

PENRITH CITY COUNCIL

MAJOR ASSESSMENT REPORT

Application number:	DA16/0254
Proposed development:	Demolition of Existing Structures & Construction of Seven (7) Storey Mixed Use Development containing Ground & First Floor Commercial Tenancies x 5, Residential Apartments x 45 & Ground Level & Basement Car Parking
Property address:	342 - 346 High Street, PENRITH NSW 2750 342 - 346 High Street, PENRITH NSW 2750 342 - 346 High Street, PENRITH NSW 2750 342 - 346 High Street, PENRITH NSW 2750
Property description:	Lot 1 SP 65435 Lot 4 SP 65435 Lot 2 SP 65435 Lot 3 SP 65435
Date received:	15 March 2016
Assessing officer	Mathew Rawson
Zoning:	Zone B4 Mixed Use - LEP 2010
Class of building:	Class 2 , Class 5 , Class 7a
Recommendations:	Deferred Commencement

Executive Summary

Council is in receipt of a development application for a mixed use development comprising a mixed use building with 5 commercial tenancies (1 office and 4 retail premises) and 15 residential units as well as a residential flat building with 30 units (totalling 45 units on the site) at 342-346 High Street, Penrith. The subject site is zoned B4 Mixed Use under the Penrith Local Environmental Plan (LEP) 2010. Both commercial premises and residential flat buildings are permissible land uses in the B4 zone with Council consent.

Key issues identified for the proposed development and site include:

- Urban Design Review Panel (UDRP) comments which have now been addressed by way of revised plans which result in revised unit layouts and reduced barriers to pedestrian and transport movement through the site.
- Waste Collection, which is undertaken by way of a dedicated loading bay at ground floor level.
- Heritage status of numerous properties both directly adjacent to the proposal and in the nearby locality. Accordingly a Statement of Heritage Impact was prepared and the advice therein was incorporated into the design of the proposal.
- Height of Building variation required to a LEP development standard. The variation is deemed acceptable given the design excellence, consistency with the Penrith City Centre and B4 Mixed Use planning provisions as well as the residential amenity achieved by the proposal.
- Floor Space Ratio variation required to a LEP development standard. The variation is deemed acceptable given the design excellence, consistency with the Penrith City Centre and B4 Mixed Use planning provisions as well as the residential amenity achieved by the proposal.
- Lack of a Preliminary Site Investigation (PSI) contamination assessment. Given a review of aerial photography and there being little evidence for contaminating land uses being conducted from the land, the potential for contamination is considered to be low. Nonetheless, the development consent is recommended to include a deferred commencement condition which requires a PSI be submitted and approved by Council. Additionally should any remediation or further reports be recommended by the PSI then these will be required to have been conducted prior to the issue of an Operational Consent.
- Minor variations to planning controls such as building depth, building separation and provision of communal open space.

The application has been notified to adjoining and nearby properties, advertised in the local newspaper and placed on public exhibition for a period of 14 days. No submissions were received.

An assessment under Section 79C of the Environmental Planning and Assessment Act 1979 has been undertaken and the application is recommended for approval, by way of deferred commencement and subject to the recommended conditions of consent.

Site & Surrounds

The subject site is 342-346 High Street, Penrith (SP 65435) as well as the rear 10 m of 340 High Street, Penrith (Lot 11 DP 1013730).

The subject site is located about 300m south of Penrith Station. It is located on High street, one of the main retail streets in Penrith. The site is surrounded by mostly 2 storey commercial and retail development. The site is adjacent to and opposite buildings of heritage significance.

Proposal

The proposed development involves the demolition of existing commercial buildings and all other structures on the site, the removal of all trees and other vegetation and the construction of a mixed use development comprising:

- 1 x 7 storey mixed use building fronting High Street containing 5 commercial tenancies (4 retail premises at ground floor and 1 office premises at first floor) and 15 residential units;
- 1 x 7 storey residential flat building containing 30 units;
- Provision of 84 car parking spaces across two levels of shared basement parking and surface parking.

Plans that apply

- Local Environmental Plan 2010 (Amendment 4)
- Development Control Plan 2014
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- State Environmental Planning Policy No 55—Remediation of Land
- State Environmental Planning Policy No 64—Advertising and Signage
- State Environmental Planning Policy No 65—Design Quality of Residential Flat Development
- Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

Planning Assessment

• Section 79C - Evaluation

The development has been assessed in accordance with the matters for consideration under Section 79C of the Environmental Planning and Assessment Act 1979, and having regard to those matters, the following issues have been identified for further consideration:

Section 79C(1)(a)(i) The provisions of any environmental planning instrument

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

This Policy ensures the implementation of the BASIX scheme that encourages sustainable residential development. It requires certain kinds of residential development to be accompanied by a list of commitments to be carried out by applicants. The proposal is subject to these requirements as it involves the construction of a residential flat building.

A Thermal Comfort and BASIX Assessment (Certificate No. 637931M) was submitted with the development application and demonstrates compliance with set sustainability targets for water and energy efficiency and thermal comfort and in this respect, the proposal is compliant with the Policy. This assessment also concluded that the development would receive a 5 star rating under the National House Energy Rating Scheme (natHERS).

State Environmental Planning Policy No 55—Remediation of Land

SEPP 55 requires that Council, in determining any development of land, must consider whether the land is contaminated and whether it is suitable for the proposed land use.

Specifically, Clause 7(2) of SEPP 55 requires that Council "before determining an application for consent to carry out development that would involve a change of use... the consent authority must consider a report specifying the findings of a preliminary investigation of the land concerned carried out in accordance with the contaminated land planning guidelines". This development application proposes a change of use from an existing commercial land use to a proposed mixed use development comprising both residential and commercial components in Building A, and residential development (including car parking facilities) in Building B.

A review of aerial photography has found no potentially contaminating activities being conducted on site, nor is there any evidence of contaminating land uses being conducted from the land based on Council's register of development consents. Therefore the potential for contamination is considered to be low and Council can be satisfied that in the unlikely event of a preliminary site investigation finding any evidence of contamination, this is likely to be of a minor nature and the land if required can be made suitable for the proposed land use.

Accordingly the applicant will be required to address all relevant requirements under State Environmental Planning Policy No. 55 - Remediation of Land (SEPP 55) prior to the issue of an Operational Consent by way of a recommended deferred commencement condition. Council may consent to the development as there is certainty that any remediation requirements can be satisfied. Should remediation be required this remediation will require further development consent. An unexpected finds protocol is also recommended to be prepared and adhered to during excavation of the site.

State Environmental Planning Policy No 64—Advertising and Signage

No signage other than building identification signage and business identification signage for the first floor office premises is proposed under this application.

In relation to the provisions of State Environmental Planning Policy No. 64 - Advertising and Signage, the proposed development is deemed acceptable. The proposed signage is compatible with the visual character of the area, will provide effective communication and is of a high quality design and finish consistent with the objectives of SEPP 64.

The proposal has been assessed against the following assessment criteria of SEPP 64:

1. Character of the area

The proposal is compatible with the character of the surrounding commercial area. There is no particular theme for outdoor advertising in the locality, but the proposal is consistent in character with signage on the existing surrounding buildings.

2 Special areas

The proposed signage is not within an environmentally sensitive or heritage conservation area and will not be visible from any residential area.

3 Views and Vistas

The proposed sign age will be mounted flush with the building and there are no important views in the locality that will be affected. The proposed signage will not affect the skyline or any vistas. The proposed signage will not affect other advertisers.

4 Streetscape. setting or landscape

The proposed signage will be located on the building and is appropriate in scale, proportions and form for the setting. The proposed signage will add some visual interest to a modern building elevation within a commercial streetscape. There is no clutter of existing advertising on the site. The proposed signage will not screen any unsightly object. The proposed signage will not protrude above the building or tree canopies. There is no nearby vegetation that will require ongoing management as a result of the proposal.

5 Site and building

The proposed signage is compatible in scale and proportions with the respective building elevation. There are no important features of the site. The proposal is conventional in its location and proportions.

6 Associated devices and logos with advertisements and advertising structures

No safety devices, platforms or lighting devices have been designed as an integral part of the proposal.

7 Illumination

No illumination is proposed.

8 Safety

The proposed signage is set well back from the public roadway, will not be animated or changeable and will not interfere with any traffic control device. The proposed signage will not obscure sightlines for vehicles, pedestrians and bicyclists.

The signage is ancillary to the land use proposed on the site. The site is located on High Street and is within a B4 Mixed Use zone. The surrounding area is comprised of various signage styles which range from small to large scale designs. Given the diverse range of signage themes in the area in addition to the high quality design of the proposed signage, the proposal will provide effective communication without compromising the visual amenity of the surrounding area.

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

The proposed development is consistent with the aims and objectives of SEPP 65. The accompanying SEPP 65 regulations require the involvement of a qualified designer throughout the design, approval and construction stages. In this regard, the application has been accompanied by a design verification statement from a suitably qualified designer and the design was supported by Council's Urban Design Review Panel following design revisions.

