

# PENRITH CITY COUNCIL

## NOTICE OF DETERMINATION

### DESCRIPTION OF DEVELOPMENT

Application number:	DA16/0597
Description of development:	Demolition of Existing Structures, Construction of Six (6) Storey Mixed Use Development including Ground Floor Commercial Tenancy, 52 Residential Apartments & Two (2) Levels of Basement Car Parking
Classification of development:	Class 1a , Class 7a , Class 6

### DETAILS OF THE LAND TO BE DEVELOPED

Legal description:	Lot 57 DP 215146 Lot 58 DP 36728 Lot 59 DP 36728
Property address:	28 Somerset Street, KINGSWOOD NSW 2747 30 Somerset Street, KINGSWOOD NSW 2747 32 Somerset Street, KINGSWOOD NSW 2747

### DETAILS OF THE APPLICANT

Name & Address:	Zeftco Pty Ltd 1 Glenfern Close WEST PENNANT HILLS NSW 2125
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### DECISION OF CONSENT AUTHORITY

In accordance with Section 81(1) (a) of the Environmental Planning and Assessment Act 1979, consent is granted subject to the conditions listed in attachment 1.

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

Date from which consent operates	12 January 2017
Date the consent expires	12 January 2019
Date of this decision	16 December 2016

## POINT OF CONTACT

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

Assessing Officer:	Mathew Rawson
Contact telephone number:	+612 4732 7522

## NOTES

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### **Reasons**

The conditions in the attached schedule have been imposed in accordance with Section 80A of the Environmental Planning and Assessment Act 1979 as amended.

### **Conditions**

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

### **Certification and advisory notes**

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

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

### **Review of determination**

The applicant may request Council to review its determination pursuant to Section 82A of the Environmental Planning and Assessment Act 1979 within 6 months of receiving this Notice of Determination.

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

### **Appeals in the Land and Environment Court**

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

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

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

### **Designated development**

If the application was for designated development and a written objection was made in respect to the application, the objector can appeal against this decision to the Land and Environment Court within 28 days after the date of this notice. The objector cannot appeal if a Commission of Inquiry was held.

If the applicant appeals against this decision, objector(s) will be given a notice of the appeal and the objector(s) can apply to the Land and Environment Court within 28 days after the date of this appeal notice to attend the appeal and make submissions at that appeal.

### **Sydney West Planning Panels**

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

# ATTACHMENT 1: CONDITIONS OF CONSENT

## General

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

<b>Description</b>	<b>Reference Number</b>	<b>Prepared by</b>	<b>Dated</b>
Cover Sheet	Job No: 20072, Drawing No: DA0001, Revision: 02	Plus Architecture	18 October 2016
Survey/Demolition Plan	20072, DA0020, 01	Plus Architecture	03 June 2016
Basement 02	20072, DA0098, 02	Plus Architecture	18 October 2016
Basement 01	20072, DA0099, 02	Plus Architecture	18 October 2016
Ground Floor	20072, DA0100, 02	Plus Architecture	18 October 2016
Level 01	20072, DA0101, 02	Plus Architecture	18 October 2016
Level 02	20072, DA0102, 02	Plus Architecture	18 October 2016
Level 03	20072, DA0103, 02	Plus Architecture	18 October 2016
Level 04	20072, DA0104, 02	Plus Architecture	18 October 2016
Level 05	20072, DA0105, 02	Plus Architecture	18 October 2016
Roof	20072, DA0106, 02	Plus Architecture	18 October 2016
North Elevation	20072, DA0200, 02	Plus Architecture	18 October 2016
East Elevation	20072, DA0201, 02	Plus Architecture	18 October 2016
South Elevation	20072, DA0202, 02	Plus Architecture	18 October 2016
West Elevation	20072, DA0203, 02	Plus Architecture	18 October 2016
Section A-A	20072, DA0220, 02	Plus Architecture	18 October 2016
Section B-B	20072, DA0221, 02	Plus Architecture	18 October 2016
Section C-C	20072, DA0222, 02	Plus Architecture	18 October 2016
Section D-D	20072, DA0223, 02	Plus Architecture	18 October 2016
Adaptable Units	20072, DA0240, 02	Plus Architecture	18 October 2016
Materials and Finishes Schedule	20072, DA0360, 01	Plus Architecture	03 June 2016
Landscape Plan	103	Arcadia Landscape Architecture	June 2016
West Elevation	104	Arcadia Landscape Architecture	June 2016
Section A	105	Arcadia Landscape Architecture	June 2016
Section B	106	Arcadia Landscape Architecture	June 2016
Section C	107	Arcadia Landscape Architecture	June 2016
Section D	108	Arcadia Landscape Architecture	June 2016
Planting Schedule	110	Arcadia Landscape Architecture	June 2016
Planting Plan - Ground	201	Arcadia Landscape Architecture	June 2016

