

PENRITH CITY COUNCIL

MAJOR ASSESSMENT REPORT

Application number:	DA16/0621
Proposed development:	Demolition of Existing Structures & Construction of Four (4) Storey Residential Flat Building containing 12 Apartments including 1 Affordable Rental Housing Apartment & Basement Car Parking
Property address:	1 Garner Street, ST MARYS NSW 2760
Property description:	Lot 3 DP 508698
Date received:	29 June 2016
Assessing officer	Kathryn Saunders
Zoning:	Zone R4 High Density Residential - LEP 2010
Class of building:	Class 2 , Class 7a
Recommendations:	Approve

Executive Summary

Council is in receipt of a development application for the demolition of existing structures and the construction of a 4 storey residential flat building comprising of 12 apartments at 1 Garner Street in St Marys. The proposal is defined as residential flat building under the Penrith Local Environmental Plan (PLEP) 2010 and is a permissible within the R4 High Density Residential zone, with the consent of Council.

The application has also been lodged under the State Environmental Planning Policy (Affordable Rental Housing) 2009, in that one apartment is proposed to be provided as affordable rental housing.

Key issues identified for the proposed development and site include:

- Privacy impacts
- Vehicular access arrangements
- Streetscape presentation and landscaping

The application has been notified to adjoining properties, advertised and exhibited between 18 July and 1 August 2016 in accordance with relevant legislation. One submission was received raising matters related to solar access, view loss, privacy, security and traffic impacts. The development application is to be determined under delegated authority.

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

Site & Surrounds

The subject site is a single allotment legally described as Lot 3 in DP 508698 and is known as 1 Garner Street, St Marys. The site has an area of 663.9sqms and is rectangular in shape with a 16.73m frontage to the western side of Garner Street.

The site is gently sloped toward the rear (west) with a fall of approximately 1.53m. The allotment currently contains a single brick clad dwelling house with tile roof. Two trees are located within the rear yard and one tree is located within the front setback of the site.

The subject site shares its southern side boundary with a 3 storey residential flat building with basement car parking and shares its northern side boundary with a 2 storey multi dwelling housing development.

Development in the immediate vicinity comprises a mixture of older style single dwellings, two storey multi dwelling housing development and 3 and 4 storey residential flat buildings with basement car parking.

Garner Street is a two way local road with on-street parking spanning north/south between Putland Street to the north and Saddington Street to the south. Our Lady of the Rosary Primary School is located 112 metres to the south-east of the site. Local shops including a medical centre, pharmacy, IGA Express and take away pizza shop are located 360 metres walking distance toward the north-west.

Proposal

The proposal involves the following:

- Demolition of the existing dwelling and ancillary structures;
- Removal of three existing trees and other vegetation;
- Construction of a 4 storey residential flat building containing 12 apartments including 1 affordable rental housing unit;
- Basement car parking for 4 bicycles and 11 cars (including 2 x accessible spaces); and
- Landscaping and stormwater drainage works.

Plans that apply

- Local Environmental Plan 2010 (Amendment 4)
- Development Control Plan 2014
- State Environmental Planning Policy (Affordable Rental Housing) 2009
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- State Environmental Planning Policy No 55—Remediation of Land
- 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 proposal 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 (Affordable Rental Housing) 2009

The proposal has been assessed against the applicable provisions of this Policy. Compliance with specific clauses is detailed below:

Division 1 In-fill affordable housing

Clause 10 - Development to which this Division applies

Division 1 applies, as the site is identified as being located within an 'accessible area' as defined by the Policy and is permissible within the R4 High Density Residential zone under the Penrith Local Environmental Plan 2010.

The subject site is located less than 400m (326m) from both north and south bound bus stops (route 775) which operate between the Penrith Interchange Stand 1, via Mamre Road, St Marys to Stand 8 in Mt Druitt. The bus route timetable, available via Transport NSW's website (accessed 11 July 2016) indicates that a bus service operates hourly between 6:00am and 9:00pm during weekdays and 8:00am to 6:00pm weekends, in compliance with the requirements of Division 1, Clause 10 of the Policy.

Clause 14 - Standards that cannot be used to refuse a consent

(1) Site and Solar Access Requirements

The Policy states that a consent authority must not refuse a consent to which this Division applies on any of the following grounds:

(a) Site area - If the site area is at least 450sqm's

(b) Landscaped area - if at least 30% of the site area is to be landscaped

(c) Deep soil zones - if in relation to that part of the site area that is not built on, paved or otherwise sealed:

(i) there is soil sufficient in depth to support the growth of trees and shrubs on an area of not less than 15% of the site area, and

(ii) each area of deep soil has a dimension no less than 3m, and

(iii) if practical at least two-thirds is located at the rear of the site.

(d) Solar access - if living rooms and private open spaces of 70% of dwellings receive a minimum of 3 hours direct sunlight between 9:00am and 3:00pm mid winter.

The development complies with the required minimum lot size of 450sqm's in that, the subject site has an area of 663.9sqm's.

The proposal does not comply with the landscaped area requirement of 30% (199.17sqm's) of the site and proposes 19.5% or 129.5sqm's of landscaped area. It is noted that the Apartment Design Guide (ADG) requires only 7% of the site (46.47sqm's) to be provided as deep soil, with no rates provided for landscaped area. Deep soil is defined to include planter boxes sufficient in depth to sustain tree growth and suggests a depth of 800mm and a soil volume of 9 cubic metres for small trees 6-8m high.

The minor non-compliance with the landscaped area requirement is considered to be acceptable given the narrow allotment width and relatively small allotment size. Notwithstanding these attributes, relevant conditions of consent are recommended to require that planter boxes adjacent to the main lobby entry and pedestrian entry paving along the southern boundary and within the private open space area attached to Unit GF.03 be a minimum of 800mm deep and be fitted with an irrigation system to assist in sustaining substantial planting over time.

Substantial planting along the southern elevation will also assist in providing amenity, a green outlook for upper level apartments and providing privacy between buildings.

Documentation has been provided demonstrating that the proposal complies with the minimum requirement for 70% of dwellings to have a minimum of 3 hours sunlight between 9:00am and 3:00pm mid winter.

(2) General

The Policy states that a consent authority must not refuse consent to a development to which this Division applies on any of the following grounds:

(a) Parking - if at least 0.5 parking spaces are provided for each 1 bedroom dwelling and at least 1 car parking space is provided for each two bedroom dwelling.

(b) Dwelling size - if each dwelling has a gross floor area of 50sqm's for a 1 bedroom and 70sqm's for a 2 bedroom.

The proposal complies with the above requirements in that 11 car parking spaces are provided for 8 x 2 bedroom and 4 x 1 bedroom units and unit sizes exceed the minimum requirements ranging from 50sqm's for one bedroom units to 86sqm's for two bedroom units.

Clause 15 - Design Standards

The proposal has been assessed against the applicable provisions of the *Seniors Living Policy: Urban Design Guidelines for Infill Development* document and is considered to be acceptable.

Clause 16 - Continued application of SEPP 65

An assessment of the proposal against the State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development (SEPP 65) has been undertaken elsewhere in this report.

Clause 16A - Character of the local area

Clause 16A states that Council must not consent to development to which this Division applies, unless it has taken into consideration whether the design of the development is compatible with the character of the local area. The site shares its southern boundary with a 3 storey residential flat building with basement car parking and its northern side boundary with a two storey multi dwelling housing development each with frontage to Garner Street. The eastern side of Garner Street is populated by a mixture of residential flat buildings, two storey multi dwelling housing development and older style dwellings. Four storey residential flat buildings are located along Putland Street to the north.

The proposed development includes a 6.47m front setback to Garner Street which is the average of the neighbouring setbacks to the north and south. The proposed development is considered to be appropriate in the context of the site having regard to the local character. The proposed height and setbacks will achieve acceptable levels of visual and acoustic privacy between adjacent dwellings with proposed landscaping contributing to streetscape presence and amenity.

Clause 17 - Must be used for affordable rental housing for 10 years

A condition of consent is recommended to require a restriction to be registered against the title of the property, that will ensure that for 10 years:

- (a) the dwelling proposed to be used for the purposes of affordable rental housing will be used for the purposes of affordable rental housing, and*
- (b) all accommodation that is used for affordable rental housing will be managed by a registered community housing provider.*

The proposal is considered to be acceptable, having regard to the provisions of the State Environmental Planning Policy (Affordable Rental Housing) 2009.

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.

BASIX Certificate No. 720107M 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.

