

PENRITH CITY COUNCIL

MAJOR ASSESSMENT REPORT

Application number:	DA16/0137.03
Proposed development:	Modifications to Approved Residential Flat Building including Changes to Basement Waste Layout, Ground Floor & Units - Demolition of Existing Structures & Construction of Six (6) Storey Residential Flat Building containing 62 Apartments & Two (2) Levels of Basement Car Parking
Property address:	115 Derby Street, PENRITH NSW 2750 117 Derby Street, PENRITH NSW 2750 119 Derby Street, PENRITH NSW 2750
Property description:	Lot 5 DP 24603 Lot 6 DP 24603 Lot 7 DP 24603
Date received:	31 October 2019
Assessing officer	Sandra Fagan
Zoning:	Zone R4 High Density Residential - LEP 2010
Class of building:	Class 2 , Class 7a
Recommendations:	Approve

Executive Summary

The subject site has development consent for a new six storey residential flat building containing 61 apartments, with two levels of basement parking for 78 vehicles. The consent is valid until 9 November 2021 and no Construction Certificate has yet been issued.

This Modification Application seeks consent to make changes to the basement ramp and layout to accommodate a revised waste service access and truck movement. The approved truck turntable on Basement Level 1 has been deleted and the ramp grade modified to allow the correct height clearances for a waste truck to enter the site. While the general size of the basement is not proposed to change, a required exit stair from the basement to the ground floor is proposed to extend into the rear setback area, which has in turn slightly reduced the amount of deep soil landscaping in the rear setback.

In addition, changes are proposed to the layout of some residential units, with some units now having a 'flipped' internal layout, two units having additional side windows, some units being rearranged to provide an open media room, and one additional unit being proposed, bringing the total number to 62 units. The additional unit will be on Level 1. The changes to the ground floor ramp have resulted in the extra height (void) over the ramp not being required. This has meant that the void space at level 1 (over the ramp) is proposed to be filled in with usable floor space. Therefore, on level 1, the building footprint has been extended to match the building line on both the ground floor below and second floor above. In a visual sense this has infilled the gap above the ramp.

The drawings have been amended numerous times to resolve issues raised about the proposed basement layout and specifically access to the loading bay by a waste truck. When the modification application was first lodged, the basement layout required the garbage truck to carry out one reverse manoeuvre to exit the loading bay. This situation was not ideal in terms of safety, so a revised layout that removed any reverse movements was developed. The resulting amended, and current, proposal allows the waste truck to complete its movements all in a forward direction, with the swept path resembling a 'figure 8'. Council's Engineer and Traffic Engineer no longer raise any objection to the proposal based on this revised layout and subject to a condition to ensure the structural design of the basement is certified prior to the issue of a Construction Certificate. The structural design is to ensure that the location of any columns does not reduce the swept paths.

The proposal also includes a Traffic Report prepared by consultants, 'Safeway' which outline management measures for service trucks, such as signage, mirrors, and stop-start lighting to be used in the basement and at the ramp entry and exit point. This will address access to, and exit from, the basement if other vehicles wish to use the ramp at the same time as a waste truck.

The proposed swept path clearances comply with Australian Standard 2890.2, which requires a 300mm clearance. While it is acknowledged that Council's DCP and Waste Policy seeks a 500mm clearance, to achieve this an increase to the size of the basement would be required. This is not acceptable on planning grounds as it would further reduce the amount of deep soil landscaping around the edges of the basement, which in turn would be a poorer urban design and amenity outcome. Notwithstanding, Council's Waste Officer, Traffic Engineer and Engineer now raise no objection to the proposed modifications.

The applicant has confirmed that no Section 7.11 contributions have yet been paid. Therefore, the contribution amounts based on all the approved units, plus the one additional proposed unit have been recalculated to reflect the total, indexed figure to date (April 2020), and the conditions have been updated accordingly.

The modification application has been lodged pursuant to Section 4.55(1)(a) which is considered to be appropriate because the changes are relatively minor in nature, do not result in any changes to the footprint or height of the building, and have not altered the overall number of parking spaces approved. The modification application was not required to be notified or advertised and therefore no submissions have been received. Nevertheless, consideration has been given to the matters raised in the submissions received with the original Development (Review) Application, to ensure that the proposed modifications have no bearing on the previous concerns raised.

The amended proposed modifications are recommended for approval. The conditions recommended to be modified are those relating to waste, the drawing numbers and Section 7.11 contributions. New conditions recommended to be imposed are Council's standard cladding condition, and a condition relating to structural design, as required by Council's Engineer.

Site & Surrounds

The subject site comprises three residential lots on the northern side of Derby Street known as 115, 117 and 119 Derby Street. Each of the lots contains a single dwelling house which has approval to be demolished as part of the development consent. The site has a combined frontage of 45.7m with an overall area of approximately 2,090 square metres.

The surrounding locality currently contains older low density housing stock. However, the area is changing with the LEP controls allowing for increased densities which will support the developing hospital precinct and city centre.

With regard to the subject site, the history of the development application process is as follows:

- The original Development Application, number DA16/0137 was refused by Council staff under delegation on 11 May 2016;
- The applicant then lodged a Review Application, number DA16/0137.01. The Review Application was approved by Council staff under delegation on 9 November 2016, but was granted a Deferred Commencement consent. This consent was issued for a two year period, with the deferred requirements needing to be met by 8 December 2018;
- A subsequent application under the former Section 95A of the Act was lodged to extend the 'lapsing' date of the Deferred Commencement consent. This application was number DA16/0137.02 and was approved on 8 June 2018. The Notice of Determination for this consent states that the consent operated from 8 December 2016 to 8 June 2019; and
- On 20 November 2018, Council records show that the deferred commencement requirements were met in full. The Notice of Determination for DA16/0137.01 appears to have been reissued on 20 November 2018 and confirmed that the operational development consent had a 5 year approval period, which would expire on 9 November 2021.

Therefore, the development consent is still valid and must be lawfully commenced before 9 November 2021.

The development consent permits a six storey residential flat building containing 61 apartments and two levels of basement parking for 78 cars. The parking spaces were divided into 66 spaces for apartments and 12 spaces for visitors. No wash bay spaces were shown on the approved plans.