Planting Plan - Level 1-5 Typical	202	Arcadia Landscape Architecture	June 2016
Landscape Details - Hardworks	203	Arcadia Landscape Architecture	June 2016
Landscape Details - Softworks	204	Arcadia Landscape Architecture	June 2016
Landscape Specification	205	Arcadia Landscape Architecture	June 2016

Documents:

- BASIX Certificate No. 732169M
- Waste Management Plan - Elephants Foot - 31 October 2016
- Traffic and Parking Assessment - The Transport Planning Partnership Pty. Ltd. - Ref: 16021 - 2 November 2016
- Transport Impact Assessment - The Transport Planning Partnership Pty. Ltd. - Ref: 16021 - 17 June 2016
- Stormwater Management Report - Northrop - Ref: 151404-CR02-C - 06/10/16
- Waste Collection Vehicle Noise - SLR Consulting Australia - Ref: 610.15704-L01-v0.2 - 28 October 2016
- Noise Impact Assessment - SLR Consulting Australia - Ref: 610.15704-R1 - 27 May 2016
- Access Compliance Capability Statement - AE & D Pty. Ltd. - Ref: 6284 - 31 October 2016.
- Geotechnical Investigation - Douglas Partners - Ref: 85085.00 - 13 October 2015
- Aboricultural Impact Appraisal and Method Statement - Naturally Trees - 23 October 2015

2 Lot 57 in DP 215146 and Lots 58 and 59 in DP 36728 are all to be consolidated as one lot.

A copy of the registered plan of consolidation from Land and Property Information division of the Department of Lands is to be submitted to the Principal Certifying Authority (PCA) and Penrith City Council, if Council is not the PCA, prior to the issue of an Occupation Certificate for the development.

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

4 Delivery and service vehicles (including private garbage collection vehicles) generated by the development are limited to between 7am and 10pm Monday to Saturday.

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

6 **Prior to the issue of a Construction Certificate**, plans of the basement must be submitted to, and approved by, Council showing the allocation of all basement car parking. Car parking spaces shall be allocated as follows:

- At least 1 space per 1 or 2 bedroom unit.
- 2 spaces per 3 bedroom unit.
- 1 dedicated car washing bay.
- 10 dedicated visitor spaces.
- 5 spaces for the commercial tenancy.

**Note:** The accessible parking spaces must be allocated to the adaptable units.

**7 Prior to the issue of an Occupation Certificate**, the applicant shall make arrangements with Council's Traffic Engineers and the Local Traffic Committee to amend the marked on-street car parking to be consistent

with the proposal's vehicular access points as well as install the appropriate regulatory signage and linemarking. Such alterations shall be at no cost to Council.