An assessment has been undertaken of the proposed development in relation to the nine design quality principles and the related Apartment Design Guide (ADG). The proposal is for the most part in accordance with the provisions of the SEPP and the ADG, although the following matters are noted for discussion:

3D Communal Open Space

The proposed development does not provide for any dedicated communal open space areas.

The ADG outlines that:

"Where developments are unable to achieve the design criteria, such as on small lots, sites within business zones, or in a dense urban area, they should:

- *provide communal spaces elsewhere such as a landscaped roof top terrace or a common room;*
- *provide larger balconies or increased private open space for apartments;*
- *demonstrate good proximity to public open space and facilities and/or provide contributions to public open space."*

In this regard the proposal complies with the objectives of the ADG's open space requirements.

The proposed development provides for balcony spaces (private open space) larger than the minimum requirements, is located in proximity to both existing, and planned, public open space and the developer will be required to pay significant developer contributions towards the provision of public open space and facilities in the locality.

2E Building Depth

Only 11 of 45 (24.4%) kitchens will receive direct access to natural ventilation. This falls marginally short of the ADG's 25% requirement. Given that all single aspect units are less than 8 m in depth and cross through units are less than 15 m in depth, this minor variation is considered to be acceptable.

3F Separation between Windows and Balconies

The site is adjacent to one and two storey heritage buildings on its eastern side. The proposed development sets up a curtilage around these heritage items. Building A has a minimum side setback of 4 m which extends to 6 m at the street frontage. Given the unlikely redevelopment of the adjoining heritage item, and the external screening proposed along this facade, this setback is considered satisfactory. Building A has a zero setback to High Street and John Cram Place to continue the street wall in accordance with the site specific DCP controls and a zero setback to the northern neighbour, however no windows or balconies are orientated in this direction.

Building B has zero side setbacks to the north and south however no windows are orientated towards these boundaries and the zero setback will aid redevelopment of the adjoining sites. The rear setback varies from 4 m to 6 m and is considered acceptable given the high density CBD locality and additional privacy provided by the external blade walls on the southern facade.

Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

An assessment has been undertaken of the application against relevant criteria within Sydney Regional Environmental Plan No 20—Hawkesbury-Nepean River (No 2—1997) and the application is satisfactory subject to recommended conditions of consent.

Local Environmental Plan 2010 (Amendment 4)

Provision	Compliance
Clause 1.2 Aims of the plan	Complies
Clause 2.3 Permissibility	Complies - See discussion
Clause 2.3 Zone objectives	Complies
Clause 2.7 Demolition requires development consent	Complies
Clause 4.1A Minimum lot sizes for dual occupancies, multi dwelling housing and residential flat buildings	N/A
Clause 4.3 Height of buildings	Does not comply - See discussion
Clause 4.4 Floor Space Ratio	Does not comply - See discussion
Clause 4.5 Calculation of floor space ratio and site area	Complies
Clause 4.6 Exceptions to development standards	Complies - See discussion
Clause 5.9 Preservation of trees or vegetation	Complies
Clause 5.10 Heritage conservation	Complies - See discussion
Clause 7.1 Earthworks	Complies
Clause 7.4 Sustainable development	Complies
Clause 7.6 Salinity	Complies
Clause 7.7 Servicing	Complies
Clause 7.8 Active street frontages	Complies
Clause 7.12 Maximum gross floor area of commercial premises	N/A
Clause 8.1 Application of Part	Complies
Clause 8.2 Sun access	Complies
Clause 8.3 Minimum building street frontage	Complies
Clause 8.4 Design excellence	Complies - See discussion
Clause 8.5 Building separation	Complies

Clause 2.3 Permissibility

The subject site is zoned B4 Mixed Use under the Penrith Local Environmental Plan 2010. Development for the purposes of residential flat buildings and commercial premises is permissible within this zone, with the consent of Council.

Clause 4.3 Height of buildings

The maximum height permissible for the site under the Penrith LEP 2010 is 12 m. The development proposes a maximum height slightly greater than 24m and does not comply.

Clause 4.6 of the LEP states that development consent may be granted for development even though the development may contravene a development standard imposed by an environmental planning instrument if Council has considered a written request from the applicant addressing the provisions of the Clause.

The application was not lodged with a written request to vary a development standard required by the LEP. In correspondence sent 13 April 2016 the applicant was requested to provide a statement addressing the above and a response was received 22 December 2016. See the Clause 4.6 section below for further details.

Clause 4.4 Floor Space Ratio

The subject site is identified on Council's Floor Space Ratio Map as being subject to two differing maximum floor space ratios. The 7 storey mixed use building fronting High Street is subject to a maximum floor space ratio of 2:1. The 7 storey residential flat building located to the rear is subject to a maximum floor space ratio of 3:1.

The development proposes a total of floor space ratio over the whole of the site of 2.982:1 and is therefore partially non-compliant with the development standard.

The total site area is documented as being 1,610.83 sqm (Site A = 765.41 sqm and Site B = 854.42 sqm). Submitted plans indicate Gross Floor Area as follows:

Proposed Gross Floor Area

Mixed Use Building (Building A) = 2338.43 sqm (3.055 : 1) - Does not comply.

Residential Flat Building (Building B) = 2464.43 sqm (2.884 : 1) - Complies.

Quantum Calculation $(2338.43+2464.43) / 1610.83 = 2.982:1$ FSR.

The application was not lodged with a written request to vary a development standard required by the LEP. In correspondence sent 13 April 2016 the applicant was requested to provide a statement addressing the above and a response was received 22 December 2016. See the Clause 4.6 section below for further details.

Clause 4.6 Exceptions to development standards

(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument.

Comment: As noted above the development contravenes the development standard for height of buildings under Clause 4.3 and floor space ratio under Clause 4.4 of the Penrith LEP 2010.

(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

(b) that there are sufficient environmental planning grounds to justify contravening the development standard.

Comment: (a) & (b) The applicant's request to vary Clause 4.3 and Clause 4.4 adequately demonstrated as follows that compliance with the development standards is unreasonable or unnecessary in this case and additionally the applicant submitted the following planning grounds to justify the proposed contravention of the development standards (own emphasis):

*"The proposed design provides a landmark architectural building for the Penrith Town Centre. As a backdrop to the vibrant High Street, adjacent to several significant heritage items, and located in Council's proposed new Legal precinct (as part of the Penrith New West initiative) the subject site is in a prominent location in the Penrith Town Centre and **ideal for a high standard architectural and urban design solution.***

Rather than repeating the residential grain of surrounding developments, this development embodies a sleek, elegant form to reflect the commercial and retail nature of a CBD location, whilst providing high-end apartments into the Town Centre, promoting pedestrian activity around a more retail and commercial streetscape.

The proposed development seeks to maintain the DCP envelopes in the existing streetscape in accordance with the DCP guidelines to provide a consistency in scale with the recent and proposed commercial developments at the eastern end of the High Street CBD. This provides a consistent streetscape with increased activity as you enter the traditional heart of the Penrith CBD.

Whilst the DCP and LEP allow a 0 m setback to the adjacent heritage items at 340 High Street, the development proposal actually increases the building setback in order to pull the new building away from the boundary to provide an appropriate curtilage around the heritage buildings at 340

High Street.

*This provides the old Bank Building at 340 High Street to have 'breathing space' with the opportunity to appreciate this building from the western and southern elevations, The proposal also reinstates the prominence of the Old Bank Building at 340 High Street in the streetscape through the use of symmetry. **Using the proportions of the Bank Building's large archways the proposal incorporates a new entry structure for 344 High Street at the ground level within the setback from the eastern boundary to provide relief for the bank building.***

This curtilage is reinforced by the extension of the vertical blades on the curved eastern facade which through the use of a bridging steel structure, provides an integrated facade between the front and rear buildings on the site which provide a consistent texture which acts as a backdrop to the heritage buildings. This backdrop not only addresses the Bank Building on the 340 High Street frontage, but also the old stables building at the rear of the site, providing a neatly landscaped courtyard at the end of John Cram Place.

The curved nature of the building also sets up the potential for a 'heritage precinct' where new developments in line with the LEP and DCP objectives can address the heritage buildings in this area, such as the items at 340 High Street and the Catholic Church adjacent. The proposal also provides a direct connection between High Street and the old 'Stables' building at the rear of 340 High Street. We note that the ground floor retail covers the entire frontage of High Street but is designed in such a way to provide pedestrian access through the retail space to the rear of the site.

We are looking to bring pedestrian activity into the site through a secure covered walkway, which can be used by commercial tenancies to promote pedestrian activity and passive surveillance at the end of John Cram Place.

The proposal also seeks to address John Cram Place through location of the residential lobbies for the development, which enter directly onto John Cram Place. This creates immediate pedestrian activity on the laneway, and changes it from a vehicle only service lane, to an active alive street.