Proposal

The proposed modifications are as follows:

- Changes to Basement Level 2 by re-positioning the exit stair to outside the footprint of the basement (at the rear) and rearranging residential storage cages;
- Changes to Basement Level 1, including removal of 14m truck turntable, adjustment to gradient of ramp, re-positioning of loading bay, redesign of waste rooms, new arrangement (swept paths) for truck access to loading bay, and re-positioning of access stair from basement to ground floor (at rear);
- The changes to the basement will **not** result in any overall reduction of car parking spaces from that approved. However, while the approved plans show 12 visitor spaces, the proposed plans show 11 visitor parking spaces and 1 wash bay space. The amount of residential spaces will remain at 66 as approved;
- The ground floor vehicle access ramp has been modified to provide the required height clearance to enable a waste truck to enter the site. The approved scheme ultimately did not have the right ramp grade. The ground floor also now has a stair, from the basement, which discharges into the rear setback area. The stair is a second required fire exit from the basement, but it is not enclosed at the ground floor, because the discharge point at ground floor is an open space. Therefore, at the ground floor, the stair is fairly lightweight, only having hand rails, instead of being an enclosed fire stair;
- Each residential floor has had some minor changes to some (not all) apartments and some changes to layouts;
- On the ground floor, Unit 01 is shown as being modified (through red clouding on the plan) but this only represents that the layout of the unit has reverted to that as approved. The initial modification application proposed to convert the services room on the ground floor to additional bedrooms for Unit 01. This change was not acceptable on amenity grounds and the applicant was requested to remove this from the proposal;
- On Level 1, at the western edge of the site on the street frontage, the building footprint and gross floor area have been increased to accommodate one additional unit. This change in effect has infilled the void that sat above the vehicle access ramp and the second floor above. Unit 15 on Level 1 has also been flipped over in terms of layout and Unit 22 has had a media room added. The media room has a window to the common corridor but no door and is therefore acceptable as an open room rather than an enclosed habitable room;
- On Level 2, media rooms have been added to Units 28 and 34, and the layout of 28 has also been flipped;
- Level 3 has had the same change as Level 2 in relation to Units 40 and 46;
- Level 4 has two new windows to kitchens on the east and west elevations for Units 51 and 54;
- Level 5 has the same change as Level 4, but for Units 59 and 62; and
- The type of cladding used for the top two floors of the building is proposed to be altered to a James Hardie product, although the approved colour will remain the same. Council's standard cladding condition will therefore be added as part of the recommendation.

All RL's for floors, ceilings and the total height of the building remain the same as approved.

Plans that apply

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

- **Section 4.15 - Evaluation**

The development has been assessed in accordance with the matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979, and having regard to those matters, the issues identified for further consideration are addressed in the body of this report.

- **Section 4.55(1A) - Modifications involving minimal environmental impact**

The application has been lodged pursuant to Section 4.55(1A) being modifications which are considered to be of minimal environmental impact. The applicant sought advice prior to the lodgement of the application that it could be made under Section 4.55(1A). The advice by staff at that time was to confirm that the proposed modifications did appear to be of minimal environmental impact. Now that the application has been lodged, it is considered and confirmed that the application is correctly made under Section 4.55(1A). This is because most of the changes are internal, with no substantial variations to what was approved. The change to infill the space above the ramp and increase the total number of units by one is relatively minor because the building's overall mass, footprint, envelope, and architectural expression is not changing as a result of the proposed modifications. Because of this the proposed modifications are considered to result in substantially the same development as that which was originally approved and are considered to be of minimal environmental impact.

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

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

The modification application is accompanied by a new BASIX certificate dated October 2019, which satisfies the requirements of the SEPP. The list of approved drawings at Condition 1 will be modified to include the current BASIX certificate.

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

Most of the matters relating to the aims and objectives of SEPP 65, including the objectives and controls in the accompanying Apartment Design Guide (ADG), were addressed when the Review Application was approved. Therefore, matters relating to the approved layout of the development will not be considered in this assessment, which will focus solely on the proposed modifications. In this regard, the following points are made:

- The addition of a 2 bedroom unit at position Unit 11 on Level 1, which raises the total number of units from the approved 61 to proposed 62, is acceptable in amenity and design terms. The additional bulk will not protrude from the approved building footprint, as the void area above the access ramp is being infilled. The effect is similar to filling a gap in terms of the building's massing. Although the unit will be south facing, there is a secondary window to the kitchen which faces north, into a lightwell, and therefore the unit will achieve some cross ventilation;
- The proposed protrusion of the exit stair from the basement to the rear setback area at ground floor is also acceptable on balance. While the slight reduction in landscaping, and having structure in the rear setback area is not desirable, it is required in this instance as the space in the basement where the stair was approved is needed to provide the truck swept path. The stair is also a required second means of exit from the basement. The stair will be 1.75m from the rear boundary, but only for a length of 2.75m. The impacts of the stair are also mitigated by the stair being positioned adjacent to common circulation space (not in front of an apartment), and where it discharges at ground floor it will only have a railing and is not enclosed. The 'fire stair' aspect of the structure is only required to be enclosed within the basement. At ground floor, the applicant has confirmed that because the stair discharges into an open area, it is not required to be enclosed with solid walls. In addition, the development will achieve 39% landscaped area which complies with the Penrith DCP requirement to provide 35% and is well above the ADG requirement of 7%;
- The single units centrally located on Levels - Ground, 1, 2, and 3 are proposed to be modified by rearranging the internal layout (such as position of kitchen, WC and laundry), and generally flipping the unit over. A media space has been added to these units, which is acceptable as the space is configured without a door and is therefore not considered to be a separate room. Some of the media space areas are also connected to the open plan living/dining areas;
- The proposed 4 new side windows at Levels 4 and 5 are acceptable as they maintain a 6m separation from the side boundaries;
- Although not proposed, it was suggested to the applicant that the end of the common corridor, between Unit 1 and the Services Room on the ground floor, could have fixed glass instead of a solid wall. Although the outlook is not desirable being onto the ramp, it may allow some natural daylight to enter the corridor. The applicant advised verbally that this change would be acceptable. A condition to this effect is recommended; and
- The requirement for a Design Verification Statement under Clause 115 of the Regulations appears to only apply for modifications sought under Section 4.55(2). The subject application has been made under Section 4.55(1A) and this is considered to be acceptable in this instance because the envelope and footprint of the building is not substantially changing as a result of the proposal. In addition, the approved development as it currently exists is subject to Conditions 14 and 15, which require design verification statements prior to Construction and Occupation Certificates to verify that the development achieves the design quality as approved.