State Environmental Planning Policy No 55—Remediation of Land

An assessment of the proposal has been undertaken against the relevant criteria within State Environmental Planning Policy No. 55 - Remediation of Land and the proposal is considered satisfactory subject to the recommended conditions of consent, including those related to unexpected finds. A desktop review of the site has been undertaken and the site is known to have historically been used for residential purposes with no commercial or industrial uses known to have operated on the site.

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

As assessment has been undertaken of the application against relevant criteria within the State

Environmental Planning Policy No. 65—Design Quality of Residential Apartment Development including the nine design quality principles. The application was accompanied by a written statement from the architect detailing how the design quality principles are addressed in the development and on review, the proposal is found to be satisfactory. A detailed assessment against the provisions of the accompanying Apartment Design Guide (ADG) is provided in the table below:

Assessment Against the Apartment Design Guide (ADG)			
Part 3	Required	Discussion	Complies
3A-1	Each element in the Site Analysis Checklist should be assessed.	A Site Analysis plan was submitted with the application and identifies applicable elements as required within the Checklist. A written description of the proposal and subject site are also included in the submitted Statement of Environmental Effects and accompanying plans and reports.	Yes.
3B-1	Buildings to address street frontages.	Due to the narrow frontage of the allotment to Garner Street, only one ground floor apartment is provided with frontage to the street. The entry for this unit is proposed to be via the southern side boundary and main pedestrian walkway. To improve the presentation of the development to the street and increase opportunity for passive surveillance, an amended ground floor plan was requested to provide Unit GF.03 with an individual entryway direct from Garner Street. An amended plan was provided in accordance with this request. The common entry and foyer is of an appropriate design and location.	Yes.
3B-2	Living areas, Private Open Space (POS) and Communal Open Space (COS) to receive compliant levels of solar access.	Refer discussion under Parts 3D and 4A.	N/A.
	Solar access to living spaces and POS of neighbours to be considered.	Due to the orientation of the site to North and the limited building depth, acceptable levels of solar access can be maintained to the open spaces and living zones of neighbouring properties. Additional over shadowing will occur to the south between 9am and 3pm effecting the eastern and western corner units of the residential flat building to the south. The eastern corner unit will receive solar access between 8am and 11am during mid-winter and the western corner unit will receive solar access between 1pm and 4pm. The multi dwelling housing development to the north will not be impacted by overshadowing attributed to the proposal.	Yes.

	If the proposal will significantly reduce the solar access of neighbours, building separation should be increased.	Acceptable levels of solar access is achieved between the primary daylight hours at the winter solstice. An increase in building separation is not required.	Yes.
3C-1	Courtyard apartments should have direct street access.	As discussed above, amended plans were received. The ground floor unit with frontage to Garner Street is now provided with individual access.	Yes.
	Upper level balconies and windows are to overlook the street.	All east facing apartments overlook Garner Street.	Yes.
	Length of solid walls should be limited along street frontages.	Walls are adequately landscaped and articulated. No large expanses of blank wall are proposed.	Yes.
	Opportunity for concealment to be minimised.	Entryways are wide, straight and located such as to reduce opportunity for crime and concealment.	Yes.
3C-2	Ramping for accessibility should be minimised.	Ramping is proposed relative to the street.	Yes.

3D-1	Communal Open Space (COS) to have minimum area of 25% of site.	165.96sqm's of COS is required under the ADG (25% of total site area). The development does not include provision of communal open space for residents of the development. The submitted Statement of Environmental Effects seeks justification for the variation and provides the following justification: <i>1. Within a 400m radius, the site has access to South Creek Park, Victoria Park, Wilson Oval and Cook Park. The site is highly accessible to a number of generous areas of public open space.</i> <i>2. The development is small in scale, providing only 12 units...the area of open space is better utilized as private open space.</i> <i>3. Creating rooftop common open space is not feasible for the scale of the proposal and would add to the bulk of the building.</i> The proposed non-compliance in this instance is considered acceptable as the development provides high amenity units in an accessible and suitable location. Ground floor units are provided with generous private courtyards and the site is located in walkable proximity to a number of local parks and public open spaces. Further, the proposal complies with the ADG requirement for developments unable to achieve compliant levels of COS, in that larger balconies are provided both at ground and upper levels and the site is located within 200 metres walking distance of two local parks (Victoria Park and a reserve near the intersection of Saddington Street and Pages Road). Notwithstanding the above, to increase the amenity of east facing balconies and provide shade and amenity at the street level, a condition of consent is recommended to require the planting of one street tree along the frontage of the site.	No. Justification provided.
3D-4	Boundaries should be clearly defined between public open space and private areas.	The private open space areas of the development are clearly defined by the use of landscaping, retaining walls and paving elements.	Yes.

3E-1	Deep soil is to be provided at a rate of 7% of site area with a min. dimension of 3m.	Submitted documentation indicates that 7% (46.5sqm's) of the site is provided as deep soil. Notwithstanding the above, a condition of consent is recommended to require that planters proposed along the southern main residential entryway are to be a minimum depth of 800mm and provided with irrigation to allow for substantial and sustainable growth of trees and shrubs.	Yes. Condition recommended.
3F-1	Minimum required separation distances from the building to side and rear boundaries is to be achieved as follows: 1-4 storeys – 6m/3m 5-8 storeys – 9m/4.5m	A 3m side setback is proposed between the side boundaries of the site and habitable rooms and balconies. The proposal does not comply with the ADG separation distances for each level of the building in that a 6m side setback is required to be provided to habitable rooms along the northern and southern side boundaries. This non-compliance is assessed to be acceptable in that a variety of design responses are incorporated into the design of the building to avoid negative acoustic and visual privacy impacts on neighbouring sites. The proposal includes the installation of privacy screens, louveres and splayed window openings oriented to the east and west. To ensure that window openings located along the southern elevation do not allow for a direct view into the bedroom windows of the adjacent residential flat building to the south, a condition of consent is recommended to require the installation of fixed louveres on the lounge room windows of Units 01.01, 02.01 and 03.01 and the lounge room windows of Units 01.03, 02.03 and 03.03. To ensure that no acoustic impacts result from the location of the lobby and access hallway along the southern elevation, a condition of consent is recommended to require the installation of fixed glazing behind the louveres in this location.	No. Condition recommended.
3G-1	Building entries to be clearly identifiable.	The entryway is articulated with landscaping and will provide access to the mail boxes and is paved to the street front.	Yes.
3G-2	Building access ways and lift lobbies to be clearly visible from the public domain and communal spaces.	The main pedestrian entry is visible from the street and although the lift lobby does not have direct views to the street, it is located centrally near services and near apartment entry doors.	Yes.
	Steps and ramps to be integrated into the overall building and landscape design.	Steps and ramps are adequately integrated into the design.	Yes.

3H-1	Carpark access should be integrated with the building's overall façade.	The car parking is adequately integrated into the façade of the building with the roller door located behind the building line. A 'green' pergola is proposed over the car park entry ramp.	Yes.
	Clear sight lines to be provided for drivers and pedestrians.	Adequate sight lines are provided for drivers and pedestrians at the street frontage.	Yes.
	Garbage collection, loading and servicing areas are screened.	The communal waste area located within the front setback, is adequately screened with a landscaped strip provided along the Garner Street boundary.	Yes.
3J-1	The site is not located within 800m of a railway station and is required to comply with the car parking rates as stipulated within the Penrith DCP 2014.	Refer discussion under Penrith DCP 2014.	N/A.
3J-2	Secure undercover bicycle parking should be provided for motorbikes and scooters.	Secure bicycle parking is proposed within the basement of the building. Additional storage for bicycle parking is also available within the ground floor apartment courtyards and within basement storage cages. It is noted that a condition of consent recommending that the development provide a minimum of 12 basement car parking spaces has been applied. This will require the deletion of a storage cage and will require the bicycle parking to be relocated. Adequate area exists on the site to accommodate the bicycle parking elsewhere and the condition requires an amended plan to be submitted indicating the new location, prior to the issue of a Construction Certificate.	Yes.
3J-3	A clearly defined and visible lobby area or waiting area should be provided to lifts and stairs.	Lobby areas are clearly defined and appropriately located.	Yes.
3J-6	Positive street address and active frontages to be provided at ground floor.	A wide and direct landscaped pedestrian access pathway is provided to the communal entry and lift lobby area via the southern side boundary.	Yes.
4A-1	Living rooms and private open spaces of at least 70% of apartments to receive 2 hours direct sunlight between 9am and 3pm mid-winter.	Submitted documentation (Drawing No. 18, revision C, Solar angle and cross ventilation) confirms that 100% of apartments are compliant.	Yes.
4A-3	Sun shading devices are to be utilised.	Balconies are proposed to be covered by the levels over. Submitted elevations include sun shading devices and louvres.	Yes.