- 8 **Prior to the issue of a Construction Certificate**, details of the proposed external building materials and colours are to be submitted to, and approved, by Council.
- 9 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 site.
  - 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:
- Be equipped with medium intensity steady red lighting positioned at the highest point and both ends of the boom/jib and counterboom/jib, such that the 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.
  - No part of the crane or structure shall extend beyond the boundaries of the subject 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.
- 10 **Prior to the issue of a Construction Certificate**, a design verification statement from a qualified designer shall be submitted. The design verification statement shall verify that the Construction Certificate plans and specifications achieve or improve the design quality of the development for which development consent was granted, having regard to the design quality principles set out in Part 2 of State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development.
- 11 **Prior to the issue of an Occupation Certificate**, a design verification statement from a qualified designer shall be submitted. The design verification statement shall verify that the development achieves the design quality shown in the approved Construction Certificate plans and specifications, having regard to the design quality principles set out in Part 2 of State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development.
- 12 Prior to the issue of an Occupation Certificate, 2.1 m high fencing shall be erected along the northern boundary behind the development's building setback from Somerset Street and along the eastern boundary behind the development's building setback from Hargrave Street. Such fencing and any required retaining walls required shall be constructed entirely at the expense of the persons having the benefit of this consent. Timber retaining walls are not permitted.
- 13 Any plant or unsightly structures installed on the external facades or rooftop must be screened from view.
- 14 Prior to the issue of a Occupation Certificate, Traffic Control Measures to minimise potential conflicts between the waste collection vehicle and other basement users shall be installed and in use as per the Traffic Management Plan prepared by The Transport Planning Partnership Pty. Ltd. dated 2 November 2016, reference 16021.

- 15 A Clearance Inspection shall be carried out and a Clearance Certificate issued by an independent licensed asbestos assessor (for Class A asbestos removal work) or an independent competent person (in any other case) **before any site excavation or construction works occur**. This Certificate is to be submitted to the Principal Certifying Authority **prior to the issue of the Construction Certificate**.

The Clearance Certificate is to verify that the surface of the development site is free from asbestos. The Clearance Inspection and Clearance Certificate is to be undertaken and prepared in accordance with the Work, Health and Safety Regulation 2011, and all applicable Australian Standards and NSW WorkCover Codes of Practice.

- 16 **Prior to the issue of the Construction Certificate**, written confirmation is to be prepared by a suitably qualified consultant confirming the contamination status of the soils under the existing structures on site. This documentation is to be submitted to Penrith City Council for consideration and approval prior to the issue of the Construction Certificate.

Where these areas are found to be unsuitable for the proposed land use, further works on site are not to commence and additional investigations are to be undertaken. Should any contamination be found and should remediation be required, development consent is to be sought from Penrith City Council before the remediation works commence. 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 and therefore require development consent.

- 17 Prior to the commencement of the development's use and in perpetuity, the following community safety and crime prevention through environmental design (CPTED) requirements shall be satisfied:

#### **Lighting**

- All lighting should be maintained and kept in a clean condition with all broken or burnt out globes replaced quickly.

#### **Basement Car Parking**

- Resident, staff, visitor and commercial tenancy parking spaces must be clearly identified within the basement car park.
- Pedestrian entry/exit points to the car park, including the lifts and stairwell, must also be fitted with access control systems 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 (walls/ceilings) should be light coloured to maximise light distribution.
- Signage must be in place to clearly identify exit and access points, the location of lifts and stairwells.
- CCTV cameras should be provided for this development and are recommended for the basement car park, particularly on entry/exit points, including lift lobbies and stairwells.

#### **Communal/Public Areas**

- Communal areas and utilities must be easily seen and well lit.
- Access to communal areas must be restricted to residents, staff and authorised guests/visitors only.
- Clear signage must be displayed to indicate the location of facilities, and to indicate facilities that are accessible/for use by residents only.
- Common areas that are not intended for night time use should be securely locked after hours. Signage should indicate opening hours for each facility/area.
- Open style or transparent materials are encouraged on doors and/or walls of elevators/stairwells.
- Seating should be located in areas of active uses.

#### **Residential Developments Building Identification**

- Each individual dwelling should be clearly numbered.
- Unit numbers should be clearly provided on each level.
- Each building entry should clearly state the unit numbers accessed from that entry.