Therefore, the proposed modifications are acceptable having regard to SEPP 65 and the ADG. The changes will not have a substantial impact on how the approved development has met the objectives and guidelines.

Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

The proposed modifications will not alter the development's compliance with the Sydney Regional Environmental Plan No 20. Conditions to address the objectives and controls in the Policy are already imposed on the development consent and the proposed modifications will not require any change to those conditions.

Local Environmental Plan 2010 (Amendment 4)

Provision	Compliance
Clause 1.2 Aims of the plan	Complies
Clause 2.3 Permissibility	Complies
Clause 2.3 Zone objectives	Complies
Clause 4.1A Minimum lot sizes for dual occupancies, multi dwelling housing and residential flat buildings	Complies
Clause 4.3 Height of buildings	Does not comply - See discussion
Clause 4.4 Floor Space Ratio	N/A
Clause 7.1 Earthworks	Complies
Clause 7.4 Sustainable development	Complies
Clause 7.6 Salinity	Complies
Clause 7.7 Servicing	Complies - See discussion

Clause 4.3 Height of buildings

The approved height of the building is at a maximum of 20m, which is 2m (11%) over the height limit of 18m. The proposed modifications do not include any change to the height of the building or floor levels. Therefore, the proposed modification can still be considered under the delegation of Council staff.

Clause 7.7 Servicing

The proposed modifications seek changes to the basement levels to accommodate waste services. This is discussed within the report.

Section 4.15(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	Complies
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	Complies
D2.6 Non Residential Developments	N/A

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

The proposed modifications are able to comply with the Regulations where they are relevant and applicable. Conditions already imposed on the consent relate to building and fire safety. To address more recent matters relating to cladding flammability, Council's standard condition relating to cladding is recommended to be imposed on the modified consent.

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

Waste Arrangements and Basement Changes:

The main change proposed as part of this application relates to the basement and waste area layout, specifically to accommodate Council's waste vehicles.

The approved development included a 14m (diameter) turn table to allow a waste vehicle to access the loading bay and be able to leave the basement in a forward direction. After development consent was granted, and through design refinement in preparation for the Construction Certificate, the applicant advised that the gradient of the ramp would not have adequate height clearance for a waste truck. The applicant then engaged with Council staff to resolve this issue prior to lodging the subject Modification Application. It is understood that discussions referenced the deletion of the turntable and a new smaller truck. An alternative arrangement for on-street collection was also tabled at a meeting but not pursued.

The applicant has advised that the area of the approved turntable would be needed to increase the length of the ramp, thereby decreasing its gradient. The applicant did not want to increase the height of the building as the building was already over the height limit. Council staff did not favour on-street collection and therefore the option involving removal of the turn table was pursued.

Following pre-application discussions, the modification application was lodged with a revised basement layout, that included a compliant ramp, deletion of the turntable and swept paths showing a single reverse manoeuvre for the waste truck (when the truck left the loading bay). The drawings were accompanied by a report from traffic consultants, Safeway, to address the reverse movement, such as mirrors, signage, and stop lights. These drawings also showed a repositioning of the loading bay and changes to the waste rooms to address the requirements for amendments referenced at Condition 30 of the original consent.

However, Council's Traffic and Engineering staff raised concern with the modifications proposed, primarily because of the reverse movement, safety and swept path clearances. To address these matters, further amendments were sought, with a view to removing the need for any reverse movements. The current proposed drawings reflect the culmination of these amendments which are discussed below.

The latest plans propose a swept path with a 300mm clearance, which complies with Australian Standard 2890.2 and resembles a figure 8 movement. The traffic report by Safeway has also been amended to provide the detail about where the traffic management measures will be located and what they consist of. This includes signage to direct the truck driver to complete the movements in a forward direction, a red light stop system which is operated by the truck driver at both the top of the ramp and when they are leaving the loading bay, and mirrors. The amended (proposed) drawings also show changes to the waste rooms to address the requirements of Condition 30. Therefore, most of Condition 30 can be deleted and Council's Senior Waste Officer has recommended three conditions to replace the three existing waste related conditions on the consent.

Council's Engineers have also requested a new condition to require certification of the structural design prior to issue of the Construction Certificate, to ensure that columns and structural elements do not reduce the required swept path clearances. In addition, a condition is recommended to be included in the modified consent that requires the Certifying Authority to ensure that the traffic management measures are installed as shown in the basement plans and in the Safeway report.

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

The site is suitable for the proposed modifications as the approved development will not substantially change from that originally approved as a result of the modifications. Therefore the site remains suitable for the development.

Section 4.15(1)(d) Any Submissions

Community Consultation

The proposed modifications were not required to be notified or advertised and therefore this application has attracted no submissions. Notwithstanding, the previous submissions relating to the original development raised concerns about fencing type, damage to fences, overlooking from balconies, light spill, and traffic. The proposed modifications have no effect on these previous concerns and how they were addressed in the approved development.

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
Development Engineer	No objections
Environmental - Waterways	No objections
Waste Services	No objections - subject to conditions
Traffic Engineer	No objection subject to conditions

Development Engineer

Council's Engineer has been working with staff and the applicant to resolve issues relating to the basement layout. The most recent advice from Council's Engineer is that no further objections are raised, subject to a condition that requires the structural design to be certified to ensure that no structure (columns and the like) impede the swept paths proposed for truck movements. A condition to address this is recommended in the amended approval. A further discussion about the basement changes is contained in the body of the report at "Likely Impacts".