4B-3	60% of apartments are naturally ventilated and overall depth of cross-through apartments 18m maximum glass-to-glass line.	Submitted documentation (Drawing No. 18, revision C, Solar angle and cross ventilation) confirms that 75% of apartments will receive natural cross flow ventilation. Apartment depths are compliant with the maximum depth requirement of 18m.	Yes.
4C-1	Finished floor to finished ceiling levels are to be 2.7m for habitable rooms, 2.4m for non-habitable rooms.	The proposal is for 2.8m measured from finished floor to finished ceiling level.	Yes.
4D-1	Apartments are to have the following min. internal floor areas: 1 bed – 50sqm 2 bed – 70sqm 3 bed – 90sqm Addition bathroom areas increase minimum area by 5sqm.	All proposed apartment sizes comply with the ADG requirements.	Yes.
4D-2	In open plan layouts the maximum habitable room depth is 8m from a window.	All units comply with this requirement.	Yes.
4D-3	Master bedrooms to be 10sqm's and other rooms 9sqm's.	All units comply with this requirement.	Yes.
	Bedrooms to have a minimum dimension of 3m.	All units comply.	Yes.
	Living rooms to have minimum width of 3.6m for a 1 bedroom unit and 4m for 2 & 3 bedrooms.	All units comply.	Yes.
4E-1	All units to have the following primary balcony areas: 1 bed – 8sqm (2m deep) 2 bed – 10sqm (2m deep) 3 bed – 12sqm (2.4m deep)	All units comply, with the exception of three areas of balcony fronting bedrooms which have a minimum depth of less than 2m. This minor non-compliance (Units 01.02, 02.02 and 03.02) is considered acceptable given the high amenity and north facing orientation of the apartments and that the 2m wide portion of each balcony is provided adjacent to the combined living and dining areas.	No. Justification provided.
4E-3	Downpipes and balcony drainage are integrated with the overall facade and building design.	A condition of consent is recommended in this regard.	Yes. Condition recommended.
	Air-conditioning units should be located on roofs, in basements, or fully integrated into the building design.	A condition of consent is recommended in this regard.	Yes. Condition recommended.
4F-1	Daylight and natural ventilation to be provided to all common circulation spaces.	Natural light is provided to the central lobby and lift core circulation spaces via louvres along the southern elevation.	Yes.

4G-1	In addition to storage in kitchens, bathrooms and bedrooms, the following storage is to be provided: 1 bed – 4m³ 2 bed – 6m³ 3 bed – 10m³ With 50% of the above to be provided within the units.	Adequate storage is provided within each unit in addition to storage cages located in the basement carpark.	Yes.
4K-1	Flexible apartment configurations are provided to support diverse household types.	The development proposes a range of unit sizes, configurations and number of bedrooms to accommodate change over time and cater for differing households. Unit mix is proposed as follows: 4 x 1 bedroom apartments (33.33%) 8 x 2 bedroom apartments (66.66%) >10% (2 units) of apartments are proposed as adaptable units. One apartment is proposed to be used for the purposes of affordable rental housing.	Yes.
4L-1	Direct street access should be provided to ground floor apartments.	Unit GF.03 at ground floor is provided with direct access to Garner Street.	Yes.
4M-1	Building facades are to be well resolved with an appropriate scale and proportion to the streetscape and human scale.	The proposal was subject to a review by Council's Urban Design Review Panel and was supported subject to amendments with regard to landscape improvements and changing externally fixed louvres to fixed and angled windows with trafficable floor area along the side elevations. Amended plans were received which are considered to address the matters raised by the panel. Areas of units with splayed privacy screens include trafficable floor areas to assist in providing articulation and high amenity apartment layouts. The scale of the building adequately addresses the street with varying ground, mid and upper level elements provided to break up bulk and provide elements of contrast. Landscaping will be improved by the recommended conditions of consent requiring deep soil planters to be provided along side elevations, and two trees to be planted along the street frontage, including one street tree.	Yes.

4O-1	Landscape design to be sustainable and enhance environmental performance.	The submitted landscape plan prepared by RFA Landscape Architects indicates a selection of trees, shrubs and ground covers appropriate for the site. To ensure adequate screen planting is provided to the waste collection area and to ensure shade trees are introduced into the street front, a condition of consent is recommended to require the submission of amended landscape plans indicating a tree with a minimum mature growth of 6m within the frontage of the site in addition to one street tree within Council's nature strip. Further, as discussed elsewhere within this report, the planter bed along the southern side boundary is to be amended to be a minimum of 800mm in soil depth.	Yes. Conditions recommended.
4Q-2	Adaptable housing is to be provided in accordance with the relevant Council Policy.	A total of 2 adaptable units are proposed (>10%). Refer discussion under Penrith DCP 2014.	Yes.
4U-1	Adequate natural light is provided to habitable rooms.	All habitable rooms are provided with appropriate levels of natural light. Apartment depths and open floor plan arrangements allow light into kitchens, dining areas and living areas.	Yes.
4V-2	Water sensitive urban design systems to be designed by suitably qualified professional.	A MUSIC-link report has been prepared in support of the application which has been referred to Council's internal Environmental Waterways Unit with no objections raised.	Yes.
4W-1	A Waste Management Plan is to be provided.	A Waste Management Plan has been submitted.	Yes.
	Circulation design allows bins to be easily manoeuvred between storage and collection points.	The communal waste area and bulky waste area is located along the frontage of the site at ground floor level and is considered to be adequate.	Yes.

Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

An assessment of the proposal has been undertaken against the relevant criteria within Sydney Regional Environmental Plan No. 20—Hawkesbury-Nepean River (No. 2—1997). The proposal is found to be 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	Does not comply - See discussion
Clause 4.3 Height of buildings	Complies
Clause 4.4 Floor Space Ratio	N/A
Clause 5.9 Preservation of trees or vegetation	Complies - See discussion
Clause 7.1 Earthworks	Complies - See discussion
Clause 7.2 Flood planning	N/A
Clause 7.4 Sustainable development	Complies
Clause 7.6 Salinity	Complies - See discussion
Clause 7.7 Servicing	Complies

Clause 2.3 Permissibility

The proposed residential flat building is permissible within the R4 High Density Residential zone under the PLEP 2010. One unit within the building is proposed to be an affordable rental unit and as such, the proposal is also permissible under the State Environmental Planning Policy (Affordable Rental Housing) 2009.

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

The proposal does not comply with the minimum lot size of 800sqm's as required for residential flat buildings under Clause 4.1A of the PLEP 2010. Notwithstanding the above, the State Environmental Planning Policy (Affordable Rental Housing) 2009 applies to the proposal and stipulates a minimum lot size requirement of 450sqm's. Refer to discussion under State Environmental Planning Policy (Affordable Rental Housing) 2009.

It is noted that a request to vary the minimum lot size standard under the PLEP 2010 is not required as the proposal for a residential flat building is permissible on the 800sqm lot under the State Environmental Planning Policy (Affordable Rental Housing) 2009 which sets the minimum lot size as 450sqm.

Clause 5.9 Preservation of trees or vegetation

The objective of this Clause is to preserve the amenity of the area, including biodiversity values, through the preservation of trees and other vegetation.

The development of the site will necessitate the removal of 3 trees located on the subject lot. An Arborist's Assessment of the 3 trees was submitted and the report does not identify any of the trees as significant or worthy of retention. One tree (large shrub) is noted as being a weed.

Notwithstanding the above, the Arborist's Assessment notes that the tree marked as No. 2 is located on the adjacent site to the north and will be impacted by the proposal. In this respect, a condition of consent is recommended to be imposed requiring this tree to be retained and protected in accordance with AS 4970-2009 Protection of Trees on Development Sites or owner's consent to remove and replace this tree is to be sought.

Clause 7.1 Earthworks

The proposal complies with the objectives of this clause. Due to the location and extent of basement excavation required, conditions of consent are recommended requiring the submission of a dilapidation report with surveys of adjoining properties undertaken prior to and after completion of construction and the submission of a geotechnical report with regard to ground conditions and excavation techniques.

Clause 7.6 Salinity

The site is not known to be effected by soil salinity issues.

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

There are no draft Environmental Planning Instruments that have been placed on public exhibition that apply to the proposal.

