

COUNCIL ASSESSMENT REPORT

Panel Reference	PPSSWC-43
DA Number	DA19/0808
LGA	Penrith LGA
Proposed Development	Stage Two (2) Works of an Approved Concept Development Application comprising the Construction of Three (3) Six (6) Storey Seniors Living Apartment Buildings including 139 x Independent Living Units, Communal Facilities, 171 x Car Parking Spaces and associated Earthworks and Landscaping
Street Address	39 Jordan Springs Boulevard, Jordan Springs NSW 2747
Applicant/Owner	Lendlease R1 Jordan Springs Holding Pty Ltd
Date of DA lodgement	Select Date
Total number of Submissions Number of Unique Objections	One
Recommendation	Approval
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011	CIV > \$30 million
List of all relevant s4.15(1)(a) matters	<ul style="list-style-type: none"> • Sydney Regional Environmental Plan No. 30 – ST Marys • Sydney Regional Environmental Plan No. 20 – Hawkesbury Nepean River • State Environmental Planning Policy No. 55 – Remediation of Land • State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 • State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2009 • State Environmental Planning Policy (Design Quality of Residential Flat Development) 2004 • Western Precinct Development Control Plan 2014 • Penrith Development Control Plan 2014
List all documents submitted with this report for the Panel's consideration	<ul style="list-style-type: none"> • Architectural Plans • Landscape Plan • Stormwater Management Plan • Acoustic Report • Traffic Assessment • Waste Management Plan
Clause 4.6 requests	NA
Summary of key submissions	<ul style="list-style-type: none"> • Compliance with Western Precinct Development Control Strategy • Acoustic and visual privacy
Report prepared by	Jane Hetherington
Report date	7 September 2020

Summary of s4.15 matters

Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?

Yes

Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report?

Yes

e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP

Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?

Not applicable

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S7.24)?

Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions

Not applicable

Conditions

Have draft conditions been provided to the applicant for comment?

Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report

Yes

SWCPP Ref. No.:	PPSSWC-43
DA No.:	DA19/0808
PROPOSED DEVELOPMENT:	Stage Two (2) Works of an Approved Concept Development Application comprising the Construction of Three (3) Six (6) Storey Seniors Living Apartment Buildings including 139 x Independent Living Units, Communal Facilities, 171 x Car Parking Spaces and associated Earthworks and Landscaping - Lot 1 DP 1248137,39 Jordan Springs Boulevard, JORDAN SPRINGS NSW 2747
APPLICANT:	Lendlease RI Jordan Springs Holding Pty Ltd
REPORT BY:	Jane Hetherington, Senior Development Assessment Planner, Penrith City Council

Assessment Report

Executive Summary

Council is in receipt of a development application from Lendlease R1 Jordan Springs Holding Pty Ltd for Stage Two works of an approved concept development application comprising the construction of three (3) six (6) storey seniors living apartment buildings including 139 x independent living units, communal facilities, 171 x car parking spaces and associated earthworks and landscaping.

The land is zoned Urban under the provisions of Sydney Regional Environmental Plan No. 30 - St Marys. The proposal is defined as *housing for older people or people with a disability* (type of *housing*) and is a permissible land use in the Urban zone, subject to Council consent.

The application is to be determined by the Sydney Western City Planning Panel as the development has a Capital Investment Value (CIV) over \$30 million.

The proposal is defined as Integrated Development under Section 4.46 of the *Environmental Planning and Assessment Act 1979*, requiring an approval under the *Water Management Act 2000*, Section 89, 90 & 91, the *Rural Fire Act 1997*, Section 100B and the *National Parks and Wildlife Act 1974*, Section 90. Accordingly, the application was referred to the Natural Resources Access Regulator (NRAR), the NSW Rural Fire Service (RFS) and the NSW Department of Planning, Industry and Environment (DPIE). All agencies have issued General Terms of Approval for the development.

In accordance with Clause 44 of *Sydney Regional Environmental Plan No. 30 - St Marys* the application was referred to the National Park and Wildlife Service on 19 December 2019. A response was received dated 9 January 2020 advising the NPWS has no specific requirements/comments on the proposal.

The development application has been advertised in a local newspaper and notified to all adjoining and adjacent property owners and placed on public exhibition from 6 December 2019 and 31 January 2020. Several submissions from one objector were received in response. This is further discussed under the 'any submissions' section of this report.

Key issues identified for the proposed development include:

Interface with Southern and Eastern Boundaries

The apartment buildings are located along the southern boundary of the site. During the Urban Design Review

Panel (UDRP) process for Stage 1 (which included concept approval for the apartment buildings), this location was deemed to be the most appropriate, as it assists to screen the view of the drainage channel; provides spatial separation and views to the regional park between the built form; and opens up views to the lake (west). However, due to the topography of the site and the accessibility requirements, the basement protrudes along part of the southern and eastern boundaries. This is acceptable given the site is adjacent to the regional park which is heavily vegetated; the driveway along the eastern boundary is setback to allow for landscaping; and Council is in receipt of an application for a tavern on the adjoining lot that will provide a visual screen from Lakeside Parade.