Traffic Engineer

Council's Traffic Engineer has been involved in the negotiations to resolve the basement layout issues. The most recent correspondence from Council's Traffic Engineer is that no objection is raised subject to the inclusion of a notice or signage to encourage the truck driver to complete all movements in a forward direction. The applicant has revised the basement drawing and letter from Safeway traffic consultants to include the text and location of this sign. Council's Traffic Engineer has confirmed that no further objection is raised.

Section 4.15(1)(e) The public interest

The proposed development as modified is in the public interest as it now sets a desirable precedent for development in the locality in accordance with the desired future character of the area while mitigating adverse impacts on residential amenity.

Section 94 - Developer Contributions Plans

The applicant has confirmed that the developer contributions have not yet been paid for the development. Therefore, the contribution amounts have been re-calculated in full based on a total of 62 units as follows:

Residential Flat Building - 62 units					
<i>Open Space</i>					
No. of units	x	Rate	-	Credit for existing dwelling/s	Contribution rate
62	x	2	-	9.3	114.7
<i>City Wide</i>					
No. of units	x	Rate	-	Credit for existing dwelling/s	Contribution rate
62	x	2.4	-	9	139.8
AMOUNTS					
S.7.11 Contributions Plan		Contribution Rate x Calculation Rate			Total
District Open Space		114.7 x \$2,024			\$232,153
Local Open Space		114.7 x \$732			\$83,961
Cultural Facilities		139.8 x \$180			\$25,164
		NET TOTAL			\$341,278.00

Conclusion

The proposed modifications, particularly the basement arrangement and access to, have been modified during the assessment of this application. The amended proposed modifications are now acceptable to Council staff (Waste, Traffic and Engineer) as they remove the need for a service truck to reverse out of the loading bay, and provide a detailed traffic management solution, including swept paths in a forward direction, to satisfactorily service the building. The slight non-compliance with visitor spaces and car wash bays (a shortfall of 1-2 spaces) is acceptable given that the development is approved with the same number of car parking spaces and there is inadequate room in the basement to accommodate further spaces without increasing the size of the basement. In addition, the parking numbers for residential units maintains compliance with the DCP.

Other changes to residential apartments are relatively minor, with the previous sought changes to Unit 1 on the ground floor being removed from the proposal. The addition of one unit is also acceptable as the change to the building mass will not increase the footprint or envelope of the approved building.

On balance, the proposed modifications are acceptable and will result in a better outcome than the existing approved development given the successful resolution of the waste servicing issues.

Recommendation

It is recommended that Modification Application DA16/0137.03 for a residential flat building at 115-119 Derby Street, Penrith be approved and that the development consent be modified to reflect the approved changes as shown in the attached conditions.

CONDITIONS

General

1 A001

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

Drawing	Drawing No./Revision	Project No.	Prepared By	Dated
Cover Page	A101(G)	15035-06	CK Design	27/03/2020
Survey Plan	A102	C5015	Mark Castelleti Surveying	23/04/2015
BASIX Commitments 691478M_03	A103(E)	15035-06	CK Design	30/10/2019
Site Plan	A104(E)	15035-06	CK Design	21/08/2019
Basement 2	A105(G)	15035-06	CK Design	27/03/2020
Basement 1	A106(H)	15035-06	CK Design	21/04/2020
Ground Floor	A107(F)	15035-06	CK Design	25/11/2019
Level 1	A108(E)	15035-06	CK Design	21/08/2019
Level 2	A109(E)	15035-06	CK Design	21/08/2019
Level 3	A110(E)	15035-06	CK Design	21/08/2019
Level 4	A111(E)	15035-06	CK Design	21/08/2019
Level 5	A112(E)	15035-06	CK Design	21/08/2019
Roof Plan	A113(C)	15035-06	CK Design	05/06/2016
Elevations - North and South	A114(E)	15035-06	CK Design	21/08/2019
Elevations - East and West	A115(E)	15035-06	CK Design	21/08/2019
Sections A and B	A116(E)	15035-06	CK Design	21/08/2019
Section C	A117	15035-06	CK Design	--/10/2019
3D Perspectives	A118(E)	15035-06	CK Design	21/08/2019
Calculation Sheet	A119(G)	15035-06	CK Design	27/03/2020
Schedule of Finishes	A120(E)	15035-06	CK Design	21/08/2019
Door and Window Details	A121	15035-06	CK Design	--/10/2019
Notification Plan	A122	15035-06	CK Design	--/10/2019
Waste Management Plan	--	--	Chris Koury	24/04/2015

Traffic Impact Report and Car Parking Certification	Revision 2	–	Safeway Traffic Management Solutions	April 2020
Stormwater Plans	Revision I, Sheets 1 to 7 Revision F, Sheets 1 to 7	7604 7604	Natasi & Associates Natasi & Associates	01/08/2018 01/07/2018
Landscape Plan	L-01, Issue A	3958a	Ray Fuggle Associates	10/12/2015

As amended via DA16/0137.03 on 27 April 2020 under Section 4.55(1A) of the Environmental Planning and Assessment Act 1979.

2 **A008 - Works to BCA requirements (Always apply to building works)**

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

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

3 **A014 - LOT CONSOLIDATION**

Lots 5, 6 and 7 in Deposited Plan 24603 are to be consolidated as one lot. A copy of the registered plan of consolidation from the Land and Property Information division of the Department of Lands is to be submitted to the Principal Certifying Authority (PCA) and Penrith City Council, if Council is not the PCA, **prior to the issue of the Occupation Certificate** for the development.

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

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

5 **A038 - LIGHTING LOCATIONS**

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

6 **A039 - Graffiti**

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

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

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

8 **A Special**

To preserve visual privacy of the adjoining development and the subject apartments, any balconies and windows that encroach upon the minimum setbacks specified by the Apartment Design Guide, that being 6m up to a height of 4 storeys and 9m above 4 storeys, shall be screened via moveable louvres. Details shall be submitted in this regard **prior to the issue of an Occupation Certificate**.

9 **A Special**

A total of 6 accessible dwellings are to be provided in accordance with the requirements of Penrith Development Control Plan 2014. **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**.