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	N/A
C8 Public Domain	N/A
C9 Advertising and Signage	N/A
C10 Transport, Access and Parking	Does not comply - see Appendix - Development Control Plan Compliance
C11 Subdivision	N/A
C12 Noise and Vibration	Complies
C13 Infrastructure and Services	Complies
D2.1 Single Dwellings	N/A
D2.2. Dual Occupancies	N/A
D2.3 Secondary Dwellings	N/A
D2.4 Multi Dwelling Housing	N/A
D2.5 Residential Flat Buildings	Does not comply - see Appendix - Development Control Plan Compliance
D2.6 Non Residential Developments	N/A

Section 79C(1)(a)(iiia) The provisions of any planning agreement

There are no planning agreements applying to this proposal.

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

In accordance with Section 143 of the *Environmental Planning and Assessment Regulation 2000*, an assessment of the fire protection and structural capacity of the proposed building is necessary. The application was referred to Council's Building Surveyor for assessment with no objections raised, subject to the recommended conditions.

The proposed development complies with the requirements of the Regulations.

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

Context and Character

The development of the site will have an impact on the character of the area in that approval of the development will involve the demolition of an older style single dwelling and will introduce a four storey residential flat building into the streetscape. Notwithstanding the increase in density, the proposed setbacks, landscaping scheme and external materials and finishes are assessed to be sympathetic to the existing streetscape character and adjacent pattern of development and will not result in negative, unacceptable or unreasonable impacts in the locality.

Privacy Impacts

The design of the building incorporates a range of measures to assist in reducing visual and acoustic privacy impacts on neighbouring sites. The design includes inset balconies with privacy screens.

View Loss

The construction of the residential flat building will result in some view loss for residents of the adjacent flat building, in particular those along the northern façade. Primary living areas along this façade are provided with corner balconies to the west and east and as such some outlook is retained. Prominent views from other adjacent residential buildings will not be significantly affected due to their orientation.

Solar Access

Submitted solar access diagrams indicate that the shadow cast from the proposed building will reduce the amount of solar access available to the widows along the northern façade of the residential flat building to the south (No. 5 Garner Street). However, units along this façade are provided with corner balconies aligned with their living spaces located on the north-western and north-eastern corners of the building. Solar access will be maintained to a portion of these balcony areas between approximately 12 midday and 3:00pm for the north-western balconies and between approximately 9:00am and 11:00am for the north-eastern balconies.

It is noted that this represents a variance to the ADG control for solar access to living zones of a minimum of 3 hours, however the site borrows its solar access for these units over the side boundary. Land and Environment Court principles have established that it is difficult to protect solar access over side boundaries, particularly in zones with greater density and the claim to that solar access, in these zones, is not as strong. It is for the above reasoning that the additional overshadowing attributed to the proposal, is considered acceptable and is not considered unreasonable in the context of the site.

Traffic and Parking

As a result of the proposal, it is expected that there will be an increase in the volume of traffic entering and leaving the site. The development proposes a compliant car parking rate and is unlikely to impact negatively on or to the detriment of the local road network. Standard conditions of consent are recommended with regard to construction traffic as well as compliance with relevant Australian Standards related to car parking design and exit sight lines.

Noise and Construction Impacts

Construction at the site will have a temporary affect on the amenity of the area due to the noise of works, equipment and machinery. Standard conditions of consent are recommended with regard to hours of construction, noise and dust suppression and erosion and sediment control. Conditions of consent are also recommended with regard to asbestos removal and compliance with the Building Code of Australia during construction.

Social & Socio-Economic Impacts

The development is unlikely to result in any unacceptable negative social impacts in the area. The proposal has been assessed against the principles and objectives contained within the ARH SEPP and the Penrith DCP 2014, specifically those sections related to safety and security, and the proposal is compliant in this regard. The development of the site will facilitate the provision of new housing with the LGA in accordance with the aims of the PLEP 2010.

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

The site is assessed to be suitable for the following reasons:

- The site is zoned to permit the proposed use.
- The use is compatible with surrounding and adjoining land uses.
- The design is compatible with the character of the local area.
- The site is able to drain to Council's satisfaction.

Section 79C(1)(d) Any Submissions

Community Consultation

In accordance with the requirements of the Penrith Development Control Plan 2014, the proposed development was notified to adjoining and nearby properties and advertised and exhibited between 18 July and 1 August 2016. One submission was received raising matters related to solar access, view loss, privacy, security and traffic impacts.

The following issues were raised in the submission received and have formed part of the assessment.

Issue Raised	Comments
View Loss • 4 storey development, as well as affecting the view.	<i>The construction of the residential flat building will result in some view loss for residents adjacent to the site. The outlook or views available from the eastern side of Garner Street, toward the west will be interrupted although are not due to any non-compliance of the development, whereby compliance would reduce the impacts of view loss.</i> <i>Development for the purposes of a residential flat building is permissible within the R4 High Density zone and the resultant impacts on views are not unreasonable in the context of the site.</i>
Solar Access • The sun sets directly behind the proposed development, as well as affecting the view, this will significantly reduce the afternoon light and warmth coming into my living areas.	<i>Submitted shadow diagrams indicate that dwellings located on the opposite side of Garner Street will be impacted by additional shadows attributed to the proposed development between the hours of approximately 3:00pm and sunset during the winter solstice.</i> <i>Existing levels of solar access attributed to these dwellings will be unaffected by the proposal between sunrise and 3:00pm and as such, it is considered that the development will not unreasonably impact existing available levels of solar access.</i>
Privacy and Security • The only outdoor living space is a patio area facing onto the street. A four storey development means that residents on the upper two levels will be able to see into this area and my privacy (and possibly security) will be compromised.	<i>The design of the building incorporates a range of measures to assist in reducing visual and acoustic privacy impacts on neighbouring sites. The design includes inset balconies fronting Garner Street with privacy screens.</i> <i>Adequate building separation between the proposed development and private open spaces along the eastern side of Garner Street is considered to be adequate. Views will be distant and not downward and overlooking.</i>

Traffic and Parking • The street is quite narrow. • This development means additional cars coming into the street. While I acknowledge that some parking will be available in the new development, it will mean extra cars also trying to park in the street. • When cars are parked on both sides, only one car can pass so traffic is held up and has to give way. I am concerned this additional traffic increases the chances of accidents.	As a result of the proposal, it is expected that there will be an increase in the volume of traffic entering and leaving the site. The development proposes a compliant car parking rate and is unlikely to impact negatively on or to the detriment of the local road network. Standard conditions of consent are recommended with regard to construction traffic as well as compliance with relevant Australian Standards related to car parking design and exit sight lines.
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A written response to the submitter was sent on 17 February 2017 advising of the consideration given to their concerns.

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
Environmental - Waterways	No objections - subject to conditions
Waste Services	Not supported
Traffic Engineer	No objection subject to conditions
Community Safety Officer	No objections - subject to conditions

Waste Services

Matters raised by Council's Waste Officer included:

- The design of the communal waste area and location of bins
- Provision of a bulky waste area

These matters were addressed by the submission of amended plans and recommended conditions of consent.

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

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

Section 94 - Developer Contributions Plans

The following Section 94 Contribution Plans apply to the site:

- Cultural Facilities Development Contributions Plan (2003)
- Penrith City District Open Space Facilities Development Contributions Plan (2007)
- Penrith City Local Open Space Development Contributions Plan (1993)

The following Section 94 calculations apply to the proposed development.

Calculation for Residential Flat Building x 12 Apartments					
<i>Open Space</i>					
No. of units	x	Rate	-	Credit for existing dwelling/s	Contribution rate
12	x	2	-	3.1	20.9
<i>City Wide</i>					
No. of units	x	Rate	-	Credit for existing dwelling/s	Contribution rate
12	x	2.4	-	3	25.8
AMOUNT					
S.94 Contribution Plan		Contribution Rate x Calculation Rate			Total
District Open Space		20.9 x \$1,877.00			\$39,229.00
Local Open Space		20.9 x \$679.00			\$14,191.00
Cultural Facilities		25.8 x \$152.00			\$3,922.00
		NET TOTAL			\$57,342.00

Conclusion

In assessing this application against the relevant environmental planning policies, in particular the State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development, State Environmental Planning Policy (Affordable Rental Housing) 2009, the Penrith Local Environmental Plan 2010 and the Penrith Development Control Plan 2014, the proposal is considered to satisfy the primary aims, objectives and provisions of these policies.

In its current form, the proposal will have an acceptable impact on the surrounding character of the area. The proposed design is considered to be site responsive and is not contrary to the public interest. The application is therefore worthy of support, subject to recommended conditions.