The installation of a new stormwater drainage line, a new footpath and external lighting for pedestrian safety enhance this treatment. Through careful attention to form, massing and architectural detail the proposal has a distinct character. Located in the new legal precinct identified in the Penrith New West initiative the use of high quality materials, bold architectural features, and an expansive building form which curves and wraps around existing heritage items, result in a building which is not a regular residential apartment block.

The role of this building in the public domain is to promote pedestrian activity in the precinct, set a high standard for architectural detailing and finishing, to celebrate and acknowledge the heritage buildings that are adjacent to this site, and importantly with regard to the public domain set a precedent for future developments in the area.

The proposal maintains the streetscape envelope required by the DCP. The street frontage is an appropriate scale for pedestrian interaction, allows for the streetscape to retain good access to natural light and ventilation. Whilst it maintains the desired street wall along High Street the ground floor design allows for high pedestrian activity and easy access through the site to buildings at the rear of the site on John Cram Place on adjacent properties.

The public domain is also improved at the southern side of the building. New pedestrian footpath, external lighting and guttering mean that the development provides a pedestrian friendly environment along John Cram Place without compromising the service function the laneway performs for the existing commercial premises. With increased pedestrian activity there is regular surveillance of this laneway, which makes this a safe place.

Council's intention to maintain a 12 m height limit along High Street to provide a natural light to public spaces and to take into account a number of heritage buildings is understood. This proposal maintains the DCP setbacks and heights for the streetscape. We also provide a more significant presence of the heritage building adjacent to our site but using the same proportions of that for our walkway entry."

(4) Development consent must not be granted for development that contravenes a development standard unless:

(a) the consent authority is satisfied that:

(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and

(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and

(b) the concurrence of the Director-General has been obtained.

Comment: (a) The applicant's written request as detailed above is considered satisfactory in addressing the matters required by subclause (3). The proposed development represents a suitable development of the site in terms of the desired character for the locality and is therefore considered to be in the public interest.

(b) Department of Planning Circular PS 08–003 notified the assumed concurrence of the Director General for all exceptions to development standards under Clause 4.6 of the standard instrument LEP (aside from some controls relating to subdivision in rural and environmental zones).

In conclusion the proposed variations are supported on the basis of their consistency with the matters for consideration outlined in Clause 4.6.

Clause 5.10 Heritage conservation

The subject site is located adjacent to and nearby a number of significant heritage items. Accordingly a Statement of Heritage Impact prepared by Margaret Fallon of Integrated Design Associates was submitted in support of the application which outlined a number of advisory recommendations which were incorporated into the design of the proposal.

Council's Heritage Advisor, Otto Cserhalmi, reviewed the proposed development and Statement of Heritage Impact. Mr Cserhalmi found that: "The proposed bulk and scale of the building is acceptable from a heritage perspective given the context of the site, being in the city centre. It is noted the access to the adjacent heritage items at the rear will be impacted by the development and the assessing officer should consider the proposed arrangements, particularly during construction. The impacts of the item are however negligible as the item will not be altered and will maintain visibility to the end of the laneway."

Clause 8.4 Design excellence

(1) Development consent must not be granted for development involving the construction of a new building, or external alterations to an existing building, on land to which this Part applies unless, in the opinion of the consent authority, the proposed development exhibits design excellence.

(2) In deciding whether development to which this clause applies exhibits design excellence, the consent authority must have regard to the following matters:

(a) whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved,

(b) whether the form and external appearance of the development will improve the quality and amenity of the public domain,

(c) whether the development will detrimentally impact on view corridors,

(d) whether the development will detrimentally impact on any land identified as "Area 4" on the Height of Buildings Map,

(e) how the development will address the following matters:

(i) the suitability of the land for development,

(ii) existing and proposed uses and use mix,

(iii) heritage issues and streetscape constraints,

(iv) the relationship of the development with other buildings (existing or proposed) on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form,

(v) bulk, massing and modulation of buildings,

(vi) street frontage heights,

(vii) environmental impacts such as sustainable design, overshadowing, wind and reflectivity,

(viii) the achievement of the principles of ecologically sustainable development,

(ix) pedestrian, cycle, vehicular and service access, circulation and requirements,

(x) the impact on, and any proposed improvements to, the public domain.

Comment: The proposed development is considered to exhibit design excellence given its response to heritage issues and streetscape constraints, bulk massing and modulation of the buildings and the proposed improvements to pedestrian, cycle, vehicular and service access and circulation.

- (3) Development consent must not be granted for any of the following development on land to which this Part applies unless an architectural design competition has been held in relation to the development:*
- (a) development in respect of a building that is, or will be, greater than 24 metres or 6 storeys (or both) in height,*
 - (b) development that has a capital value of more than \$1,000,000 on a key site identified on the Key Sites Map,*
 - (c) development for which the applicant has chosen to have an architectural design competition.*
- (4) Subclause (3) does not apply if the Director-General certifies in writing that the development is one for which an architectural design competition is not required.*

Comment: The proposed development received a waiver from the Director of Design Excellence at the NSW Office of the Government Architect releasing the applicant from the requirement of undertaking an architectural design competition. The waiver stipulated that:

"1. A Design Review Panel must be established to review the project throughout its design and construction to ensure design excellence is achieved. Review and endorsement of design documents must take place as follows:

- prior to lodging the development application,
- prior to Construction Certificate application,
- at any other time nominated by the DRP.

2. Design verification, issued by a registered architect is to be provided with the application for an Occupation Certificate verifying that the development achieves the design quality of the development as shown on the plans and specifications in respect of which the Construction Certificate was issued, in particular in regards to finishes and detailing.

3. The original design architects must remain directly involved in the project, including design documentation, contract documentation and construction stages."

These requirements will be imposed by way of recommended conditions of consent.

- (5) Development consent may not be granted for the erection or alteration of a building to which this clause applies that has a floor space ratio of up to 10% greater than that allowed by clause 4.4 or a height of up to 10% greater than that allowed by clause 4.3, unless:*
- (a) the design of the building or alteration is the result of an architectural design competition, and*
 - (b) the concurrence of the Director-General has been obtained to the development application.*
- (6) In deciding whether to give concurrence to the development application, the Director-General must take into account the matters set out in subclause (3) and the results of the architectural design competition.*

Comment: The proposed development received concurrence to the Height and FSR variations in a letter dated 18 January 2017 from the Director of Design Excellence at the NSW Office of the Government Architect (part of the Department of Planning and Environment).

Section 79C(1)(a)(iii) The provisions of any development control plan

Development Control Plan 2014

Provision	Compliance
DCP Principles	Complies
C1 Site Planning and Design Principles	Complies
C2 Vegetation Management	Complies
C3 Water Management	Complies
C4 Land Management	Complies
C5 Waste Management	Does not comply - see Appendix - Development Control Plan Compliance
C6 Landscape Design	Complies
C7 Culture and Heritage	Complies
C8 Public Domain	Complies
C9 Advertising and Signage	Complies
C10 Transport, Access and Parking	Does not comply - see Appendix - Development Control Plan Compliance
C11 Subdivision	N/A
C12 Noise and Vibration	Complies - see Appendix - Development Control Plan Compliance
C13 Infrastructure and Services	Complies
D2.1 Single Dwellings	N/A
D2.2. Dual Occupancies	N/A
D2.3 Secondary Dwellings	N/A
D2.4 Multi Dwelling Housing	N/A
D2.5 Residential Flat Buildings	Complies
D2.6 Non Residential Developments	Complies
D3.1. Bulky Good Retailing	N/A
D3.2. Sex Services Premises	N/A
D3.3. Restricted Premises	N/A
E11 Penrith	Complies

Section 79C(1)(a)(iv) The provisions of the regulations

Fire Safety

Under Part 9 of the Environmental Planning and Assessment Regulation 2000 owners of buildings must provide the FRNSW Commissioner with a copy of the Fire Safety Certificate for the building (along with the current Fire Safety Schedule). The Fire Safety Certificate is issued when essential fire safety measures have been assessed by a qualified person as being capable of performing to the standard defined by the Schedule. A condition of consent has been imposed to ensure that this occurs on an annual basis.

Prescribed Conditions

The relevant prescribed conditions of the Regulations, such as the requirement for compliance with the BCA, will be imposed as conditions of consent where applicable.

Advertising and Notification

Neighbour notification and advertising was carried in accordance with the requirements of the Regulations.

Section 92 - Additional Matters

- Any demolition will be conditioned to be in accordance with the provisions of AS 2601.
- The development is not subject to the NSW Government's Coastal Policy.
- The development is not situated on land subject to an order made under Schedule 5 of the Act (paper subdivisions).

Section 79C(1)(b) The likely impacts of the development

Subject to the recommended conditions of consent, it is not considered that the proposal will result in any significant impacts on the natural, social or economic environments of the locality due to its scale, location and consistency with the desired future character of the area as evidenced by the relevant planning controls and land zoning.