10 **A Special**

Prior to the issue of an Occupation Certificate, all balconies on the ground floor along the northern elevation shall be screened by moveable louvres to provide privacy.

11 A Special

Prior to the issue of a Construction Certificate and/or Occupation Certificate, the following Crime Prevention Through Environmental Design measures shall be incorporated into the development:

- Car Parking**
 - A security system must be installed on any pedestrian and vehicle entry/exit points to the car park, including the lift and stairwell, to minimise opportunities for unauthorised access.
 - All areas of the car park (including lift lobbies, stairwells, garbage rooms and storage areas) must be well-lit, with consistent lighting to prevent shadowing or glare.
 - Signage must be in place to clearly identify exit and access points, the location of lifts and stairwells.
 - All surfaces in the car park should be painted in light coloured paint or finished in light coloured concrete to reflect as much light as possible.
- Residential Developments Building Identification Building Security & Access Control**
 - Each building entry should clearly state the unit numbers accessed from that entry.
 - Each individual dwelling should be clearly numbered.
 - Unit numbers should be clearly provided on each level.
 - Intercom, code or swipe card locks or similar must be installed for main entries to buildings including car parks.
 - Main entry doors for apartment buildings should be signed requesting residents to not leave doors wedged open.
 - Australian Standard 220 door and window locks must be installed in all dwellings including doors onto balconies, to minimise the risk of break and enter offences.
 - If security grills are used on windows they should be operable from inside in case of emergencies.
 - Ensure skylights and /or roof tiles cannot be readily removed or opened from outside.
 - Consider monitored alarm systems.
 - CCTV cameras must be provided to public areas of the development. As a minimum, cameras must be positioned to provide coverage of vehicular and pedestrian entry/exit points (including entries/exits to buildings), key thoroughfares and activity nodes as well as all areas of the car park. Signage must be provided to indicate that CCTV cameras are in operation.
- Graffiti/Vandalism**
 - Procedures must be in place to ensure the prompt removal and/or repair of graffiti or vandalism to the buildings, fencing, commercial tenancies and common areas. This includes reporting incidents to police and/or relevant authorities.
 - Graffiti resistant coatings must be used to external surfaces where possible, including signage, furniture, retaining walls, the architectural screen shielding the car park etc.
- Way Finding/Finding Help**
 - Signs should be strategically located at entrances and near activity nodes such as intersections of corridors or paths.
 - Signs should indicate how to report maintenance problems in the complex.
 - Signs throughout the development should be large and legible, and strong colours, standard symbols and simple graphics. They should indicate where to go for help or assistance.
- Fencing**
 - Front fences should preferably be no higher than 1.2 metres. Where a higher fence is proposed, it will only be considered if it is constructed of open materials e.g. spaced pickets, wrought iron etc.
 - Fence design to the ground floor units should maximise natural surveillance from the street to the building and from the building to the street, and minimise the opportunities for intruders to hide.

12 A Special

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

13 A Special

In order to protect the visual privacy of the adjoining properties, a 500mm screen shall be provided on top of the northern, eastern and western boundary fences. Details of compliance in this regard shall be provided to the Certifying Authority **prior to the issue of an Occupation Certificate**.

14 [A Special \(Design Verification Statement CC\)](#)

Prior to the issue of a Construction Certificate, a design verification statement from a qualified designer shall be submitted. The design verification statement shall verify that the Construction Certificate plans and specifications achieve or improve the design quality of the development for which development consent was granted, having regard to the design quality principles set out in Schedule 1 of State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development.

15 [A Special \(Design Verification Statement OC\)](#)

Prior to the issue of an Occupation Certificate, a design verification statement from a qualified designer shall be submitted. The design verification statement shall verify that the development achieves the design quality shown in the approved Construction Certificate plans and specifications, having regard to the design quality principles set out in Schedule 1 of State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development.

16 [A Special \(Waste Room Requirements\)](#)

Prior to the issue of a Construction Certificate, details of all proposed fencing and retaining walls are to be provided to Penrith Council for approval. The fence type shall be consistent with the controls for fences for residential flat buildings, as outlined in Penrith Development Control Plan 2014. Front fencing shall be substantially in accordance with the streetscape elevation on the site analysis drawn by CK Design, reference no. A104(C), dated 15/06/16.

17 [A Special Condition \(BLANK\)](#)

Prior to the issue of a Construction Certificate, the Certifying Authority shall ensure that a draft operation and maintenance plan is prepared and submitted for all stormwater treatment measures as part of the treatment train. The plan must include details on the cleaning/maintenance requirements of the proposed treatment measures as well as detail on how this will be managed (nominate who will be responsible).

Prior to the issue of a Construction Certificate, the Certifying Authority is to ensure appropriate access for ongoing cleaning and maintenance of the Stormfilter device is provided and clearly indicated on the detailed design plans.

Demolition

18 [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**.

19 [B003 - ASBESTOS](#)

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

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

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

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

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

20 [B004 - Dust](#)

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

21 [B005 - Mud/Soil](#)

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

22 [B006 - Hours of work](#)

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

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

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

23 [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.

(Note: To obtain a copy of the publication, you should contact Landcom on (02) 98418600).

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

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

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

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

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

25 [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.

26 [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.

27 **D020 - Vehicle wash bay**

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

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

28 **D Special (BLANK)**

Should any "unexpected finds" occur during site excavation and earthworks including, but not limited to, the identification/finding of contaminated soils, buried building materials, asbestos, odour and/or staining, works on the site are to cease immediately and Council is to be notified. Any such "unexpected finds" shall be investigated and addressed by an appropriately qualified environmental consultant, in line with the relevant EPA Guidelines and the National Environment Protection (Assessment of Site Contamination) Measure 2013.

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

29 **D Special BLANK**

Council's bin infrastructure and collection service will be provided/commenced for the development upon the completion of all on-site waste collection infrastructure and the attainment of an Occupation Certificate.

As amended via DA16/0137.03 on 27 April 2020 under Section 4.55(1A) of the Environmental Planning and Assessment Act 1979.