Recommendation

1. That DA16/0621 for demolition of existing structures and the construction of a 4 storey residential flat building with basement car parking at 1 Garnet Street, St Marys be approved subject to the attached conditions.

General

1 A001

The development must be implemented substantially in accordance with the plans listed below:

Architectural Plans prepared by Baini Design			
Plan No.	Description	Revision	Date
16047 - 06	Demolition Plan	C	02/11/16
16047 - 07	Basement – Ground Floor	D	24/02/17
16047 - 08	First Floor, Second & Third Floor	C	02/11/16
16047 - 09	Roof Plan/BASIX Commitments	C	02/11/16
16047 - 10	South & North Elevations	C	02/11/16
16047 - 11	East & West Elevations	C	02/11/16
16047 - 12	Sections 1	C	02/11/16
16047 - 13	Sections 2	C	02/11/16
16047 - 14	External Colours and Finishes	C	02/11/16
16047 - 16	Materials and Finishes Schedule	C	02/11/16
Landscape Plans prepared by RFA Landscape Architects			
L-01	Landscape Plan	B	25/11/16
Stormwater Plans prepared by Australian Consulting Engineers			
101	Stormwater Concept Plan Basement Level Sheet 1 of 2	B	23/11/2016
102	Stormwater Concept Plan Basement Level Sheet 2 of 2	B	23/11/2016
103	Stormwater Concept Plan Ground Level Sheet 1 of 2	B	23/11/2016
104	Stormwater Concept Plan Ground Level Sheet 2 of 2	B	23/11/2016
105	Water Sensitive Urban Design Details	B	23/11/2016
106	On-Site Detention Details and Calculation Sheet	B	23/11/2016
107	Miscellaneous Details Sheet	B	23/11/2016
Additional Reports and Plans			
Report No.	Prepared by/Title/Description	Revision	Date
-	Stormwater Quality Management Plan prepared by Umbrella Civil Consulting Engineers	A	April 2016
15110325	Thermal Performance Assessor Certificate prepared by Anthony Pearl	-	26-04-13
	Waste Management Plan. No author provided.	-	01/06/16
161017	Traffic & Parking Impact Assessment prepared by NSA Consulting Traffic & Transport Consultants	Final	June 2016

as stamped approved by Council, the application form, BASIX Certificate No. 720107M and any supporting information received with the application, except as may be amended in red on the approved plans and reports by the following conditions.

2 A002 Special (Amendments)

Prior to the issue of the Construction Certificate, the following design alterations are to be made:

- (a) A minimum of 12 car parking spaces are to be provided within the basement carpark. Should bicycle parking be relocated as a result of this condition, the new location of bicycle parking shall be shown on amended plans.
- (b) A 1.5m wide pedestrian pavement is to be provided along the frontage of the site. A min. 1.5m wide pavement is to be provided from the boundary of the site to the pavement.
- (c) Fencing associated with the private open space area of Unit GF.03 is to be a maximum 1.2m if of solid or masonry construction with slatted timber or similar, up to a maximum height of 1.8m.
- (d) One (1) street tree is to be provided along the frontage of the site. The selected tree is to be an Australian native, preferably endemic to the area and is to have a minimum mature height of 6m.
- (e) Fixed glazing is to be provided to the southern elevation adjacent to the communal lobby and lift circulation areas on levels 1, 2 and 3, in addition to the proposed louvres.
- (f) The width of the west facing level 1 balcony attached to Unit 01.01 is to be a maximum depth of 3m.
- (g) The floor of the communal waste area is to be finished so that it has a smooth and even surface and is graded to prevent water from pooling within the waste bay.
- (h) The waste bay is to be provided with a hose cock and the entryway to the waste area is to be a minimum of 1.2m wide.
- (i) Fixed louvres are to be provided to the lounge room windows of Units 01.01, 02.01, 03.01, 01.03, 02.03 and 03.03. The louvres are to be angled to restrict cross viewing into the windows of adjacent apartments.

Amended plans indicating the above amendments are to be submitted to and approved by Penrith City Council prior to the issue of a Construction Certificate.

3 A002A Special (Amended Landscape Plan)

Prior to the issue of an Occupation Certificate, an amended landscape plan is to be submitted to and approved by the Manager Development Services at Penrith City Council. The amended landscaping plan shall reflect the stamped approved architectural and stormwater layouts and include the following amendments:

- (a) Planter boxes proposed along the southern elevation are to be provided with irrigation for watering and are to have a minimum soil depth of 800mm.
- (b) A planter box is to be provided along the northern and southern boundary to unit GF.01 and the southern boundary of Unit GF.02. These planters are to have a minimum soil depth of 800mm.
- (c) A tree is to be provided within the front setback of the lot, adjacent to the Garner Street entryway to Unit GF.03. The selected tree species is to have a minimum mature height of 6m and is to be a minimum 45l pot size.

4 A002B Special (Fire Safety Compliance - Basement)

The following design and/or construction issues need to be addressed **prior to the issue of any Construction Certificate** to ensure compliance with the Building Code of Australia:

- (a) Non-compliance with the deemed-to-satisfy provisions of Volume 1 of the Building Code of Australia in regards to the number of exits provided to the basement.

Amended documentation is to be submitted to the Principal Certifying Authority detailing compliance with the above.

5 A002B Special (Reinstate Redund. Driveway)

Prior to the issue of an Occupation Certificate, the redundant kerb cross over and driveway is to be removed and kerb and gutter reinstated.

6 A003 Special (Restriction affordable rental housing)

A restriction must be registered, before the date of the issue of the Occupation Certificate, against the title of the property on which the development is to be carried out, in accordance with Section 88E of the *Conveyancing Act 1919*.

The restriction is to ensure the requirements of Clause 17 of State Environmental Planning Policy (Affordable Rental Housing) 2009 are met. In this regard, a minimum of one adaptable apartment within the building, is to be provided for the purposes of affordable rental housing for a period of 10 years from the date of the issue of the Occupation Certificate and all accommodation that is to be used as affordable rental housing is to be managed by a registered community housing provider.

Details of the nominated, registered community housing provider are to be provided to Council, **prior to the issue of an Occupation Certificate**.

7 **A003B Special (Amended stormwater)**

Prior to the issue of a Construction Certificate, stormwater plans are to be amended to reflect the approved basement layout.

8 **A019 - OCCUPATION CERTIFICATE (ALWAYS APPLY)**

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

9 **A038 - LIGHTING LOCATIONS**

Prior to the issue of an Occupation Certificate, a lighting system shall be installed for the development to provide uniform lighting across common areas and driveways. Exterior lighting shall be located and directed in such a manner so as not to create a nuisance to surrounding land uses. The lighting shall be the minimum level of illumination necessary for safe operation. The lighting shall be in accordance with AS 4282 "Control of the obtrusive effects of outdoor lighting" (1997).

10 **A039 - Graffiti**

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

11 **A046 - Obtain Construction Certificate before commencement of works**

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

12 **A CPTED Landscaping**

The Construction Certificate plans shall address the following landscape design advisory notes:

- (a) Avoid vegetation, which conceals the building entrance from the street.
- (b) Vegetation that impedes the effectiveness of public and private space lighting should be avoided.
- (c) The use 'green screens' (wall hugging vegetation that cannot be hidden behind) to screen large expanses of fencing all wall to minimise graffiti is encouraged. Caution should be taken to ensure that plant screening does not provide a natural ladder to gain unauthorised access to the building.

13 **A CPTED Basement Car Parking**

The basement car parking area shall be provided with the following:

- (a) A security system must be installed on any pedestrian and vehicle entry/exit points to the car park, including the lift and stairwell, to minimise opportunities for unauthorised access.
- (b) Signage must be in place to clearly identify exit and access points, the location of lifts and stairwells.
- (c) All surfaces in the car park should be painted in light coloured paint or finished in light coloured concrete or other material to reflect as much light as possible.

Advisory Notes:

- All areas of the car park (including lift lobbies, stairwells, garbage rooms and storage areas) must be well-lit, with consistent lighting to prevent shadowing or glare.
- To ensure users of large car parks are easily able to determine their location, exit and access points, security intercoms and the like appropriate signage it to be included.
- All potential entrapment points should be avoided. Adequate lighting and mirrors should be used when certain design features are unavoidable

14 **A CPTED Lighting**

Pedestrian pathways, laneways and access routes in outdoor public spaces should be provided with appropriate levels of lighting and should be consistent in order to reduce the contrast between shadows and illuminated areas. Lighting should be designed in accordance with AS4282 – Control of the obtrusive effects of outdoor lighting.