Section 79C(1)(c) The suitability of the site for the development

The subject site is deemed suitable for the following reasons:

- The zone permits the proposed use.
- The use is consistent and compatible with surrounding/adjoining land uses.
- The grade of the site is suitable for the design proposed.
- Stormwater from the site is able to drain to Council's satisfaction.
- The site is adequately serviced by access, water and sewer infrastructure which has the capacity to cope with any increase in demand associated with the proposed development.
- Recommended conditions of consent will ensure that the proposal will have minimal effects on the surrounding environment during the construction stage.

Section 79C(1)(d) Any Submissions

Community Consultation

In accordance with Penrith DCP 2014 the proposed development was notified to nearby and adjoining properties, advertised in the local newspaper and placed on public exhibition for a period of 14 days. Council did not receive any submissions in response.

Referrals

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

Referral Body	Comments Received
Building Surveyor	No objections - subject to conditions
Development Engineer	No objections - subject to conditions
Heritage	No objections
Environmental - Environmental management	Not supported
Environmental - Waterways	No objections - subject to conditions
Waste Services	Not supported
Traffic Engineer	Not supported
Community Safety Officer	No objections - subject to conditions

Environmental - Environmental management

Council's Environmental Management Team raised the following concerns in relation to the application:

Acoustic Assessment

The Acoustic Assessment is dated 02/03/2016 and a number of design amendments have occurred since that date. The Acoustic Assessment does not reference architectural drawings and refers only to a proposed residential development comprising a single basement carpark and residential apartments. The Acoustic Assessment does not reference, discuss or assess the proposed development as detailed in the Statement of Environmental Effects and the architectural plans, which comprises of a mixed use development that includes both commercial and retail premises as well as residential units. The Acoustic Assessment is required to be amended to accurately reflect and assess the current proposed development, including the mixed use components.

The Acoustic Assessment is required to be amended to include an assessment, in accordance with the Industrial Noise Policy, of the noise impacts associated with the commercial and retail premises (including the proposed café/open space area), car parking, deliveries and garbage removal activities, upon nearby receivers, including residential units within the development itself. This assessment is required to demonstrate compliance with established noise criteria and where mitigation measures are necessary, these are to be included in the amended Acoustic Assessment report.

The amended Acoustic Assessment is required to address the 'Interim Construction Noise Guideline' and assess the noise and vibration impacts associated with the construction phase of the development.

Comment: The requirement for an amended Acoustic Assessment will be imposed by way of a condition of consent.

Land Contamination

SEPP 55 requires that Council, in determining any development of land, must consider whether the land is contaminated and whether it is suitable for the proposed land use.

Specifically, Clause 7(2) of SEPP 55 requires that Council "before determining an application for consent to carry out development that would involve a change of use... the consent authority must consider a report specifying the findings of a preliminary investigation of the land concerned carried out in accordance with the contaminated land planning guidelines". This development application proposes a change of use from an existing commercial land use to a proposed mixed use development comprising both residential and commercial components in Building A, and residential development (including car parking facilities) in Building B.

The applicant is required to address all relevant requirements under State Environmental Planning Policy No. 55-Remediation of Land (SEPP 55). Council cannot consent to any development unless these requirements have been satisfied. Should remediation be required this will require development consent. The application is to demonstrate that the land is suitable for the proposed purpose.

Comment: The requirement for a contamination assessment to be undertaken will be imposed by way of a deferred commencement condition.

A review of aerial photography has found no potentially contaminating activities being conducted on site, nor is there any evidence of contaminating land uses being conducted from the land based on Council's register of development consents. Therefore the potential for contamination is considered to be low and Council can be satisfied that in the unlikely event of a preliminary site investigation finding any evidence of contamination, this is likely to be of a minor nature and the land if required can be made suitable for the proposed land use.

Accordingly the applicant will be required to address all relevant requirements under State Environmental Planning Policy No. 55 - Remediation of Land (SEPP 55) prior to the issue of an Operational Consent by way of a recommended deferred commencement condition. Council may consent to the development as there is certainty that any remediation requirements can be satisfied. Should remediation be required this remediation will require further development consent. An unexpected finds protocol is also recommended

to be prepared and adhered to during excavation of the site.

Traffic Engineer

Council's Traffic Engineer raised the following concerns in relation to the application:

Parking

Parking calculations were not assessed, this is the responsibility of the assessing officer to assess, however conflicts between the landscape plan and the proposed parking set out were noted.

Comment: A condition of consent will require the landscape plan to be modified to address these conflicts. See the Transport, Access and Parking section of the DCP discussion for more detail on parking numbers.

Access

The irregular shaped land is a significant constraint to the development design, however, little has changed with regard to the heavy vehicle access and substantial conflict with vehicle ingress/egress and pedestrians. The 3 pt turning of large vehicles in this pedestrian/vehicle courtyard at the main entry to the complex is NOT supported. The turning diagrams show trucks reversing over 'new paved pedestrian crossing' and use of No 340 High St to complete the turn. For a large vehicle (waste and removalist) to service/attend the building, lengthy periods of parking will be required multiple times a week which is not appropriate for this space.

Comment: See the Waste Services referral section and the Waste Management section of the DCP discussion for further details.

There is still concern as to the nature of the open space which provides vehicle access, truck access and pedestrian access. Reminder that a 'shared zone' requires RMS approval. The amended traffic report amends parking spaces and traffic generation figures based on amended apartments and does not refer to the concern over access issues.

Comment: The proposed shared zone was removed from the plans. The applicant now proposes a footway and vehicle carriageway in John Cram Place with detailed plans required to be submitted and approved by way of a recommended condition of consent.

Parking Space Design

The design excellence review recommended that John Cram Place be a footpath and carriageway rather than shared zone yet the amended plans show no details of this or a shared zone. The turn paths show walls inside the turn paths. The parking spaces should be a minimum of 2.6 m wide in accordance with DCP-D2-2.3,15-B-g), DCP C10-C-5-K-k) and AS 2890.1 - Table B1. Although AS 2890.1 Table B1 requires a full opening door space width of 2.6 metres, AS 2890.1 Table 1.1 lists a full opening doors medium turnover parking (such as this) as user class 2 and figure 2.2 then lists a 90 degree parking minimum space width of 2.5 metres. Accordingly, an absolute minimum space width of 2.5 m may be considered in spaces that have spaces on each side but not spaces that are adjacent to column obstructions. These should be a minimum of 2.6 m wide and the columns should be located clear of manoeuvring and door opening as shown in AS 2890.1 Figure 5.1. The spaces beside walls should be 2.6m plus 300mm clearance totalling 2.98m and an absolute minimum of 2.5 m space plus 300mm clearance totalling 2.8 m.

Comment: John Cram Place will be modified to be a footpath and carriageway rather than shared zone. A condition of consent will require further information relating to the basement set out and any proposed management of circulation spaces within the narrower section. An additional condition of consent will be imposed that requires that the development comply with AS 2890.1 and AS 2890.2.

Waste Services

Council's Waste Services Department raised the following concerns in relation to the application:

Waste On-Site Collection

A designated loading bay on-site has been provided for the development. The current loading bay is not supported due to the reverse manoeuvre requiring the 10.5m heavy rigid vehicle to reverse into basement and street traffic. It must be noted the design must consider a 2m clearance behind the vehicle for loading that is unobstructed and free from the path of traffic. The revised design will need to be accompanied by a swept path

with a 0.6m clearance at all stages of truck manoeuvres.

Amended plans will need to address the below condition outlined in Section 5 of the DCP:

“There must be sufficient manoeuvring area on-site to allow collection vehicles to enter and leave the site in a forward direction and service the development efficiently with little or no need to reverse.”

Comment: The proposed waste collection set out will be addressed by way of recommended conditions of consent. Refer to the Waste Management section of the DCP discussion for further comment in this regard.

Bin Provision

NOTE: Building A is the building fronting High Street and Building B is the building fronting John Cram Place.

Dual Chute (no compaction)	
Building A	Building B
2x1100L Residual Bins (no compaction) - Chute system must be implemented	2x1100L Residual Bins (no compaction) - Chute system must be implemented
2x1100L Recyclable Bins (no compaction) - Chute system must be implemented	2x1100L Recyclable Bins (no compaction) - Chute system must be implemented
Service Bins = 2x1100L Bins	Service Bins = 2x1100L Bins
Total = 12x1100L Bins	

***Service Bins:** The additional bins required to enable the chutes to continue to operate while the full bins are presented on ground floor for collection.

NOTE: Compaction of Residual and Recyclable waste streams is NOT supported by Council.

Comment: The required number of bins will be imposed as a condition of consent.