30 D Special BLANK

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

- All on-site waste collection infrastructure, doors and access points (waste collection room, bulky goods collection room and roller door) are to be locked/accessed through Council's Abloy key system. System specifications are outlined in Section 3.5.5 of the 'Residential Flat Building Waste Management Guideline' document;
- All on-site waste collection infrastructure (waste collection room, bulky goods collection room, chute cupboards provided on each residential level and loading bay) are to provide wash facilities through the use of a centralised mixing valve and hose cock. Respective drainage and water proofing is to be installed to support the use of hose facilities;
- All on-site waste collection infrastructure (waste collection room, bulky goods collection room and chute cupboards) are to incorporate 180 degrees, outwards opening, self-closing, sealed dual doors (with chute cupboards on residential levels to incorporate only a single door);
- The dual doors on the western side of the waste collection room are to be located closer towards the south to avoid conflict when opened 180 degrees with chute room dual doors;
- The chute room is to incorporate electrical facilities to permit the charging/storage of the proposed portable bin tug device in accordance with Section 3.6.2 of the 'Residential Flat Building Waste Management Guideline' document;
- The ramp and supporting on-site infrastructure is to be designed to permit unobstructed access for Council's HR waste collection vehicle. Vehicle specifications are outlined in Section 2.3.1 of the 'Residential Flat Building Waste Management Guideline' document;
- The chute cupboards on each residential level are to be designed to eliminate occurrences of illegal dumping within the access corridor permitting unobstructed resident access to the chute inlets; and
- The basement is to include adequate exhaust/extraction fans to support HR waste collection within the basement.

As amended via DA16/0137.03 on 27 April 2020 under Section 4.55(1A) of the Environmental Planning and Assessment Act 1979.

31 D Special BLANK

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 and damage.

Note: By entering into an agreement with Council for waste collection, the development will be required to operate in full compliance with Penrith City Council's Waste Collection and Processing Contracts for Standard Waste Collection. The provision of Council's waste collection service will not commence until formalisation of the agreement. Council's Waste and Resource Recovery Department is to conduct a site inspection of the on-site waste collection infrastructure to enable a safe and efficient waste collection service.

As amended via DA16/0137.03 on 27 April 2020 under Section 4.55(1A) of the Environmental Planning and Assessment Act 1979.

BCA Issues

32 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.

33 E01A - BCA compliance for Class 2-9

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

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

(b) formulating an alternative solution which:

- complies with the performance requirements, or
 - is shown to be at least equivalent to the deemed to satisfy provision, or
- (c) a combination of (a) and (b).

It is the owner's responsibility to place on display, in a prominent position within the building at all times, a copy of the latest fire safety schedule and fire safety certificate/statement for the building.

Health Matters and OSSM installations

34 F006 - Water tank & nuisance

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

Utility Services

35 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.**

36 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.

Prior to the issue of a Construction Certificate, details of any required electrical substation location and electrical authority's requirements in relation to the substation shall be submitted to Council for approval. The location of the substation shall not impact on other services or the building, driveway or landscape design approved by Council. Subject to Endeavour Energy's requirements, the location of the substation shall be integrated with the built form to reduce visual impacts on the streetscape.

37 **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.

38 **G Special (BLANK)**

Prior to the issue of a Construction Certificate, the location and position of any required fire hydrants and boosters shall be submitted to and approved by Council. The location of these service requirements shall be integrated with the built form to reduce visual impacts along the street frontages.

Construction

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

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

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

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

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

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

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

40 [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.

41 [H029 – Ventilation equipment](#)

Prior to the issue of a Construction Certificate, all mechanical ventilation equipment, ducts, air conditioner services and the like shall be shown on the Construction Certificate documentation as contained within the building. These services shall not be visible from any public location along Derby Street.

Any downpipes or stormwater pipes shall be integrated and blend with the architecture of the building.

42 [H032 - Painting](#)

Prior to the issue of an Occupation Certificate, the building is to be painted internally and externally in accordance with the approved colour schedule.

43 [H033 – Clothes line](#)

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

44 [H036 - Rainwater Tank \(Also impose H037, H038, H039, G005 & Q010\)](#)

The rainwater tank(s) is to be:

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

Additionally, the following are to be provided:

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

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

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

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

45 [H037 - Safe supply of water from catchment areas \(Also impose H036, H038 & H039\)](#)

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

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

46 [H038 - Connection of rainwater tank supply \(Also impose H036, H037 & H039\)](#)

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

47 [H039 - Rainwater tank pumps \(Also impose H036, H037 & H038\)](#)

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

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

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

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

Other construction works carried out inside a building/tenancy that does 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.

49 [H Special \(BLANK\)](#)

Prior to the issue of a Construction Certificate, the developer shall obtain a Geotechnical Report to determine any construction requirements for the excavation of the basement car park.

Engineering

50 [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.

51 [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 4732 7777 or visit Penrith City Council's website for more information.

52 **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 applications, including payment of application and inspection fees, shall be lodged and approved by Penrith City Council (being the Roads Authority for any works required in a public road). These works may include but are not limited to the following:

- a) Vehicular crossings (including kerb reinstatement of redundant vehicular crossings)
- b) Concrete footpaths and or cycleways
- c) Road opening for utilities and stormwater (stormwater connection to the existing kerb inlet pit in Hope Street, Penrith)
- d) Road occupancy or road closures
- e) The placement of hoardings, structures, containers, waste skips, signs, etc in the road reserve
- f) Temporary construction access

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

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

Note:

- a) Where Penrith City Council is the Certifying Authority for the development, the Roads Act approval for the above works may be issued concurrently with the Construction Certificate.
- b) Separate approvals may also be required from the Roads and Maritime Services for classified roads.
- c) All works associated with the Roads Act approval must be completed prior to the issue of any Occupation Certificate.

53 **K205 - S68 Local Government Act – Stormwater drainage works CIVIL CONSTRUCTION IN LOTS**

Prior to the issue of a Construction Certificate, the Principal Certifying Authority and/or Certifying Authority shall ensure that an application under Section 68 of the Local Government Act, including payment of application and inspection fees, has been lodged with, and approved by Penrith City Council for provision of stormwater drainage works from the proposed development (115-119 Derby Street), through Lot 100 DP 791049, to connect into the existing kerb inlet pit in Hope Street.