15 **A CPTED Residential Developments Building Identification**

Prior to the issue of an Occupation Certificate, the Principal Certifying Authority shall ensure the following:

- (a) Each individual apartment shall be clearly numbered.
- (b) Unit numbers should be clearly displayed on each level of the building.
- (c) Secure access is to be provided to the main pedestrian entryway/lobby and lift.

16 **A Special (2.1m fencing)**

Prior to the issue of an Occupation Certificate, 2.1m high fencing shall be erected along the southern and northern side boundaries behind the front building setback to Garner Street. Such fencing and any retaining walls required shall be constructed entirely at the expense of the persons having the benefit of this consent. Timber retaining walls are not permitted.

The external face of any walls or fences visible from adjacent private or public areas is to be installed and finished to an equal or higher standard and quality than those visible to the occupants of the approved development.

17 **A Special (Adaptable Apartments)**

A minimum of two (2) apartments shall be constructed as adaptable apartments to meet the requirements for persons with a disability in accordance with the stamped approved plans. The adaptable units shall each be allocated an accessible car parking space compliant with AS 2890.6. **The Construction Certificate must be accompanied by certification** from a person suitably qualified by the Association of Consultants in Access Australia confirming that the adaptable dwellings are capable of being modified, when required by the occupant, to comply with the Australian Housing Standard (AS 4299-2009). A compliance Certificate in this regard shall be provided **prior to the issue of an Occupation Certificate**.

18 **A Special (Crane)**

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 the erection, indicating at least the following:

- Name of responsible company and relevant contact details.
- Dimensions (height, length, etc.)
- Position and orientation of boom/jib and counter boom/jib
- Length of time that such a crane or structure will be erected on site.

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 counter boom/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, is to be on and displayed at all times of the day and night, should be positioned so that when displayed it is visible from all directions.
- When a crane is unattended for an extended period of time ensure the crane's boom is retracted and lowered as far as possible.
- Any encroachment of the crane or its components beyond the boundaries of the subject site shall be the minimum amount required to facilitate construction and access all parts of the construction site.

19 **A Special (Design Verification CC)**

Prior to the issued 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 Schedule 1 of State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development.

20 **A Special (Design Verification OC)**

Prior to the issued of an Occupation 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 Schedule 1 of State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development.

21 **A Special (External Plant)**

All mechanical ventilation equipment, ducts, air conditioner services and the like shall be shown on the Construction Certificate documentation as being contained within the building. Gutters and down pipes shall be integrated into the architecture of the building. Any plant or unsightly structures installed on the rooftop must be screened from view.

22 **A Special (Materials and Finishes Schedule)**

A final materials and finishes schedule is to be submitted to and approved by the Manager Development Services at Penrith City Council **prior to the issue of a Construction Certificate**.

23 **A Special (Obscure glazing)**

Balcony glazing is to be tinted (neutral colour) or otherwise obscure to assist in maintaining privacy. Details are to be shown on the plans submitted for the Construction Certificate.

24 **A Special (Unexpected Finds)**

Should any "unexpected finds" occur during the 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 is to be 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 prior to remediation works commencing.

Demolition

25 [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**.

26 [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 portaloos with appropriate washing facilities shall be located on the site and the Principal Certifying Authority is to be satisfied that:

- Measures are in place so as to comply with SafeWork NSW's (WorkCover) "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 SafeWork NSW (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 SafeWork NSW (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.

27 [B004 - Dust](#)

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

28 [B005 - Mud/Soil](#)

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

29 [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, 7:00am to 6:00pm
- Saturdays, 7:00am to 1:00pm if inaudible on neighbouring residential premises, otherwise 8:00am to 1:00pm
- No demolition work is permitted on Sundays and Public Holidays.

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

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

Environmental Matters

30 [D001 - Implement approved sediment& erosion control measures](#)

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

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

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

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

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

Note: Penrith 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.”

32 **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.

33 **D010 – Appropriate disposal of excavated or other waste**

All excavated material and other wastes generated as a result of the development are to be re-used, recycled or disposed of in accordance with the approved waste management plan.

Waste materials not specified in the approved waste management plan are to be disposed of at a lawful waste management facility. Where the disposal location or waste materials have not been identified in the waste management plan, details shall be provided to the Certifying Authority as part of the waste management documentation accompanying the Construction Certificate application.

All receipts and supporting documentation must be retained in order to verify lawful disposal of materials and are to be made available to Penrith City Council on request.

34 **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 Contaminated Land Development Control Plan) with consideration of all relevant guidelines (e.g. EPA, ANZECC, NH&MRC), standards, planning instruments and legislation,
- clearly indicate the legal property description of the fill material source site,
- provide details of the volume of fill material to be used in the filling operations,
- provide a classification of the fill material to be imported to the site in accordance with the Environment Protection Authority's "Environmental Guidelines: Assessment, Classification & Management of Non-Liquid Wastes" 1997, and
- (based on the fill classification) determine whether the fill material is suitable for its intended purpose and land use and whether the fill material will or will not pose an unacceptable risk to human health or the environment.

An appropriately qualified person/s (as defined in the Penrith City Council Contaminated Land Development Control Plan) 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."

35 **D - Indemnity Agreement - Special BLANK**

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.

Note: By entering into an agreement with Council for waste collection, the development will be required to operate in full compliance with Penrith City Council's Waste collection and Processing Contracts for Standard Waste Collection. The provision of Council's waste collection service will not commence until formalisation of the agreement. The original signed copy is to be submitted to Council. The document can be downloaded via the following link:

<https://www.penrithcity.nsw.gov.au/Building-and-Development/Development-Applications/Forms/>

36 **D Special Waste Agreement**

Prior to the issue of an Occupation Certificate, the developer is to enter into a formal agreement with Penrith City Council for the utilisation of Council's Waste Collection Service. This is to include Council being provided with indemnity against claims for loss or damage.

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

BCA Issues

37 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.

38 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.

Utility Services

39 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.**

40 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 required to service the development, Penrith City Council must be consulted over the proposed location of the substation before the Construction Certificate for the development is issued, as the location of the substation may impact on other services and building, driveway or landscape design already approved by Council. An application to modify the development under Section 96 of the Environmental planning and Assessment Act 1979 may be required with regard to amendments to the landscape, building or waste services design to accommodate a substation.

Confirmation is to be provided to Penrith City Council that a blast wall or similar structure is not required.

41 **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.

42 **G Special (Hyd 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

43 **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.

44 [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.

45 [H033 – Clothes line](#)

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

46 [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, 7:00am to 6:00pm
- Saturdays, 7:00am to 1:00pm if inaudible on neighbouring residential premises, otherwise 8:00am to 1:00pm
- No work is permitted on Sundays and Public Holidays.

Other construction works carried out inside a building 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.

Engineering

47 [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.

48 **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.

49 **K202 - S138 Roads Act – Works and Structures - Minor Works in the public road DRIVEWAYS ROAD OPENINGS**

Prior to the issue of any 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) All works associated with the Roads Act approval must be completed prior to the issue of any Occupation Certificate.

50 **K203 - S138 Roads Act – Works and structures - Roadworks requiring approval of civil drawings. CIVIL CONSTRUCTION IN THE ROAD RESERVE**

Prior to the issue of any 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 provision of a stormwater kerb inlet pit and pipe drainage works in Putland Street.

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.

51 **K210 - Stormwater Management**

The stormwater management system shall be provided generally in accordance with the concept plan/s lodged for development approval, prepared by Umbrella Civil, reference number UMB160085.SW.DA, sheets 101-107, revision B, dated 23/11/2016.

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

52 **K211 - Stormwater Discharge – Basement Car parks**

Prior to the issue of any Construction Certificate, the Certifying Authority shall ensure that the stormwater drainage system for the basement car park has been designed in accordance with the requirements for pumped systems in AS 3500.3 (or as amended) (Plumbing and Drainage – Stormwater Drainage).

53 **K212 - No loading on easements**

Prior to the issue of any 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.

54 **K221 - Overland Flow - General**

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

- a) The crest in the access ramp to the basement car park is a minimum of RL 300mm above the top of kerb.

Details prepared by a qualified person, demonstrating compliance with these requirements, shall form part of any Construction Certificate issued.

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

Prior to the issue of any Construction Certificate, the Certifying Authority shall ensure that vehicular access, circulation, manoeuvring, pedestrian and parking areas associated with the subject development are in accordance with AS 2890.1, AS 2890.2, AS 2890.6 and Penrith City Council's Development Control Plan.