Waste Chute System

The following infrastructure provided is not supported in its current state. The location of the chutes in Building A will need to be located adjacent to one another. This will reduce contamination and promote recycling. The chute rooms located in the basement will need to accommodate the following infrastructure:

- Incorporation of linear or circular carousel device under each individual chute. System specifications will need to be provided with the operational clearances and location clearly outlined on architectural plans.
- Suitable door clearance for the service of bins.
- Should a roller shutter door be provided an additional service door is required inclusive of an Abloy Key system.
- 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/mechanically ventilated.

Comment: The applicant has provided a carousel system under the residual waste chute (rubbish) but not under the recycling chute. Given that the impacts associated with a lack of a carousel system at the bottom of a waste chute are related for the most part to the operation of the building being managed by the owners corporation (specifically that the building's caretaker be required for a longer period on site) there is not considered to be an unacceptable impact associated with the lack of a carousel system. The remaining requirements of this section shall be imposed as a condition of consent.

Waste Collection Room

All developments are required to provide a waste collection room located on ground floor adjacent to the proposed loading bay. Council does not support the movement of bins across a road or trafficked area. The room will need to incorporate the following requirements in the final design:

- Room built to store the **8x1,100L bins** plus 0.2m between bins to allow adequate manoeuvrability room.
- Suitable door access for the service of bins.
- Should a roller shutter door be provided an additional service door is required inclusive of an Abloy Key system .
- 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).
- A room is to be located in close proximity to the loading bay.
- 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/mechanically ventilated to meet Building Code of Australia 2016 requirements.

Bulky Household Goods Room

Each RFB will be required to provide a bulky waste storage room on ground floor adjacent to the proposed loading bay. The current Bulky Household Goods Room located in the basement is not supported.

The room will need to consider the following requirements in the final design:

- The room is to be **6m²** 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 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).
- A room is to be located in close proximity to the loading bay.
- 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/mechanically ventilated to meet Building Code of Australia 2016 requirements.

Bin Transportation

For the internal movement of 1,100L bins a Tug Device is required to assist the caretaker and Council's Collection staff to manoeuvre the bins throughout the development. Each site is required to provide a mechanical tug or suitable towing device to assist in the movement of bins. Specifications of the device and location of where it will be stored are required to be submitted to accompany the waste management plan lodged to Council for review.

Service Lift

Specifications and workings of the bin service lift will need to be submitted to Council for review.

Commercial Waste

Commercial waste cannot be stored in the residential chute or waste collection room. Commercial waste is required to be stored in a separate enclosed room located on ground floor. The private contractor can use the loading bay, however Council's waste collection vehicle must be given priority for the collection of residential waste streams.

Indemnity Agreement

Prior to the issue of any Occupation Certificate, 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.

Comment: *The requirements for the waste collection room, bulky households goods room, bin transportation, service lift, commercial waste and indemnity agreement will be imposed as conditions of consent.*

Section 79C(1)(e)The public interest

The proposed development will not generate any unacceptable issues of public interest.

Section 94 - Developer Contributions Plans

The following Section 94 plans apply to the site:

- Section 94 - District Open Space Facilities
- Section 94 - Cultural Facilities
- Section 94 - City Centre Civic Improvements

The following Section 94 calculations apply to the proposed development.

Calculation for 4 x Commercial Tenancies & 45 Residential Units					
Open Space					
No. of residential units	x	Rate	-	Credit for existing residential units	Contribution rate
45 units	x	2.0	-	0	90
City Wide					
No. of residential units	x	Rate	-	Credit for existing residential units	Contribution rate
45 units	x	2.4	-	0	108
City Centre					
Type	x	Amount	-	Credit for existing	Net amount
Commercial floor space	x	492.23 sqm	-	680 sqm	- 187.77 sqm
Retail floor space	x	201.20 sqm	-	0 sqm	+ 201.20 sqm
Residential units	x	45	-	0	+ 45

AMOUNT

S.94 Contribution Plan	Contribution Rate x Calculation Rate	Total
District Open Space	90 x \$1877.00	\$168,930.00
Cultural Facilities	108 x \$152.00	\$16,416.00
City Centre - Commercial	- 187.77 x \$178.00	- \$33,423.00
City Centre - Retail	201.20 x \$102.00	\$20,522.00
City Centre - Residential	45 x \$9247.00	\$416,115.00
City Centre - Commercial Admin. Charge	- 187.77 x \$1.00	- \$188.00
City Centre - Retail Admin. Charge	201.2 x \$1.00	\$201.00
City Centre - Residential Admin. Charge	45 x \$92.00	\$4,140.00
	NET TOTAL	\$592,713.00

Note 1: Existing floor areas assessed on the basis of SP 65435. Part 1 = 168 sqm, Part 2 = 170 sqm, Part 3 = 167 sqm, Part 4 = 175 sqm, Total = 680 sqm of commercial floor area.

Note 2: Commercial and retail floor area for the purposes of Section 94 calculations does not include parking areas.

Conclusion

Subject to the recommended conditions of consent the proposal is considered to be consistent with the relevant sections of the Environmental Planning and Assessment Act 1979, relevant State Environmental Planning Policies, the relevant Local Environmental Plan and the Penrith Development Control Plan 2014 because it does not contravene any development standards and will not result in any significant impacts on the natural, social or economic environments.

The site is suitable for the proposed development, the proposal does not conflict with the public interest, and there is unlikely to be negative impacts arising from the proposed development. Accordingly, the application is worthy of support and recommended for approval, subject to recommended conditions.

Recommendation

1. That the submitted Clause 4.6 variations to the height of buildings standard under Clause 4.3 and the floor space ratio standard under Clause 4.4 of the Penrith LEP 2010 be supported.
2. That DA16/0254 for the demolition of existing structures & construction of a mixed use development including 4 commercial tenancies, 45 residential apartments and 2 levels of basement car parking at 342-346 High Street, Penrith, be approved subject to the attached conditions.

CONDITIONS

General

1 A001

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.

Description	Reference Number	Prepared by	Dated
Site Analysis	HEN27390-DA0001-E	Integrated Design Group	24/02/2016
Development Control Summary	HEN27390-DA0002-B	Integrated Design Group	15/07/2016
Site Envelope Analysis	HEN27390-DA0003-A	Integrated Design Group	02/11/2015
Design Principles	HEN27390-DA0004-A	Integrated Design Group	02/11/2015
Site Plan	HEN27390-DA0100-J	Integrated Design Group	19/08/2016
Street Elevations	HEN27390-DA0101-B	Integrated Design Group	16/07/2016
Basement Plan 01	HEN27390-DA1000-O	Integrated Design Group	29/08/2016
Basement Plan 02	HEN27390-DA1000-A	Integrated Design Group	29/08/2016
Ground Floor Plan	HEN27390-DA1100-R	Integrated Design Group	14/12/2016
Level 1 Plan	HEN27390-DA1101-K	Integrated Design Group	16/07/2016
Level 2 Plan	HEN27390-DA1102-I	Integrated Design Group	16/07/2016
Level 3 Plan	HEN27390-DA1103-I	Integrated Design Group	16/07/2016
Level 4 Plan	HEN27390-DA1104-I	Integrated Design Group	16/07/2016
Level 5 Plan	HEN27390-DA1105-I	Integrated Design Group	16/07/2016
Level 6 Plan	HEN27390-DA1106-I	Integrated Design Group	16/07/2016
Roof Plan	HEN27390-DA1107-I	Integrated Design Group	16/07/2016
North and South Elevations	HEN27390-DA2000-G	Integrated Design Group	16/07/2016
East and West Elevations	HEN27390-DA2001-H	Integrated Design Group	15/07/2016
Internal Elevations	HEN27390-DA2002-C	Integrated Design Group	29/08/2016
Section A	HEN27390-DA3000-E	Integrated Design Group	29/08/2016
Section B & C	HEN27390-DA3001-E	Integrated Design Group	29/08/2016
Driveway Section	HEN27390-DA3002-D	Integrated Design Group	29/08/2016
Adaptable Units and Universal Housing	HEN27390-DA9001-E	Integrated Design Group	15/07/2016

Waste Management	HEN27390-DA9002-G	Integrated Design Group	14/12/2016
Glazed Walkway Details	HEN27390-DA9003-D	Integrated Design Group	15/07/2016
Lourve Detail	HEN27390-DA9004-A	Integrated Design Group	05/02/2016
Front Facade Screen Detail	HEN27390-DA9005-B	Integrated Design Group	15/07/2016
Signage Details - High Street	HEN27390-DA9007-A	Integrated Design Group	15/07/2016
External Finishes Schedule	HEN27390-DA9600-B	Integrated Design Group	15/07/2016
Signage Details - General Locations	HEN27390-DA9008-A	Integrated Design Group	15/07/2016
Area Calculations	HEN27390-DA9300-B	Integrated Design Group	11/07/2016

Documents:

- Thermal Comfort and BASIX Assessment, prepared by Efficient Living, dated 22/02/2016.
- BASIX Certificate No. 637931M
- Statement of Heritage Impact, prepared by Margaret Fallon of Integrated Design Associates, dated November 2015.
- Waste Management Report, prepared by Integrated Design Group, dated August 2016.
- Geotechnical Investigation at 344 High Street, Penrith prepared by Ground Technologies, dated 23 June 2016.
- BCA Assessment Report, prepared by Blackett, Maguire and Goldsmith, dated March 2016.
- Access Review, prepared by Funktion, dated 17/12/2015.
- Stormwater Management Report - 342-346 High Street, Penrith, prepared by Stuart Brown of Abel & Brown Pty. Ltd. dated 6 June 2016.