### **Building Security & Access Control**

- CCTV Recordings must be made 24 hours/7 days and footage must be kept for a minimum period of 30 days. The CCTV control system must be located within a secured area within the main ground floor reception area and must only be accessed by authorised personnel. Signage noting that CCTV cameras have been installed must also be clearly displayed throughout the building, as proposed.
- Access from the street and pedestrian connections from within the building must be secured by a swipe card system and/or intercom to restrict unauthorised access, except for the ground floor commercial tenancies.
- Access to service areas and staff areas must be restricted via a swipe card by authorised staff which will assist in restricting unauthorised access.
- Main entry doors for apartment buildings should be displayed requesting residents to not leave doors wedged open.
- Australian Standard 220 door and window locks should be installed in all dwellings.
- Storage and loading dock areas should be well secured and well lit.
- viewers on entry doors shall be installed to allow residents to see who is at the door before it is opened.
- If security grills are used on windows they should be operable from inside in case of emergencies.

### **Ownership & Space Management**

- The management team must ensure that the building is maintained at all times, including replacement of lighting, regular maintenance of all public areas and landscaped open space and general repairs. Management must also ensure the speedy repair or cleaning of damaged or vandalised property and provide for the swift removal of graffiti.

### **Way Finding/Finding Help**

- Signs should be large and legible, and use strong colours, standard symbols and simple graphics. They should indicate where to go for help or assistance.
- Signs should be strategically located at entrances and near activity nodes such as intersections of corridors or paths.
- Signs should indicate how to report maintenance problems in the complex.
- Where exits to pedestrian routes are closed after-hours this should be indicated at the entrance to the route and information on alternative routes should be clearly advised.
- Signs that provide way finding information should not be relied upon solely, the overall legibility of the design needs to be well considered. Users of the space need to be able to intuitively understand where they are within the complex or area and how they can get away.
- Commercial facilities fronting the development must be clearly signposted and numbered. Street numbers should be at least 7 cm high, and positioned between 1 m and 1.5 m above ground level on the street frontage.
- Street numbers should be made of durable materials preferably reflective or luminous, and should be unobstructed (e.g. by foliage).
- Location maps and directional signage should be provided for the proposed development to assist with wayfinding.

### **Graffiti/Vandalism**

- Any blank surfaces fronting the development may be susceptible for graffiti vandalism. Graffiti resistant coatings must be used to external surfaces where possible, also including signage, furniture, retaining walls etc. Wall-hugging vegetation (i.e. 'green-screening') may also be considered to deter graffiti to vulnerable walls.
- Procedures must be in place to ensure the prompt removal and/or repair of graffiti or vandalism to the buildings, commercial tenancies and common areas. This includes reporting incidents to police and/or relevant authorities.

- 18 An Unexpected Finds Protocol (the Protocol) is to be developed by an appropriately qualified environmental consultant. **Prior to the issue of the Construction Certificate**, the Protocol is to be submitted to and approved by the Principal Certifying Authority. If Council is not the certifying authority for this development, the Protocol is required to be provided to Penrith City Council.

The Protocol is to address the management of any contamination found on the site during the excavation and construction phases of the development, including at minimum, contaminated soils, groundwater, buried



building materials, asbestos, odour and staining.

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

- 19 All dwellings within Penrith LGA are required to enter a formal agreement with Penrith City Council for the utilization of Council's Waste Collection Service. This is to include Council being provided with indemnity against claims for loss or damage.

**Note:** By entering into an agreement with Council for waste collection, the development will be required to operate in full compliance with Penrith City Councils 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.

The original signed copy is to be submitted to council prior to the issue of an Occupation Certificate.

- 20 Prior to the issue of a Construction Certificate, a revised basemenet plan shall be submitted and approved by Council which complies wit the following:

#### **Waste Chute System**

The waste chute room located in **basement 1** will need to incorporate the following infrastructure into its design:

- Incorporation of linear track device under each individual chute. System specifications will need to be provided with the operational clearances and location clearly outlined on architectural plans
- Minimum 0.9m clearances around the track device to allow the bins to be rotated and changed when full
- Suitable Door access for the service of bins with a minimum width of 1.8m
- Should a roller shutter door be provided an additional service door is required inclusive of an Abloy Key system
- Allow for the storage of 2x1,100L Service bins in each chute room with a minimum 1.4m wide unobstructed path of access