Engineering plans are to be prepared in accordance with the development consent, Penrith City Council's Design Guidelines for Engineering Works for Subdivisions and Developments, Engineering Construction Specification for Civil Works, Austroads Guidelines, and best engineering practice.

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

Note:

- a) All works associated with the S68 Local Government Act Approval must be completed prior to the issue of any Occupation Certificate or Subdivision Certificate as applicable.

54 **K210 - Stormwater Management**

The stormwater management system shall be provided generally in accordance with the concept plan/s lodged for development approval, prepared by Natasi & Associates, Job No. 7604, Sheets 1 – 7, dated 01/08/18, Revision I and Sheets 1 – 3, Revision F, dated 01/07/18.

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

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

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

Prior to the issue of a 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 3500.3:2015 (Plumbing and Drainage – Stormwater Drainage).

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

Prior to the issue of a Construction Certificate, the Certifying Authority shall ensure that vehicular access, circulation, manoeuvring, pedestrian and parking areas associated with the subject development are in accordance with AS 2890.1, AS 2890.2, AS 2890.6 and Penrith City Council's Development Control Plan 2014.

57 **K301 - Sediment & Erosion Control**

Prior to commencement of any works associated with the development, 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 and Managing Urban Stormwater series from the Office of Environment and Heritage.

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

58 **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 AS 1742.3 "Traffic Control Devices for Works on Roads" and the Roads and Maritime Service's 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:

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

59 **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 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.

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

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

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

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

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

62 K504 - Stormwater Compliance

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

- a) Stormwater management system (including on-site detention and water sensitive urban design)
 - Has been satisfactorily completed in accordance with the approved Construction Certificate and the requirements of this consent.
 - Has 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.

63 K505 - Restriction as to User and Positive Covenant

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

- a) Stormwater management system (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 Drainage for Building Development.

64 K601 - Stormwater Management system operation and maintenance

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

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

65 K Special (BLANK)

A total of 78 off-street parking spaces are to be provided, line marked and maintained for the development, in accordance with the stamped approved plans. The parking space dimensions and manoeuvring areas are to comply with AS 2890.1 and AS 2890.2, the Building Code of Australia and the Commonwealth Disability Discrimination Act.

Of the 78 spaces, 6 accessible car parking spaces are to be provided in accordance with AS 1428.1.

Parking is to be allocated to each unit and the development in accordance with the car parking rates specified in Chapter C10 Transport, Access and Parking of Penrith Development Control Plan 2014 and the information submitted as part of DA16/0137.01.

66 K Special (BLANK)

The subleasing of car parking spaces is not permitted or endorsed by this consent.

67 K Special (BLANK)

Prior to the issue of an Occupation Certificate, secure bicycle parking is to be provided in accordance with AS 2890.3:2015 Bicycle Parking Facilities.

Landscaping

68 L001 - General

All landscape works are to be constructed in accordance with the stamped approved plan and Landscape Design section of Penrith Council's Development Control Plan 2014.

Landscaping shall be maintained:

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

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

All trees approved by Council for removal shall be removed in a manner so as to prevent damage to those trees that are to be retained

69 **L002 - Landscape construction**

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

70 **L003 - Report requirement**

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

i. Implementation Report

Upon completion of the landscape works associated with the development and **prior to the issue of an Occupation Certificate** 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 a suitably qualified and experienced landscape professional.

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

ii. Maintenance Report

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

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

71 **L005 - Planting of plant**

All plant material associated with the construction of approved landscaping is to be planted in accordance with the Landscape Design Section of Penrith Development Control Plan 2014.

72 **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.

73 **L007 - Tree protection measures—no TMP with DA**

All trees that are required to be retained as part of the development are to be protected in accordance with the minimum tree protection standards prescribed in Penrith's Development Control Plan 2014, the arborist's report recommendations, prepared by Mackay Tree Management, dated 14/12/15, and in accordance with AS 4970 -2009 Protection of Trees on Development Sites.

74 **L008 - Tree Preservation Order**

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

75 **L Special (BLANK)**

Prior to the issue of an Occupation Certificate, at least 11 suitable replacement tree/s (preferably native trees) capable of and nurtured to grow to about 10m in height at maturity, must be planted in suitable locations within the property, and, in particular, not be planted closer than 2 metres to any building.

Development Contributions

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

This condition is imposed in accordance with Penrith City Council's Section 7.11 Contributions Plan for District Open Space. Based on the current rates detailed in the accompanying schedule attached to this Notice, **\$232,153.00** is to be paid to Council **prior to a Construction Certificate being issued** for this development (the rates are subject to quarterly reviews). If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted Section 7.11 plan. The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule.

Council should be contacted prior to payment to ascertain the rate for the current quarterly period. The S7.11 invoice accompanying this consent should accompany the contribution payment. The Section 7.11 Contributions Plan for District Open Space may be inspected at Council's Civic Centre, 601 High Street, Penrith.

As amended via DA16/0137.03 on 27 April 2020 under Section 4.55(1A) of the Environmental Planning and Assessment Act 1979.

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

This condition is imposed in accordance with Penrith City Council's Section 7.11 Contributions Plan Local Open Space. Based on the current rates detailed in the accompanying schedule attached to this Notice, **\$83,961.00** is to be paid to Council **prior to a Construction Certificate being issued** for this development (the rates are subject to quarterly reviews). If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted Section 7.11 plan. The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule.

Council should be contacted prior to payment to ascertain the rate for the current quarterly period. The S7.11 invoice accompanying this consent should accompany the contribution payment. The Section 7.11 Contributions Plan for Local Open Space may be inspected at Council's Civic Centre, 601 High Street, Penrith.

As amended via DA16/0137.03 on 27 April 2020 under Section 4.55(1A) of the Environmental Planning and Assessment Act 1979.

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

This condition is imposed in accordance with Penrith City Council's Section 7.11 Contributions Plan Cultural Facilities. Based on the current rates detailed in the accompanying schedule attached to this Notice, **\$25,164.00** is to be paid to Council **prior to a Construction Certificate being issued** for this development (the rates are subject to quarterly reviews). If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted Section 7.11 plan. The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule.