2 [A014 - LOT CONSOLIDATION](#)

The subject allotments shall be consolidated into one title and any required rights of carriageway, boundary adjustments or other access arrangements necessary to access the subject site are to be registered on title.

A copy of the registered plan 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 [A019 - OCCUPATION CERTIFICATE \(ALWAYS APPLY\)](#)

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

4 [A026 - Advertising sign \(not for residential\)](#)

A separate development application for the erection of a sign or advertising structure, other than approved by this consent or an advertisement listed as exempt development, is to be submitted to Penrith City Council, complying with the requirements of Penrith Development Control Plan 2014.

5 [A029 - HOURS OF OPERATION AND DELIVERY TIMES](#)

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

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

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

7 A Special (Allocation of car parking spaces)

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:

- 1 space per 1 or 2 bedroom unit.
- 2 spaces per 3 bedroom unit.
- 1 dedicated car washing bay.
- 9 dedicated visitor spaces.
- 7 dedicated spaces for the retail tenancies.
- The remainder of the spaces for the commercial tenancies. These spaces will be allocated specifically during the applications required for the fit and use of these tenancies.

Note: Each adaptable unit must be allocated an accessible parking space.

8 A Special (Asbestos Clearance)

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 a 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.

9 A Special (Crane requirements)

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 at least 21 days prior to its 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 counter boom/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 a 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. 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 A Special (Design Verification CC)

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 A Special (Design Verification OC)

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 [A Special \(Dilapidation Report\)](#)

Prior to the issue of a Construction Certificate, a dilapidation report prepared by a structural engineer shall be submitted recording the condition of any buildings or ancillary structures within the likely zone of influence from any excavation, dewatering or construction induced vibration. The report is to be submitted to Council and the appointed certifying authority.

Prior to the issue of an Occupation Certificate, an updated dilapidation report must be prepared and submitted to Council and the Certifying Authority. The updated report must identify any damage to adjoining properties and the means of rectification for the approval of Council.

13 [A Special \(Further DA for fit out and use\)](#)

A further development application is required for the fit and use of any of the retail or commercial tenancies approved by this consent.

14 [A Special \(Requirements of the DoPE\)](#)

The following requirements of the NSW Government Architect's Office Design Competition Waiver shall be adhered to at the relevant stages of the development's design and construction:

(a) A Design Review Panel (DRP) must be established to review the project throughout its design and construction to ensure design excellence is achieved. Review and endorsement of design documents must take place as follows:

- Prior to the issue of a Construction Certificate application,
- At any other time nominated by the DRP.

(b) Design verification, issued by a registered architect is to be provided with the application for an Occupation Certificate verifying that the development achieves the design quality of the development as shown on the plans and specifications in respect of which the construction certificate was issued, in particular in regards to finishes and detailing.

(c) The original design architects must remain directly involved in the project, including design documentation, contract documentation and construction stages.

15 [A Special \(Screening of plant\)](#)

Any plant or unsightly structures installed on the external facades or rooftop must be screened from view.

16 [A Special CPTED consolidated](#)

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.

17 [A Special Indemnity Agreement](#)

Prior to the issue of any Occupation Certificate, all dwellings within the 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.

18 [A Special Waste Services Detailed Requirements](#)

Prior to the issue of a Construction Certificate, revised plans and documentation shall be submitted which satisfy the following requirements:

(a) Waste Chute System

- Suitable door clearance for the service of bins.
- Should a roller shutter door be provided an additional service door is required inclusive of an Abloy Key system.
- 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/mechanically ventilated to meet the requirements of the BCA.

(b) Waste Collection Room

- Room built to store **8 x 1,100L bins** plus 0.2m between bins to allow adequate manoeuvrability room.
- Suitable door access for the service of bins.
- Should a roller shutter door be provided an additional service door is required inclusive of an Abloy Key system.
- 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).
- A room is to be located in close proximity to the loading bay.
- 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/mechanically ventilated to meet Building Code of Australia 2016 requirements.

(c) Bulky Household Goods Room

- The room is to be **6m²** 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 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).
- A room is to be located in close proximity to the loading bay.
- 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/mechanically ventilated to meet Building Code of Australia 2016 requirements.

(d) Bin Transportation

For the internal movement of 1,100L bins a Tug Device is required to assist the caretaker and Council's collection staff to manoeuvre the bins throughout the development. Each site is required to provide a mechanical tug or suitable towing device to assist in the movement of bins. Specifications of the device and location of where it will be stored are required.

(e) Service Lift

Specifications and workings of the bin service lift are required.

(f) Commercial Waste

Commercial waste cannot be stored in the residential chute or waste collection room. Commercial waste is required to be stored in a separate enclosed room located on ground floor. The private contractor can use the loading bay, however Council's waste collection vehicle must be given priority for the collection of residential waste streams.

Demolition

19 B002 - AS FOR DEMOLITION AND DISPOSAL TO APPROVED LANDFILL SITE

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

20 B003 - ASBESTOS

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 Environment Protection Authority to receive asbestos wastes.

21 B004 - Dust

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

22 B005 - Mud/Soil

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

23 B006 - Hours of work

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 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.

Heritage/Archaeological relics

24 C003 - Uncovering relics

If any archaeological relics are uncovered during the course of the work no further work shall be undertaken until further directed by Penrith City Council or the NSW Heritage Office.

The applicant is advised that depending on the possible significance of the relics, an archaeological assessment and an excavation permit under the Heritage Act, 1977 may be required before any further work can be recommenced in that area of the site.

Environmental Matters

25 **D001 - Implement approved sediment& erosion control measures**

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 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.

26 **D007 - Cut and fill of land requiring Validation Certificate –limited to footprint**

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

27 **D009 - Covering of waste storage area**

All waste materials stored on-site are to be contained within a designated area such as a waste bay or bin to ensure that no waste materials are allowed to enter the stormwater system or neighbouring properties. The designated waste storage areas shall provide at least two waste bays / bins so as to allow for the separation of wastes, and are to be fully enclosed when the site is unattended.

28 **D012 (Acoustic Assessment)**

Prior to the issue of a Construction Certificate, the submitted Acoustic Assessment is required to be amended to accurately reflect and assess the current proposed development, including the mixed use components as well as be amended to include an assessment, in accordance with the Industrial Noise Policy, of the noise impacts associated with the commercial and retail premises (including the proposed café/open space area), car parking, deliveries and garbage removal activities, upon nearby receivers, including any residential units within the development itself. This assessment is required to demonstrate compliance with established noise criteria and where mitigation measures are necessary, these are to be included in the amended Acoustic Assessment report.

Additionally the amended Acoustic Assessment is required to address the 'Interim Construction Noise Guideline' and assess the noise and vibration impacts associated with the construction phase of the development.

The amended Acoustic Assessment shall be submitted to and approved by Council prior to the issue of a Construction Certificate.

29 **D013 - Approved noise level 1**

Noise levels from the premises shall not exceed the relevant noise criteria detailed in the Report required by the condition above. The recommendations provided in the above-mentioned acoustic report shall be implemented and incorporated into the design and construction of the development, and shall be shown on plans accompanying the Construction Certificate application. A certificate is to be obtained from a qualified acoustic consultant certifying that the building has been constructed to meet the noise criteria in accordance with the approved acoustic report. This certificate is to be submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

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

30 **D014 - Plant and equipment noise**

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

31 **D020 - Vehicle wash bay**

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.

32 D026 - Liquid wastes

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

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

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

33 D06A – Approval for bulk earthworks/major filling operations (Use for bulk earthworks/ major filling operations)

No fill material shall be imported to the site until such time as a Validation Certificate (with a copy of any report forming the basis for the validation) for the fill material has been submitted to Council. The Validation Certificate shall:

- state the legal property description of the fill material source site,
- be prepared by an appropriately qualified person (as defined in Penrith Development Control Plan 2014) with consideration of all relevant guidelines (e.g. EPA, ANZECC, NH&MRC), standards, planning instruments and legislation,
- 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.