#### **Waste Collection Room**

The amended waste collection room will need to incorporate the following infrastructure into its design:

- Room built to store the 6x1,100L bins plus 0.2m between bins to allow adequate manoeuvrability room
- Suitable Door access for the service of bins with a minimum width of 1.8m
- Should a roller shutter door be provided an additional service door is required inclusive of an Abloy Key system
- The room is to be located adjacent to the loading bay

#### **Bulky Households Waste Room**

The Bulky Households Goods Room will need to incorporate the following infrastructure into its design:

- The room is to be 9m<sup>2</sup> in area to allow service of the development with a minimum room width of 1.8m
- Suitable Door access for the service of bins with a minimum width of 1.8m
- Should a roller shutter door be provided an additional service door is required inclusive of an Abloy Key system
- The room is to be located adjacent to the loading bay

## Demolition

- 21 All existing structures on site are to be demolished as part of the approved work.
- 22 All demolition works are to be conducted in accordance with the provisions of AS 2601-1991 "The Demolition of Structures". **Prior to demolition**, all services shall be suitably disconnected and capped off or sealed to the satisfaction of the relevant service authority requirements.

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

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

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

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

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

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

- 24 Dust suppression techniques are to be employed during demolition to reduce any potential nuisances to surrounding properties.
- 25 Mud and soil from vehicular movements to and from the site must not be deposited on the road.
- 26 Demolition works will be restricted to the following hours in accordance with the NSW Environment Protection Authority Noise Control Guidelines:
- Mondays to Fridays, 7am to 6pm
  - Saturdays, 7am to 1pm if inaudible on neighbouring residential premises, otherwise 8am to 1pm
  - No demolition work is permitted on Sundays and Public Holidays.

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

- 27 A soil erosion and sediment control plan, prepared in accordance with Landcom's "Managing Urban Stormwater: Soils and Construction" 2004, shall be submitted for consideration and approval with the Construction Certificate application. {Note: Visit [www.urbangrowth.nsw.gov.au](http://www.urbangrowth.nsw.gov.au) to obtain a copy of the publication.}

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

- 28 No fill material is to be imported to the site without the prior approval of Penrith City Council in accordance with Sydney Regional Environmental Plan No.20 (Hawkesbury- Nepean River) (No.2-1997). No recycling of material for use as fill material shall be carried out on the site without the prior approval of Council.
- 29 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.
- 30 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.
- 31 Noise levels from the premises shall not exceed the relevant noise criteria detailed in "28-32 Somerset St, Kingswood: Development Application prepared by SLR Consulting Australia Pty Ltd dated 31 May 2016 (Report No. 610.15704-R1) and in the additional correspondence prepared by SLR Consulting Australia Pty Ltd titled "28-32 Somerset St, Kingswood DA: Waste Collection Vehicle Noise" dated 28 October 2016.

The recommendations provided in both of the above-mentioned documents are to 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 development meets 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 Vehicle wash bays are to be installed and connected to the sewer in accordance with Sydney Water's requirements. The Section 73 Certificate issued by Sydney Water for the discharge of vehicle wash bay wastewater from the premises shall be submitted to the Principal Certifying Authority before the wash bay can be installed.

- 34 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.

## **BCA Issues**

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

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

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

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

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

- 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.

## **Health Matters and OSSM installations**

- 37 The rainwater tanks must be maintained so as not to create a nuisance and it must be protected against mosquito infestation.

## Utility Services

- 38 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](http://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.

- 39 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 relevant stage of 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.

- 40 **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

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

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

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

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

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

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

42 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.

43 A completed demolition and construction waste management plan shall be submitted to Penrith City Council for consideration and approval. Council must approve the plan before works can commence on site.

The waste management plan shall be prepared in accordance with the Penrith Development Control Plan (2014), and shall address all waste materials likely to result from the proposed development, with details of the estimated waste volumes, onsite storage and management, proposed re-use of materials, designated waste contractors, recycling outlet and / or landfill site.

The approved waste management plan must be implemented on-site and adhered to throughout all stages of the development including demolition, with supporting documentation / receipts retained in order to verify the recycling and disposal of materials in accordance with the approved plan.

