part of the development are to be protected in accordance with the minimum tree protection standards prescribed in *Penrith Development Control Plan 2014*.
- 76 No trees are to be removed, ringbarked, cut, topped or lopped or wilfully destroyed (other than those within the proposed building footprint or as shown on the approved plans) without the prior consent of Penrith City Council and in accordance with Council's Tree Preservation Order and Policy.
- 77 An arborist with a minimum AQF (Australian Qualification Framework) Level 5 shall be engaged for the duration of the approved works to implement and comply with the measures within the approved Tree Protection Plan (Specification) and Drawing.
- 78 Prior to the issue of a Construction Certificate, the landscape plan is to be amended as follows:
- Two x 400-450mm plynths are to be provided in place of the retaining wall proposed to provide steps to the landscaped area and informal seating with solar access and a green outlook. The precise location of these plynths is indicated in red on the stamped approved plans.
 - Courtyard planters are to be provided around the perimeter of the terrace of Units 3 and 4, on top of the basement with shrub planting along the fence line.
 - An additional street tree is to be provided as indicated in red on the stamped approved architectural ground floor plan.
 - All trees are to have a minimum container size of 75 litres.
- 79 The tree/s to be retained must be retained and protected in accordance with AS 4970 -2009 - Protection of Trees on Development Sites.
- 80 **Prior to the commencement of any works**, a project arborist with a minimum AQF (Australian Qualification Framework) Level 5 shall be engaged to prepare a Tree Protection Plan (Specification) and Drawing in accordance with AS 4970 - 2009 to appropriately retain and protect Trees 6, 7, 10, 12 and 16.
- The completed Tree Protection Plan (Specification) and Drawing is to be provided to the Manager of Development Services for approval prior to the commencement of any works.
- The approved plan and its protection measures shall be in place prior to demolition commencing and a copy of the plan shall be retained on site at all times.
- 81 All precautions shall be taken to adequately protect trees on public property (i.e. footpaths, roads,

reserves, etc) against damage during construction. No trees on public property shall be removed, pruned or damaged during construction. This includes the erection of any fences, hoardings or other temporary works. The placement of construction materials beneath the canopy of street trees is prohibited.

82 At a minimum, the Tree Protection Plan (Specification) and Drawing shall:

- identify key stages where monitoring and certification will be required as outlined in AS 4970–2009, Section 5;
- provide a requirement that all contractors and workers on site shall be briefed on the tree protection and management procedures in place as part of their site induction. A written;
- record of the induction process is to be kept on site;
- require the project arborist to supervise any work within or directly adjacent to the Tree Protection Zone;
- nominate whether trunk and branch protection will be required to be installed on the tree and at what stages this may be required;
- permit the project arborist to alter/adjust the Tree Protection Zone or measures providing that reasons for this are clearly documented, justifiable, undertaken under the supervision of the project arborist and that those changes will not cause detriment or damage to the tree;
- require the project arborist to undertake site inspections not less than weekly to ensure that tree protection measures are in place;
- require the project arborist to keep a written record (e.g. field notes and photos) to provide evidence of site attendance and compliance with the approved conditions of consent;
- require the project arborist to forward a copy of the written record of inspection to the Principal Certifying Authority within 1 week of that inspection occurring;
- require the project arborist to identify whether there is a breach of the Tree Protection Plan. If a breach is identified the project arborist must report this to the Principal Certifying Authority and specify any remedial works and the timeframe in which these works must be completed. If an inspection reveals that there has been a significant breach of the Tree Protection Plan (Specification), inspections from then on must be carried out twice weekly.

Note: Minimum Tree Protection measures shall include:

- ensuring that the trees on the neighbouring property are adequately retained and protected. The site boundary fence shall remain in place for the duration of approved works to prevent physical damage to the neighbouring trees and ground protection provided as their Tree Protection Zones (TPZs) intrude into the subject site. Protection measures are to be in accordance with AS 4970 - 2009, Protection of Trees on Development Sites, Section 4.3;
- ensuring all trees to be retained and protected shall be clearly shown on all demolition and construction plans;
- providing for weather resistant signage in prominent locations on the tree protection fence that indicates access into the Tree Protection Zone is not permitted. The sign shall be a minimum dimension of 500mm high x 400mm wide of similar design and layout as per Appendix C, AS 4970 - 2009, Protection of Trees on Development Sites;
- requiring the project arborist to supervise any work within or directly adjacent to the Tree Protection Zone;
- requiring the project arborist to undertake regular inspections to ensure the fence and other tree protection measures are intact, comply with the above standard, are installed to the appropriate dimensions and provide effective protection for the trees to be retained;
- ensuring the Tree Protection Zone (TPZ) is maintained as per AS 4970 - 2009, Section 4.6. Access to the TPZ is permitted to undertake necessary maintenance such as mowing, watering and weed control;
- ensuring building materials, chemical storage, site sheds, wash out areas, and similar shall not be

located within the fenced Tree Protection Zone or that the Tree Protection Zone is not downstream of any washdown areas;

- providing a contingency should tree roots be exposed during approved works, to permit roots with a diameter less than 25mm to be pruned cleanly using sharp hand tools and not torn or ripped by machinery and require tree roots greater than 25mm in diameter to be assessed by a qualified arborist - minimum Australian Qualification Framework (AQF) Level 5 or equivalent - before any pruning work is undertaken.

Section 94

83 This condition is imposed in accordance with Penrith City Council's Development Contributions Plan for Cultural Facilities. Based on the current rates detailed in the accompanying schedule attached to this Notice, **\$11,756.00 is to be paid to Council prior to a Construction Certificate being issued for this development** (the rates are subject to quarterly reviews). If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted contributions plan. The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule.

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

84 This condition is imposed in accordance with Penrith City Council's Development Contributions Plan for District Open Space. Based on the current rates detailed in the accompanying schedule attached to this Notice, **\$99,494.00 is to be paid to Council prior to a Construction Certificate being issued for this development** (the rates are subject to quarterly reviews). If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted contributions plan. The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule.

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

85 This condition is imposed in accordance with Penrith City Council's Development Contributions Plan for Local Open Space. Based on the current rates detailed in the accompanying schedule attached to this Notice, **\$35,989.00 is to be paid to Council prior to a Construction Certificate being issued for this development** (the rates are subject to quarterly reviews). If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted contributions plan. The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule.

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

Certification

- 86 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.

- 87 An Occupation Certificate is to be obtained from the Principal Certifying Authority on completion of all works and prior to the occupation/use of the approved 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.

SIGNATURE

Name:	Lauren Van Etten
Signature:	

For the Development Services Manager