An appropriately qualified person/s (as defined in the Penrith Development Control Plan 2014) shall:

- Supervise the filling works,
- (On completion of filling works) carry out an independent review of all documentation relating to the filling of the site, and shall submit a review findings report to Council and any Principal Certifying Authority,
- Certify by way of a Compliance Certificate or other written documentation that fill materials have been placed on the site in accordance with all conditions of this consent and that the site will not pose an unacceptable risk to human health or the environment. A copy of the Compliance Certificate or other documentation shall be submitted to Council and any Principal Certifying Authority.

The contact details of any appropriately qualified person/s engaged for the works shall be provided with the Notice of Commencement.

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.

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

34 D Special (Unexpected Finds)

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

All remediation works within the Penrith Local Government Area are considered to be Category 1 works under State Environmental Planning Policy No. 55 - Remediation of Land. Should any contamination be found during development works and should remediation be required, development consent is to be sought from Penrith City Council before the remediation works commence.

BCA Issues

35 E009 - Annual fire safety-essential fire safety (Class 2-9 buildings)

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 E01A - BCA compliance for Class 2-9

All aspects of the building design shall comply with the applicable performance requirements of the Building Code of Australia so as to achieve and maintain acceptable standards of structural sufficiency, safety (including fire safety), health and amenity for the on-going benefit of the community. Compliance with the performance requirements can only be achieved by:

(a) complying with the deemed to satisfy provisions, or

(b) formulating 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 F022 – Commercial kitchens (kitchen exhaust system)

A separate application is required for the fit out and use of any retail or commercial tenancies approved by this consent.

It should be noted that cooking appliances which exceed a total maximum power input of 8kw for electrical, or a total gas input of 29MJ/h for a gas appliance are required to have a kitchen exhaust system installed in accordance with Clause F4.12 of the Building Code of Australia and Australian Standard 1668, Parts 1 & 2.

Details of the installation of the kitchen exhaust system may be submitted with the Construction Certificate application if there is likely to be a restaurant or cafe or any other land use which necessitates the installation of such an exhaust system.

If installed, the kitchen exhaust system must be designed to prevent or minimise air pollution including the emission of odours, vapours and oils in accordance with the Protection of the Environment Operations Act 1997.

If installed, prior to the issue of an Occupation Certificate, the installer of the kitchen exhaust system (either the individual person or the Company who installed the exhaust system) shall certify or submit appropriate documentation (as instructed by the Principal Certifying Authority) that all practical pollution control measures have been installed to achieve the requirements of the Protection of the Environment Operations Act 1997.

Utility Services

38 G002 - Section 73 (not for

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

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

39 **G004 - Integral Energy**

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

In the event that a pad mounted substation is necessary to service the development, Penrith City Council shall be consulted over the proposed location of the substation before the Construction Certificate for the 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 **G006 -**

Prior to the issue of a Construction Certificate, the Principal Certifying Authority shall be satisfied that telecommunications infrastructure may be installed to service the 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.

41 **G Special (Hydrant booster)**

Prior to the issue of a Construction Certificate, Penrith City Council must be consulted over the proposed location of the hydrant booster. Details must be provided to Penrith City Council to confirm the location, material and design dimensions of any heat shield required.

Construction

42 **H001 - Stamped plans and erection of site notice**

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

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

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

Signage but no more than 2 signs stating the above details 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.

43 [H002 - All forms of construction](#)

Prior to the commencement of construction works:

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

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

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

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

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

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

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

44 [H022 - Survey](#)

The building shall be set out by a registered surveyor. A Survey Certificate shall be undertaken and submitted to the Principal Certifying Authority when the building is constructed to ground floor slab level.

45 [H033 – Clothes line](#)

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

46 **H036 - Rainwater Tank (Also impose H037, H038, H039, G005 & Q010)**

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.

47 **H037 - Safe supply of water from catchment areas (Also impose H036, H038 & H039)**

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.

48 **H038 - Connection of rainwater tank supply (Also impose H036, H037 & H039)**

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

49 **H039 - Rainwater tank pumps (Also impose H036, H037 & H038)**

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.

50 [H041 - Hours of work \(other devt\)](#)

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 that do not involve the use of equipment that emits noise are not restricted to the construction hours stated above.

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

51 [H042 - Adaptable Dwelling Certification](#)

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 (AS 4299- 2009).

Engineering

52 [K101 - Works at no cost to Council](#)

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 [K201 - Infrastructure Bond](#)

An Infrastructure Restoration Bond is to be lodged with Penrith City Council for development involving works around Penrith City Council's Public Infrastructure Assets. The bond is to be lodged with Penrith City Council prior to 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 **K202 - S138 Roads Act – Works and Structures - Minor Works in the public road DRIVEWAYS ROAD OPENINGS**

Prior to the issue of a Construction Certificate, a Section 138 Roads Act application, 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 an 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 **K203 - S138 Roads Act – Works and structures - Roadworks requiring approval of civil drawings. CIVIL CONSTRUCTION IN THE ROAD RESERVE**

Prior to the issue of a Construction Certificate, the Certifying Authority shall ensure that a Section 138 Roads Act application, including payment of application and inspection fees, has been lodged with, and approved by Penrith City Council (being the Roads Authority under the Roads Act), for the re-construction of John Cram Place, provision of new stormwater drainage pipeline and new junction pit and footpath construction (full width, concrete) in John Cram Place and new stormwater drainage pipeline with reconstruction of kerb & gutter in Castlereagh Street.

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 (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.

56 **K210 - Stormwater Management**

The stormwater management system shall be provided generally in accordance with the concept plan/s lodged for development approval, prepared by Abel & Brown Pty Ltd, reference number 2518 - H-01 to H-11, revision C, dated July 2016.

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

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

57 **K212 - No loading on easements**

Prior to the issue of a Construction Certificate, the Certifying Authority shall ensure that the foundations of proposed structures adjoining the drainage and/or services easement have been designed clear of the zone of influence.

58 **K222 - Access, Car Parking and Manoeuvring – General**

Prior to the issue of a 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, AS 2890.2, AS 2890.6 and Penrith City Council's Development Control Plan.

59 **K224 - Construction Traffic Management Plan**

Prior to the issue of a Construction Certificate, the Certifying Authority shall ensure that a Construction Traffic Management Plan (CTMP) has been submitted to and approved by Penrith City Council. Approval of the CTMP may require endorsement from the Local Traffic Committee. The CTMP shall include, but not limited to vehicle routes, number of construction vehicles, hours of operation, access arrangements, pedestrian management, turning templates for narrow streets and intersections and parking management for workers. The CTMP shall be certified by an appropriately accredited person and/or Roads and Traffic Authority Traffic Controller. The CTMP shall ensure that adequate parking during construction is provided for the development and parking in the area is not severely impacted by the construction of the development.

The TMP shall be supported by a traffic control plan, designed in accordance with the requirements of the Roads and Traffic Authority's Manual, Traffic Control at Work Sites Version 2, and the current Australian Standards and the Manual of Uniform Traffic Control Devices Part 3, 'Traffic Control Devices for Works on Roads'.

The traffic control plan must be prepared by a suitably qualified and RTA accredited Work Site Traffic Controller.

60 **K403 - Major Filling/ Earthworks**

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 **K406 - Underground Services**

All existing (aerial) and proposed services for the development, including those within John Cram Place are to be located or relocated underground in accordance with the relevant authorities regulations and standards.

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

Prior to the issue of an 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.

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

Prior to the issue of an Occupation Certificate, works-as-executed drawings, final operation and maintenance management plans and any other compliance documentation shall be submitted to the Principal Certifying Authority in accordance with Penrith City Council's Engineering Construction Specification for Civil Works, WSUD Technical Guidelines and Stormwater Drainage for Building Developments Policy.

An original set of works-as-executed drawings and copies of the final operation and maintenance management plans and compliance documentation shall also be submitted to Penrith City Council with notification of the issue of the Occupation Certificate where Penrith City Council is not the Principal Certifying Authority.

64 **K504 - Stormwater Compliance**

Prior to the issue of an Occupation Certificate, the Principal Certifying Authority shall ensure that the stormwater management systems (including on-site detention and water sensitive urban design):

- Have been satisfactorily completed in accordance with the approved Construction Certificate and the requirements of this consent.
- Have met the design intent with regard to any construction variations to the approved design.
- Any remedial works required to be undertaken have been satisfactorily completed.

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

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

Prior to the issue of an Occupation Certificate, a restriction as to user and positive covenant relating to the stormwater management systems (including on-site detention and water sensitive urban design) shall be registered on the title of the property. The restriction 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 **K511 - Directional signage**

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

67 **K515 - Maintenance Bond**

Prior to the issue of any Occupation Certificate, a Maintenance Bond is to be lodged with Penrith City Council for the re-construction of John Cram Place, new stormwater drainage pipeline and new junction pit and footpath construction in John Cram Place and new stormwater drainage pipeline with reconstruction of kerb & gutter in Castlereagh Street.

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

Note:

- a) Contact Penrith City Council's Engineering Services Department on (02) 4732 7777 for further information relating to bond requirements.