44 Clothes drying facilities are to be provided and screened from public view.

45 The rainwater tank(s) is to be:

- erected on a self-supporting base in the approved location on the property in accordance with the stamped-approved site plans for the development,

- structurally sound and constructed in accordance with AS/NZS 3500 1.2- 1998: National Plumbing and Drainage - Water Supply - Acceptable Solutions,
- fully enclosed and all openings sealed to prevent access by mosquitoes,
- fitted with a first flush device,
- fitted with a trickle system to top up from mains water,
- provided with an air gap, and
- installed by a licensed plumber in accordance with Sydney Water's "Plumbing requirements Information for rainwater tank suppliers and plumbers April 2003" and the NSW Code of Practice: Plumbing and Drainage.

Additionally, the following are to be provided:

- A back flow prevention device shall be provided at the water meter in accordance with Sydney Water requirements.
- In the event of a power failure, a back up supply of mains water shall be provided to at least one toilet in the dwelling.
- The rainwater tank(s) and associated piping is to be labelled 'Rainwater - Not for Drinking' in accordance with Sydney Water requirements.
- The rainwater tank and pipework is to be painted in colours matching the external finishes of the dwelling and is to be of non-reflective finish.
- The overflow for the rainwater tank is to be connected into the existing stormwater disposal system on the site.

Before a rainwater tank(s) can be used, a certificate or suitable document is to be submitted to the Principal Certifying Authority stating that the rainwater tank has been installed in accordance with:

- the Manufacturer's Specifications, and
- Sydney Water and NSW Health requirements.

This certificate or documentation is to be provided by the licensed plumber who installed the rainwater tank on the property, and is to be submitted prior to the issue of the Occupation Certificate.

46 The catchment area (for the rainwater tank) includes the parts of the roof of the dwelling(s) from which water is collected and includes gutters. To ensure a safe supply of water:

- roof catchment areas must be kept clear of overhanging vegetation,
- gutters must have sufficient fall to downpipes to prevent pooling of water,
- overflow, discharge from bleed off pipes from roof mounted appliances such as airconditioners, hot water services and solar heaters must not discharge into the rainwater catchment area,
- for roofs containing lead based, tar based or asbestos material the tank supply must not be connected to drinking, bathing and gardening tap water outlets,
- appropriate measures must be installed to prevent foreign materials from contaminating the water which enters the rainwater tank.

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

48 The rainwater tank pump must not exceed 5dBA above ambient background noise level at the nearest residential property boundary. The provisions of the Protection of the Environment Operations Act 1997 apply to the development, in terms of regulating offensive noise.

49 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.

- 50 The Construction Certificate must be accompanied by certification from an accredited Access Consultant confirming that the adaptable units are capable of being modified, when required by the occupant, to comply with the Australian Housing Standard (AS4299- 2009).
- 51 All onsite waste infrastructure including the Waste Chute Room, Temporary Waste Storage Room, Waste Collection Room and Bulky Household goods room will need to incorporate the following minimum design specifications and shall be shown on the plans submitted with the Construction Certificate:
- The floor must be finished so that it is non-slip and has a smooth and even surface covered at all intersections
  - Floor graded to a central drainage point connected to the sewer, enabling all waste to be contained and safely disposed of
  - Fully enclosed and roofed with a minimum internal room height in accordance with the Building Code of Australia 2016 (BCA)
  - The room is to be provided with an adequate supply of water through a centralized mixing valve with hose cock
  - Incorporation of adequate lighting and naturally/mechanical ventilation to meet Building Code of Australia 2016 requirements

## Engineering

- 52 All roadworks, stormwater drainage works, associated civil works and dedications, required to effect the consented development shall be undertaken at no cost to Penrith City Council.
- 53 An Infrastructure Restoration Bond is to be lodged with Penrith City Council for development involving works around Penrith City Council's Public Infrastructure Assets. The bond is to be lodged with Penrith City Council prior to the issue of any Construction Certificate. The bond and applicable fees are in accordance with Council's adopted Fees and Charges.