56 **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 be 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 and shall ensure that adequate parking is provided for the development and not severely impacted by the construction of this development.

The CTMP 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, 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.

57 **K225 - Performance Bond**

Prior to the issue of a Roads Act Approval, a Performance Bond is to be lodged with Penrith City Council for drainage works in Putland Street.

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

Note:

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

58 **K301 - Sediment & Erosion Control**

Prior to commencement of works, sediment and erosion control measures shall be installed in accordance with the approved Construction Certificate and to ensure compliance with the *Protection of the Environment Operations Act 1997*.

The erosion and sediment control measures shall remain in place and be maintained until all disturbed areas have been rehabilitated and stabilised.

59 **K302 - Traffic Control Plan**

Prior to commencement of any works associated with the development, a Traffic Control Plan, including details for pedestrian management, shall be prepared in accordance with AS1742.3 "Traffic Control Devices for Works on Roads" and the Roads and Maritime Services' publication "Traffic Control at Worksites" and certified by an appropriately accredited Roads and Maritime Services Traffic Controller.

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

Note:

(a) A copy of the Traffic Control Plan shall accompany the Notice of Commencement to Penrith City Council.

(b) Traffic control measures may require road occupancy / road closure approvals issued under Section 138 of the Roads Act by Penrith City Council prior to the issue of a Construction Certificate.

60 **K405 - Turf to Verge**

Upon completion of all works in the road reserve, all verge areas fronting and within the development are to be turfed. The turf shall extend from the back of kerb to the property boundary, with the exception of concrete footpaths, service lids or other infrastructure which is not to be turfed over. Turf laid up to concrete footpaths, service lids or other infrastructure shall finish flush with the edge.

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

Prior to the issue of any Occupation Certificate, the Principal Certifying Authority shall ensure that all works associated with a Section 138 Roads Act approval or Section 68 Local Government Act approval have been inspected and signed off by Penrith City Council.

62 **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.

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 and / or Subdivision (Strata) Certificate where Penrith City Council is not the Principal Certifying Authority.

63 **K504 - Stormwater Compliance**

Prior to the issue of any Occupation Certificate, the Principal Certifying Authority shall ensure that the:

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

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

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

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

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

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

65 **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 parking to the satisfaction of the Principal Certifying Authority.

66 **K515 - Maintenance Bond**

Prior to the issue of an Occupation Certificate, a Maintenance Bond is to be lodged with Penrith City Council for drainage works in Putland Street. The value of the bond shall be determined in accordance with Penrith City Council's adopted Fees and Charges.

Note:

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

67 **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.

68 **K703 - New Condition**

Prior to the issue of a Construction Certificate, the Certifying Authority shall ensure that a Geotechnical investigation, report and strategy has been conducted to ensure stability of the Council infrastructure and surrounding developments. The geotechnical investigation, report and strategy shall comply with the recommendations contained in the technical direction GTD 2012/001 prepared by the Road and Maritime Services, as amended.

The applicant shall undertake a dilapidation report for all surrounding buildings and Council owned infrastructure that confirms that no damage occurs due to the excavations associated with the development. If Council is not the Certifying Authority the dilapidation report shall be submitted to Council prior to the issue of a Construction Certificate and then updated and submitted prior to any Occupation Certificate being issued, confirming no damage has occurred.

Prior to the issue of any Construction Certificate for internal works associated with the development, the site must be serviced by a legal point of discharge including any required infrastructure drainage works. The drainage works may include inter-allotment drainage construction and upgrades and / or road drainage extensions located on land owned by others.

69 **K - Special BLANK**

- (a) All car parking and manoeuvring must be in accordance with AS 2890.1-2004; AS 2890.6-2009 and Council's requirements.
- (b) All vehicles are to enter and exit in a forward direction.
- (c) The ramp to the basement car park is to be fitted with an appropriately placed access-point traffic light system and convex mirror/s to ensure that vehicles do not simultaneously traverse the basement ramp in opposing directions. Signage is required indicating that vehicle headlights are to be switched on when entering or exiting via the ramp. The traffic light system and convex mirrors are to be maintained in good working order and in perpetuity, for the life of the development.
- (d) The required sight lines around driveway entrances are not to be compromised by landscaping, fencing, signage or other obstructions.
- (e) All car spaces are to be line marked and dedicated for the parking of vehicles only and not to be used for storage of materials and/or waste materials, etc.

70 **K Special Condition BLANK**

Prior to the issue of a Construction Certificate, the Certifying Authority shall ensure that the maximum width of the vehicular crossover located within Council's Road Reserve is 6.0m.

71 **K Special Condition BLANK**

Prior to the issue of a Construction Certificate, the Certifying Authority shall ensure that details for implementation of the basement access point traffic light system are shown on plans. Plans are also to show details of advisory signage requiring drivers to turn on their headlights upon entry into the basement.

72 **K Special Condition BLANK**

Prior to the issue of a Construction Certificate, an easement for drainage and overland flow a minimum of 2.0m wide shall be provided over Strata Plan 13260 (No. 20 Putland Street) and evidence of registration of the easement with Land and Property Information (LPI) shall be submitted to Penrith City Council. The easement width shall be in accordance with Penrith City Council's adopted Design Guidelines.

Alternatively, Penrith City Council may accept a lesser width drainage easement down to a minimum width of 1m, subject to provision of a long section and scaled cross sections of the pipeline at various locations along the drainage easement, detailing the following:

- (a) Proposed drainage easement width;
- (b) Details of any existing surface features and locations and depths;
- (c) Proposed pipeline size, location and depth;
- (d) The gradient of the pipeline complies with Table 6.3.4 of AS 3500.3:2015;
- (e) The minimum pipe cover complies with Table 6.2.5 of AS 3500.3:2015;
- (f) The pipe trench complies with the zone of influence of any buildings or structures as per Section 6.2.8 and Figure 6.2.8 of AS 3500.3:2015.

Full details with regard to the easement are to be submitted to Penrith City Council for approval prior to the issue of a Construction Certificate.

Landscaping

73 **L001 - General**

All landscape works are to be constructed in accordance with the amended approved landscape plans required to be submitted as part of this consent and Appendix F5, Section 2.9 Landscape Technical Specifications of the Penrith Development Control Plan 2014.

Landscaping shall be maintained:

- in accordance with the amended approved plans required by this consent, 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.

74 **L002 - Landscape construction**

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

75 **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 an appropriately qualified and experienced landscape professional.

i. Implementation Report

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

76 **L005 - Planting of plant**

All plant material associated with the construction of approved landscaping is to be planted in accordance with Appendix F5, Section 2.9, Landscape Technical Specifications of the Penrith Development Control Plan 2014.

77 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.

78 L007 - Tree protectionmeasures

All trees that are required to be retained as part of the proposal, including the tree marked as no. 2 in the submitted Arborist's Assessment, are to be protected in accordance with best practice and the applicable sections of AS 4970-2009 Protection of Trees on Development Sites.

Advice is to be sought from an appropriately qualified and experienced arborist with regard to the construction impact on tree no. 2 (as referenced in the submitted Arborist's Assessment). Should the impacts of the development be such that tree no. 2 cannot be reasonably retained, owner's consent must be sought to remove the tree. Should the tree be removed in consultation with the owner of the land, a replacement species of a similar mature height and canopy spread shall be planted in a comparable location.

79 L008 - Tree PreservationOrder

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

80 N001 - Section 94 contribution (Cultural Facilities 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, \$3,922.00 is to be paid to Penrith City 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 Section 94 invoice accompanying this consent should accompany the contribution payment. The Cultural Facilities Development Contributions Plan may be inspected at Council's Civic Centre, 601 High Street, Penrith and is also available on Council's website.

81 N001 - Section 94 contribution (District Open Space)

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, \$39,229.00 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 Section 94 invoice accompanying this consent should accompany the contribution payment. The Penrith City District Open Space Facilities Development Contributions Plan may be inspected at Council's Civic Centre, 601 High Street, Penrith and is also available on Council's website.

82 N001 - Section 94 contribution (Local Open Space)

This condition is imposed in accordance with Penrith City Council's Section 94 Contributions Plan for Local Open Space. Based on the current rates detailed in the accompanying schedule attached to this Notice, \$14,191.00 is to be paid to Penrith City 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 Section 94 invoice accompanying this consent should accompany the contribution payment. The Penrith City Local Open Space Development Contributions Plan may be inspected at Council's Civic Centre, 601 High Street, Penrith and is also available on Council's website.

Certification

83 **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.

84 **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 of the building.