68 **K601 - Stormwater Management system operation and maintenance**

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

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

Landscaping

69 **L000 Special (Update Landscape Plans)**

Prior to the issue of a Construction Certificate, an updated Landscape Plan consistent with the stamped approved plans shall be submitted to and approved by Council.

70 **L001 - General**

All landscape works are to be constructed in accordance with the Landscape Plan, required by the condition above, 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.

71 **L002 - Landscape construction**

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

72 [L003 - Report requirement](#)

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.

73 [L005 - Planting of plant](#)

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

74 [L006 - Aust Standard](#)

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

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

75 [L007 - Tree protection measures—no TMP with DA](#)

All trees that are required to be retained as part of the development are to be protected in accordance with the minimum tree protection standards prescribed in the Landscape Section of Penrith Development Control Plan 2014.

76 [L008 - Tree Preservation Order](#)

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

Development Contributions

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

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, \$168,930.00 is to be paid to Council prior to a Construction Certificate being issued for this development (the rates are subject to quarterly reviews). If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted Section 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 may be inspected at Council's Civic Centre, 601 High Street, Penrith.

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

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, \$16,416.00 is to be paid to Council prior to a Construction Certificate being issued for this development (the rates are subject to quarterly reviews). If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted Section 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.

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

This condition is imposed in accordance with Penrith City Council's Section 94 Contributions Plan for Penrith City Centre Civic Improvements. Based on the current rates detailed in the accompanying schedule attached to this Notice, \$407,368 is to be paid to Council prior to a Construction Certificate being issued for this development (the rates are subject to quarterly reviews). If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted Section 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 Penrith City Centre Civic Improvements may be inspected at Council's Civic Centre, 601 High Street, Penrith.

Certification

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

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

- (a) employ a Principal Certifying Authority to oversee that the said works carried out on the site are in accordance with the development consent and related Construction Certificate issued for the approved development, and with the relevant provisions of the Environmental Planning and Assessment Act and accompanying Regulation, and
- (b) submit a Notice of Commencement to Penrith City Council.

The Principal Certifying Authority shall submit to Council an "Appointment of Principal Certifying Authority" in accordance with Section 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.

81 **Q05F - Occupation Certificate for Class10**

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.

Schedule 1 (Deferred Commencement)

82 S Specia (Basement)

Prior to the issue of an Operational Consent and within 12 months of the date of determination, details of measures to reduce vehicle conflict within the narrow section of the basement carriageway separating the basement beneath Building A and Building B shall be submitted to and approved by Council. Such measures may include, but are not limited to:

- Traffic control devices including sensors to detect vehicle movement which govern the right of way within the single width section of the basement.
- Linemarking and signage proposed to highlight rights of way and warning information to basement users around this single width section of basement.
- Increased width of the basement to allow two way travel within the currently single width section.

83 S Special (Access arrangements on title)

Prior to the issue of an Operational Consent and within 12 months of the date of determination, details of the access arrangements to permit legal vehicular and pedestrian movement to the subject site shall be submitted to and approved by Council. This includes access for pedestrians, resident, visitor and staff vehicles as well as waste and service trucks. Such access arrangements may be in the form of reciprocal rights of carriageway, boundary adjustments or lot consolidation. Evidence that the affected owners of the land agree to the access arrangements shall be also be submitted.

84 S Special (Contamination Assessment)

Prior to the issue of an Operational Consent and within 12 months of the date of this notice of determination, written confirmation is to be prepared by a suitably qualified consultant in the form of a Preliminary Site Assessment confirming the contamination status of the site. This documentation is to be submitted to Penrith City Council for consideration and approval prior to the issue of an Operational Consent.

Where these areas are found to be unsuitable for the proposed land use, the Operational Consent will not be issued 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 No. 55 - Remediation of Land and therefore require development consent.

Should remediation of land be required then the site shall be remediated in accordance with the conditions of consent for the remediation works.

This condition will be deemed to be satisfied when the satisfactory site investigations are received by Council and no contamination is found or when the remediation works under a separate development application are completed by way of a Validation Certificate.

85 S Special (Waste Collection Zone)

Prior to the issue of an Operational Consent and within 12 months of the date of determination, further details of the proposed waste collection arrangement shall be submitted and approved by Council. These details shall provide for:

- A loading bay for Council's waste collection vehicle along with a temporary waste collection area within close proximity of the loading bay, positioned so that Council's contractors do not have to cross any paths of vehicular travel. Such a loading bay should be sign posted 'No parking - Waste and removalist vehicles excepted' or similar.
- A Plan of management detailing how waste bins will be managed by the building's caretaker prior to being left in the temporary collection area on bin pick up day. The Plan of Management shall also detail how commercial waste will be managed such that it will be of no impact on Council's residential collection service.
- Swept paths for Council's 10.5 m long Heavy Rigid Vehicle (HRV) accessing and exiting the site in a forward direction with minimal conflicts between the trucks maneuvering and other users of the site.

Appendix - Development Control Plan Compliance

Development Control Plan 2014

Part C - City-wide Controls

C5 Waste Management

The proposed development includes waste chutes and provides for onsite waste collection. However the swept paths and loading area for the waste collection scheme has the potential to conflict with other carpark users as well as requiring Council waste contractors to cross the carriageway of the carpark to access the waste bin storage area from the collection vehicle. Accordingly these issues will be required to be addressed by way of the following deferred commencement condition:

"Prior to the issue of an Operational Consent and within 12 months of the date of determination, further details of the proposed waste collection arrangement shall be submitted and approved by Council. These details shall provide for:

- *A loading bay for Council's waste collection vehicle along with a temporary waste collection area within close proximity of the loading bay, positioned so that Council's contractors do not have to cross any paths of vehicular travel. Such a loading bay should be sign posted 'No parking - Waste and removalist vehicles excepted' or similar.*
- *A plan of management detailing how waste bins will be managed by the building's caretaker prior to being left in the temporary collection area on bin pick up day. The Plan of Management shall also detail how commercial waste will be managed such that it will be of no impact on Council's residential collection service.*
- *Swept paths for Council's 10.5 m long Heavy Rigid Vehicle (HRV) accessing and exiting the site in a forward direction with minimal conflicts between the truck's maneuvering and other users of the site."*

C10 Transport, Access and Parking

Parking provision

Type	Amount	Rate	Required	Provided
1 and 2 Bed Unit	43 units	1:1 unit	43	43
3 Bedroom Unit	2 units	2:1 unit	4	0
Visitor Spaces	45 units	1:5 units	9	0
Service Spaces	45 units	1:40 unit	1	1 (loading area for waste / removalist vehicles)
Carwash Spaces	45 units	1:50 units	1	0
Retail	201.20 sqm	1:30 sqm	7	0
Commercial	492.23 sqm	1:100 sqm	5	40
		Total:	70	84

The development does not provide the correct allocation of car parking spaces, however it provides more than sufficient total numbers of parking. The revised allocation of car spaces will be required to be undertaken by way of a condition of consent.

Car parking onsite in the CBD

The DCP outlines that in the Penrith City Centre: "A maximum 60% of the total number of commercial parking spaces required by a development, other than for service vehicles, car washing bays and parking spaces allocated to people with a disability, are to be provided on-site. The balance of the total required number of spaces not provided on-site would need to be

subject to a contribution under an adopted Contributions Plan or as set by the terms of a Voluntary Planning Agreement."

However the City Centre Civic Improvements Plan outlines that: "Car parking contribution for commercial development if not provided on-site". The use of 'if' clearly suggests that this contribution is discretionary for developers should they not wish, or be unable to, provide compliant car parking on site. Given that the development provides for compliant parking numbers on site this contribution is not applicable.

C12 Noise and Vibration

The application included an Acoustic Assessment (AA). However this AA is not satisfactory in its current form for the following reasons:

- The AA is dated 02/03/2016 and a number of design amendments have occurred since that date. The AA does not reference architectural drawings and refers only to a proposed residential development comprising a single basement carpark and residential apartments. The AA does not reference, discuss or assess the proposed development as detailed in the Statement of Environmental Effects and the architectural plans, which comprises of a mixed use development that includes both commercial and retail premises as well as residential units. The AA is required to be amended to accurately reflect and assess the current proposed development, including the mixed use components.
- The AA is required to be amended to include an assessment, in accordance with the Industrial Noise Policy, of the noise impacts associated with the commercial and retail premises (including the proposed café/open space area), car parking, deliveries and garbage removal activities, upon nearby receivers, including residential units within the development itself. This assessment is required to demonstrate compliance with established noise criteria and where mitigation measures are necessary, these are to be included in the amended Acoustic Assessment report.
- The amended Acoustic Assessment is required to address the 'Interim Construction Noise Guideline' and assess the noise and vibration impacts associated with the construction phase of the development.

Accordingly a condition of consent will ensure that the AA is updated to respond to the issues above prior to the issue of a Construction Certificate.