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

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

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

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

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

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

Note:

- a) Where Penrith City Council is the Certifying Authority for the development, the Roads Act approval for the above works may be issued concurrently with the Construction Certificate.
- b) Separate approvals may also be required from the Roads and Maritime Services for classified roads.
- c) All works associated with the Roads Act approval must be completed prior to the issue of any Occupation Certificate.
- d) On completion of any awning over the road reserve, a certificate from a practising structural engineer certifying the structural adequacy of the awning is to be submitted to Council before Council will inspect the works and issue its final approval under the Roads Act

55 Stormwater drainage from the site shall be discharged to the:

- a) Street drainage system

The proposed development and stormwater drainage system shall be designed to ensure no adverse impact on adjoining properties by the diversion, damming or concentration of stormwater flows.

The proposed method of stormwater discharge shall be detailed in the Construction Certificate issued by the Certifying Authority.

56 The stormwater management system shall be provided generally in accordance with the concept plan/s lodged for development approval, prepared by Northrop, reference number 151404 - DA-C1.00 to DA-C3.01, revision 4, dated 06.10.16.

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

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

57 Prior to the issue of any Construction Certificate, the Certifying Authority shall ensure that the stormwater drainage system for the basement car park has been designed in accordance with the requirements for

pumped systems in AS3500.3 (or as amended) (Plumbing and Drainage – Stormwater Drainage).

- 58 Prior to the issue of any Construction Certificate, the Certifying Authority shall ensure that vehicular access, circulation, manoeuvring, pedestrian and parking areas associated with the subject development are in accordance with AS 2890.1, AS2890.2, AS2890.6 and Penrith City Council's Development Control Plan.
- 59 Prior to commencement of any works associated with the development, a Traffic Control Plan, including details for pedestrian management, shall be prepared in accordance with AS1742.3 "Traffic Control Devices for Works on Roads" and the Roads and Maritime Services' publication "Traffic Control at Worksites" and certified by an appropriately accredited Roads and Maritime Services Traffic Controller.

Traffic control measures shall be implemented during the construction phase of the development in accordance with the certified plan. A copy of the plan shall be available on site at all times.

Note:

- a) A copy of the Traffic Control Plan shall accompany the Notice of Commencement to Penrith City Council.
  - b) Traffic control measures may require road occupancy / road closure approvals issued under Section 138 of the Roads Act by Penrith City Council prior to Construction Certificate.
- 60 All earthworks shall be undertaken in accordance with AS 3798 and Penrith City Council's Design Guidelines for Engineering Works for Subdivisions and Developments and Engineering Construction Specification for Civil Works.
- The level of testing shall be determined by the Geotechnical Testing Authority/ Superintendent in consultation with the Principal Certifying Authority.
- 61 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.
- 62 All existing (aerial) and proposed services for the development, including those across the frontage of the development are to be located or relocated underground in accordance with the relevant authorities regulations and standards.
- 63 Prior to the issue of any Occupation Certificate, the Principal Certifying Authority shall ensure that all works associated with a Section 138 Roads Act approval or Section 68 Local Government Act approval have been inspected and signed off by Penrith City Council.
- 64 Prior to the issue of any Occupation Certificate, the Principal Certifying Authority shall ensure that the:
- a) Stormwater management systems (including on-site detention and water sensitive urban design)
    - Have been satisfactorily completed in accordance with the approved Construction Certificate and the requirements of this consent.
    - Have met the design intent with regard to any construction variations to the approved design.
    - Any remedial works required to been undertaken have been satisfactorily completed.

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

drawings.

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

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

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

66 Prior to the issue of any Occupation Certificate, directional signage and linemarking shall be installed indicating directional movements and the location of customer parking to the satisfaction of the Principal Certifying Authority.

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

## Landscaping

68 All landscape works are to be constructed in accordance with the stamped approved plans, subject to the revisions shown on the stamped approved architectural plans, and Sections C6 of Penrith Development Control Plan 2014.

Landscaping shall be maintained:

- in accordance with the approved plans, 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.