Council should be contacted prior to payment to ascertain the rate for the current quarterly period. The S7.11 invoice accompanying this consent should accompany the contribution payment. The Section 7.11 Contributions Plan for Cultural Facilities may be inspected at Council's Civic Centre, 601 High Street, Penrith.

As amended via DA16/0137.03 on 27 April 2020 under Section 4.55(1A) of the Environmental Planning and Assessment Act 1979.

Payment of Fees

79 **P001 - Costs**

All roadworks, dedications and drainage works are to be carried out at the applicant's cost.

80 **P002 - Fees associated with Council land (Applies to all works & add K019)**

Prior to the commencement of any works on site, all fees associated with Penrith City Council-owned land and infrastructure shall be paid to Council. These fees include Road Opening fees and Infrastructure Restoration fees.

Certification

81 **Q006 - Occupation Certificate (Class 2 - 9)**

An Occupation Certificate is to be obtained from the Principal Certifying Authority on completion of all works and **prior to the occupation of the residential flat building**. The Occupation Certificate shall not be issued if any conditions of this consent, but not the conditions relating to the operation of the development, are outstanding, and the development does not comply with the provisions of the Environmental Planning and Assessment Act and Regulation.

Before the Occupation Certificate can be issued for the development, Fire Safety Certificates issued for the building are to be submitted to Penrith City Council and the New South Wales Fire Brigades.

A copy of the Occupation Certificate and all necessary documentation supporting the issue of that Certificate shall be submitted to Penrith City Council, if Council is not the Principal Certifying Authority.

82 **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.

83 **Q Special 1**

Prior to the issue of the Construction Certificate, the Certifying Authority is to ensure that the traffic measures shown in the approved Basement 1 Plan, and the accompanying report by Safeway Traffic Management Solutions, dated April 2020, have been adequately integrated into the Construction Certificate drawings.

Prior to the issue of any Occupation Certificate, the Certifying Authority is to ensure that the traffic measures shown in the approved Basement 1 Plan, and the accompanying report by Safeway Traffic Management Solutions, dated April 2020, have been adequately built and installed into the development.

As inserted via DA16/0137.03 on 27 April 2020 under by Section 4.55(1A) of the Environmental Planning and Assessment Act 1979.

84 **Q Special 2**

Fixed glass shall be installed in the wall at the end of the common corridor located on the ground floor between Unit 1 and the Services Room. The intent of the fixed glass is to allow the corridor to receive some natural daylight. This change is to be shown on the Construction Certificate drawings to the satisfaction of the Certifying Authority.

As inserted via DA16/0137.03 on 27 April 2020 under by Section 4.55(1A) of the Environmental Planning and Assessment Act 1979.

85 **Q Special 3**

The external walls of the building including attachments must comply with the relevant requirements of the National Construction Code (NCC). **Prior to the issue of a Construction Certificate and Occupation Certificate**, the Certifying Authority and Principal Certifying Authority must:

- (a) Be satisfied that suitable evidence is provided to demonstrate that the products and systems proposed for use or used in the construction of external walls including finishes and claddings such as synthetic or aluminium composite panels comply with the relevant requirements of the NCC; and
- (b) Ensure that the documentation relied upon in the approval processes includes an appropriate level of detail to demonstrate compliance with the NCC as proposed and as built.

As inserted via DA16/0137.03 on 27 April 2020 under by Section 4.55(1A) of the Environmental Planning and Assessment Act 1979.

Prior to the issue of any Construction Certificate, the basement carpark design is to be certified by a suitably qualified and experienced engineer. The Certification shall ensure that the approved swept paths for garbage trucks as indicated on the approved Basement Level 1 plan prepared by CK Design (as referenced at Condition 1) remain compliant with Australian Standard clearances and remain free of obstruction throughout the entire turning path. This includes but is not limited to structural columns, posts, walls, parking spaces and any other obstructions being clear of the approved swept paths. **Prior to the issue of the Construction Certificate**, the Principal Certifier shall be satisfied that the approved swept paths for garbage trucks as indicated on the approved Basement Level 1 plan comply with Australian Standard compliant clearances, and remain free of obstruction throughout the entire turning path.

As inserted via DA16/0137.03 on 27 April 2020 under Section 4.55(1A) of the Environmental Planning and Assessment Act 1979.

Appendix - Development Control Plan Compliance

Development Control Plan 2014

Part C - City-wide Controls

C10 Transport, Access and Parking:

The development consent provides a total of 78 car parking spaces, with 12 of those being for visitors and 66 being for apartments. The proposed addition of one apartment will still comply with the car parking rates in the Penrith DCP for residential units, but there will be a slight non-compliance for visitor spaces and car wash bays.

The development will have a total of 66 units, being 16 x 1 bedroom, 42 x 2 bedrooms, and 4 x 3 bedrooms. The DCP requirement is for 1 car space for every 1 or 2 bedroom unit and 2 spaces for every 3 bedroom unit. Based on this the proposed 62 units would require 66 residential car parking spaces. The approved development provides 66 car spaces for residents and the proposed modifications do not change this. Therefore, this aspect of the proposal will comply.

In terms of visitor parking, the DCP requires 1 space for every 5 units (or part thereof). For 62 units, the development would require 12.4 units (which would be rounded up to 13). The requirement for car wash bays is 1 space per 50 units, equating to 1.24 spaces for this development, which might also be rounded up to 2 spaces. Therefore, an initial understanding may be that the proposed modifications would result in a parking shortfall. However, even calculating the requirement using the approved 61 units would result in the need for 12.2 visitor spaces and 1.22 wash bays, that is, only marginally less than the requirement based on 62 units, and still rounded up, so potentially resulting in the same minor non-compliance regardless of whether there were 61 or 62 units.

In addition, the applicant was advised that there could be a reduction in visitor spaces if more room was required to achieve the forward swept paths for the waste truck. It is considered that there is greater public benefit in achieving a compliant waste service and removing the need for a reverse movement, than retaining 1 visitor space. Therefore the non compliance in this instance is acceptable.