The Certificate shall not be issued if any conditions of this consent, but not the conditions relating to the operation of the development, are outstanding. A copy of the Occupation Certificate and all necessary documentation supporting the issue of the Certificate is to be submitted to Penrith City Council, if Council is not the Principal Certifying Authority.

Appendix - Development Control Plan Compliance

Development Control Plan 2014

Part C - City-wide Controls

C5 Waste Management

Clause 5.1 Waste Management Plans

A Waste Management Plan has been submitted with the application and is considered acceptable. Standard conditions of consent are recommended with regard to the provision of a hose cock within the communal bin area.

Clause 5.2.1 Siting and Design of Waste Bin Storage Areas for Residential Development

The proposal is considered to satisfy the controls of this clause, in that the waste bin area as amended, is sufficient in area to accommodate the proposed number of bins and all waste streams are accommodated. The communal waste and bulky waste area are provided with adequate manoeuvring area and are appropriately screened with landscaping. A 1.2m wide access path to the bin areas is also provided.

Clause 5.2.2.4 Residential Flat Buildings

Although the development is greater than 3 storeys, as the proposal is for a total of 12 dwellings, a chute system is not required. A communal waste area located within the front setback is acceptable.

Internal Referral Comments

The proposal was referred to Council's Waste Management Officer with the following matters raised:

- The location of waste bins along the driveway entry and the associated safety and visual impacts;
- The dimensions of the proposed communal waste collection bay;
- The proposal did not include a bulky waste storage area.

The above areas of non-compliance were discussed with the applicant who has provided an amended set of plans indicating that the above matters are addressed. It is noted that a total of 10 bins (5 x recycling and 5 x residual) are proposed and the recommended number of bins is 12. This minor non-compliance (shortfall of 1 x recycling and 1 x residual bin) is considered acceptable as the bins are communal and a total of 12, one and two bedroom apartments are proposed. A bulky waste area is provided and the waste collection area is of a sufficient scale to accommodate the number of bins provided.

C10 Transport, Access and Parking

Parking, Access and Driveways

The DCP requires that proposals for basement car parking be accompanied by a geotechnical report prepared by an appropriately qualified professional. As the development application was not submitted with a geotechnical report, a condition of consent is recommended to require the submission of a geotechnical report, prior to the issue of the Construction Certificate and that the recommendations of that report are applied throughout detailed design and construction.

An assessment of the car parking rates is provided below:

C10 Transport, Access and Parking - Compliance Table		
Rate/Required	Discussion	Complies
• 1 bed Units x 4 = 1 per unit 4 x spaces required	Amended plans indicate 11 residential car parking spaces are proposed. A condition of consent is recommended to require a minimum of 12 spaces to be provided within the basement.	Yes. Condition recommended.
• 2 bed Units x 8 = 1 per unit 8 x spaces required	It is noted that the addition of a space will require the relocation of a storage cage and 4 bicycle spaces located adjacent to the lift core. Adequate area exists within the development to accommodate the storage and 4 bicycle spaces elsewhere.	
A total of 12 resident spaces are required (inclusive of 2 x accessible spaces).		
1 service space is required per 40 units.	No service spaces are required.	Yes.

Visitor parking to be provided at a rate of 1 space for each 5 dwellings. A total of 2 spaces are required.	No visitor car parking spaces are proposed. Although the proposal is non-complaint with Council's DCP requirement for visitor car parking, the proposal is compliant with the non-refusable standards under the State Environmental Planning Policy (Affordable Rental Housing) 2009 [ARH SEPP].	Complies with the ARH SEPP.
3 bicycle spaces are recommended by the 'Planning Guidelines for Walking and Cycling' document.	Four bicycle parking spaces are provided within the basement. It is noted that the requirement to provide an additional car space will require the relocation of the four bicycle spaces however, adequate area exists for their relocation.	Yes.

Design of Parking and Manoeuvring Areas

The proposal complies with the DCP requirement to integrate vehicle access into the building design and includes a 'green' pergola over the entrance from Garner Street and all vehicles will be able to enter and leave the site in a forwards direction. The design of the basement car park allows for passive surveillance opportunities with wall mounted storage cages and a centrally located lift. Standard conditions of consent are recommended to require surfaces within the car park to be light in colour and to require lighting to be provided throughout the basement.

It is noted that the proposal is for a single lane access driveway with passing bay, traffic light system and convex mirror. The design was discussed with Council's Traffic Engineer who has not raised any objections to the proposal, given the minimal number of vehicles that the basement carpark will service and given the ramp is relatively short and straight allowing good sight lines. Conditions of consent are recommended with regard to the installation of traffic management devices.

Pedestrian Connections

Objectives of this clause include:

- (a) To provide a safe, convenient and legible movement network for people with diverse abilities, including those using wheelchairs, mobility scooters, people with prams, small children, elderly people and people with temporary injuries, between residences and points of attraction within and beyond the development; and*
- (b) To provide walking routes along predictable pathways of travel, including approaches to schools, parks and shopping precincts.*

As the development includes the provision of an affordable rental housing unit and two adaptable dwellings, a condition of consent is recommended to require the provision of a 1.5m wide pavement along the Garner Street frontage. This will allow people using a wheelchair, mobility scooter or the like to access the driveway, in order to cross to the eastern side of Garner Street, where pedestrian pavement is provided.

D2 Residential Development

2.5.2 Preferred Configuration for Residential Flat Buildings

The DCP stipulates that new residential flat building development incorporate traditional configurations of cottage development in that patterns of buildings and private gardens are adopted and traditional features are employed to soften the development.

The proposed residential flat building, although contemporary in design, is considered to comply with the objectives of this clause. The proposed front and side setbacks are comparable with existing setbacks in the vicinity. In-set balconies and screening devices will soften the bulk of the building and the ground floor street front unit is provided with an individual entryway to Garner Street, flanked by landscaping.

2.5.6 The Development Site

Under the DCP a 20m minimum lot frontage is required for residential flat buildings in the R4 High Density Residential zone. The proposal does not comply with this requirement as the site has a

frontage of 16.73 metres to Garner Street. This variation is considered to be acceptable, in that the design is site responsive and proposes an acceptable density in the location. Appropriate levels of access, landscaping and services can be provided to the site without compromising streetscape amenity to the detriment of the area.

2.5.4 Urban Form

The proposal complies with the objectives and controls of this clause in that each façade is articulated. Varying architectural elements are provided to the north and south side elevations including angled bay windows with trafficable floor area, screened inset balconies and an indented screened lobby at levels 1, 2 and 3. Although contemporary in style, the development is traditional in orientation with frontage to Garner Street and an individual entry way to the ground floor unit fronting the street.

2.5.5 Landscaped Area

Clause 14 of the ARH SEPP applies with regard to the provision of landscaped area.

2.5.6 Front and Rear Setbacks

The DCP states that the minimum rear setback is 4m for any single storey component and 6m for any element above ground floor. The proposal is for a 4m ground floor rear setback and a 6m rear setback to the upper levels with the exception of level 1 which proposes a rear setback to a balcony of 4m.

To reduce impacts on visual and acoustic privacy, a condition of consent is recommended to reduce the width of the west facing level 1 balcony attached to Unit 01.01 to a maximum depth of 3m. The balcony size will remain compliant with the minimum balcony size required for a two bedroom unit, of 10sqm's under the Apartment Design Guide and reduce the extent of variance to 1m which is considered to be acceptable in the context of the site. It is noted that a privacy screen is proposed along the southern and northern side elevations of the balcony.

Refer also to building separation discussions under State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development.

2.5.8 Visual and Acoustic Privacy

The proposal demonstrates a range of measures to assist in protecting and providing visual and acoustic privacy including highlight windows, privacy screens and awnings. Windows and balcony areas are generally oriented toward the street front or toward the rear of the site or are provided with screening devices. To ensure that the acoustic privacy of the adjacent residential flat building to the south is protected, a condition of consent is recommended to require the installation of fixed glazing along the southern elevation adjacent to the level 1, 2 and 3 lift lobby and circulation spaces.

2.5.9 Solar Planning

Refer to discussion regarding solar access under State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development.

2.5.18 Fences and Retaining Walls

The DCP requires that fences shall be no taller than 1.8m generally and walls of solid construction and taller than 1.2m shall be of see through construction. A condition of consent is recommended to ensure that fencing associated with the street front private open space area is a maximum of 1.2m high with slatted timber or similar up to a maximum height of 1.8.

2.5.20 Accessibility and Adaptability

The design of the building has been assessed to comply with the key provisions of this Clause. It is noted that >10% of units are designed as adaptable in accordance with this DCP requirement.