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

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

i. Implementation Report

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

An Occupation Certificate, for the relevant stage, 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 being issued, a Landscape Maintenance Report is to be submitted to Penrith City Council certifying that the landscape works are still in accordance with the development consent and the plant material is alive and thriving.

This report is to be prepared by a suitably qualified and experienced landscape professional.

iii Three Year Landscaping Report

Three years after an Occupation Certificate was issued for the relevant stage of the development, a suitably qualified and experienced landscape professional shall prepare a Landscaping Report for Council's consideration and approval, certifying one of the following:

- (a) The landscaping on site has matured and is in accordance with the original landscape approval.
- (b) The landscaping on site has not matured in accordance with the original design philosophy and requires significant restoration.

In this case, restoration plans are to be submitted to Council for its consideration and approval. The approved plans shall be implemented at the expense of the property owners.

- 71 All plant material associated with the construction of approved landscaping is to be planted in accordance with the Tree Planting Specification prescribed in Penrith Council's Development Control Plan 2014.
- 72 All landscape works are to meet industry best practice and the following relevant Australian Standards:
  - AS 4419 Soils for Landscaping and Garden Use,
  - AS 4454 Composts, Soil Conditioners and Mulches, and
  - AS 4373 Pruning of Amenity Trees.
- 73 All trees that are required to be retained as part of the development are to be protected in accordance with the minimum tree protection standards prescribed in the Landscape Section of Penrith Development Control Plan 2014.
- 74 No trees are to be removed, ringbarked, cut, topped or lopped or wilfully destroyed (other than those within the proposed building footprint or as shown on the approved plans) without the prior consent of Penrith City Council and in accordance with Council's Tree Preservation Order and Policy.
- 75 All precautions shall be taken to adequately protect trees on public property (ie. 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.

## Section 94

76 This condition is imposed in accordance with Penrith City Council's Section 94 Contributions Plan for Cultural Facilities. Based on the current rates detailed in the accompanying schedule attached to this Notice, \$17,370.00 to be paid to Council prior to the issue of a Construction Certificate (the rates are subject to quarterly reviews and indexed according to the Consumer Price Index). The final Section 94 invoice will be issued for each respective stage to facilitate staged payment of development contributions.

If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted Section 94 plan. The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule.

Council should be contacted prior to payment to ascertain the rate for the current quarterly period. The S94 invoice accompanying this consent should accompany the contribution payment. The Section 94 Contributions Plan for Cultural Facilities may be inspected at Council's Civic Centre, 601 High Street, Penrith.

77 This condition is imposed in accordance with Penrith City Council's Section 94 Contributions Plan for District Open Space. Based on the current rates detailed in the accompanying schedule attached to this Notice, \$176,994.00 to be paid to Council prior to the issue of a Construction Certificate (the rates are subject to quarterly reviews and indexed according to the Consumer Price Index). The final Section 94 invoice will be issued for each respective stage to facilitate staged payment of development contributions.

If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted Section 94 plan. The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule. Council should be contacted prior to payment to ascertain the rate for the current quarterly period.

The S94 invoice accompanying this consent should accompany the contribution payment. The Section 94 Contributions Plan for District Open Space be inspected at Council's Civic Centre, 601 High Street, Penrith.

78 This condition is imposed in accordance with Penrith City Council's Section 94 Contributions Plan for Local Open Space. Based on the current rates detailed in the accompanying schedule attached to this Notice, \$64,017.00 to be paid to Council prior to the issue of a Construction Certificate (the rates are subject to quarterly reviews and indexed according to the Consumer Price Index). The final Section 94 invoice will be issued for each respective stage to facilitate staged payment of development contributions.

If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted Section 94 plan. The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule.

Council should be contacted prior to payment to ascertain the rate for the current quarterly period. The S94 invoice accompanying this consent should accompany the contribution payment. The Section 94 Contributions Plan for Local Open Space be inspected at Council's Civic Centre, 601 High Street, Penrith.

## Certification

- 79 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.

- 80 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 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:	Mathew Rawson
Signature:	

For the Development Services Manager