Waste Management

The application was accompanied by a waste management plan that detailed residents will be required to dispose of their waste directly into 1100L bins located within the basement of each building. Due to the height of a 1100L and the weight of its lid, this arrangement is not supported. Further, the waste storage room within Building C doubles as the waste collection/loading area, which is considered to be a potential safety issue. As such, it is recommended that conditions of consent be included requiring 240L bins be provided within the waste storage room. Maintenance staff will then be required to empty the 240L bins into 1100L bins located within the waste collection/loading area within Building C. A condition of consent has also been included requiring a separate waste storage area be provided within Building C, so there is no potential conflict between waste trucks and residents. This will require the deletion of four parking spaces, which is acceptable given that a surplus of parking spaces has been provided.

The waste management plan confirms that the development will rely on the services of a private contractor. Despite this, under the provisions of the Local Government Act 1993, Council must levy a charge for domestic waste management services for rateable land. As such, it is recommended that a positive covenant on the title notifying future residents that a fee will be charged in addition to any private contract fees. This is consistent with the approach that was undertaken for the single storey villas in Stage 1 (approved under DA18/0678).

An assessment under Section 4.15 of the *Environmental Planning and Assessment Act 1979* has been undertaken and the application is recommended for approval, subject to recommended conditions.

Site & Surrounds

Properties of the site

The subject site is located within the Jordan Springs Estate (which forms part of the St Marys Release Area) and is legally described as Lot 1 DP 1248137. The site is located on the southern side of Jordan Springs Boulevard approximately 200m east of The Northern Road. The site has an area of 3.1 hectares, is irregular in shape, with frontages to Jordan Springs Boulevard to the north and Hortsmann Circuit to the west. The site falls about 7m from the northwest to the southeast. The main access to the site is provided via Hortsmann Circuit, with an emergency access point to Lakeside Parade.

The site currently contains single storey villas and associated roads (under construction). The development area is located along the southern portion of the site which has an area of approximately 10,000m². It currently contains native vegetation.

The site is bound by the Wianamatta Regional Park to the south, an artificial waterbody (dam) to the west and to the north and east of the site is Jordan Springs Estate, comprising residential, commercial and public open spaces. The Jordan Springs Town Centre is located to the immediate north and north-east of the site. Adjacent to the site, on the corner of Jordan Springs Boulevard and Lakeside Parade, is a vacant site that has approval for a 5 storey nursing home.

Site constraints

- The site is partly mapped as bushfire prone land.

- The land is subject to a right of carriageway 11.8m wide and variable.
- Vegetation on the site is mapped as Shale Plains Woodland.

History

The St Marys Release Area forms part of the former St Marys ADI (Australian Defence Industries) site, with the balance of the site contained in the Blacktown LGA. The St Marys ADI site was endorsed by the NSW Government for inclusion on the Urban Development Program (UDP) in 1993.

On 19 January 2001, Sydney Regional Plan No. 30 - St Marys (SREP 30) was gazetted. SREP 30 rezoned 1,535 hectares of land on the site to permit a range of urban uses and a large area of regional parkland. The overall site comprises six development precincts including the Western Precinct (Jordan Springs), Central Precinct and South Dunheved Precinct in the Penrith LGA and the Eastern Precinct, Ropes Creek Precinct and North Dunheved Precinct in the Blacktown LGA.

On 29 September 2006, the Minister for Planning declared the Western Precinct to be a 'release area' under the provisions of SREP 30. A Precinct Plan for the Western Precinct (WPP) and an accompanying Development Control Strategy (DCS) have subsequently been prepared to guide the future development of the Western Precinct. The WPP and DCS were adopted by Council at its Ordinary Meeting on 23 March 2009. The adopted WPP and DCS, function as Development Control Plan (DCP), are the basis of development assessment for the precinct.

The applicant attended a pre-lodgement meeting with Council officers on 4 April 2019 (PL19/0020). The applicant also attended a meeting with Council's Urban Design Review Panel on 12 September 2018 (UDRP18/0009.01).

Previous Approvals

On the 16 February 2019 the Sydney Western City Planning Panel approved DA18/0678 for the Stage Concept Development comprising Stage 1 works involving the construction of 51 x seniors living villas, civil works and landscaping and Stage 2 Concept Development for Future Independent Living Units. The approved concept plan established indicative building envelopes for Stage 2 which included three apartment buildings along the site's southern boundary, up to 6 storeys for each building.

On the 3 September 2019, Council granted consent for the modification to the Stage 1 approval (DA18/0678.01) comprising minor changes to the external colour palette of the villas, fencing and height of roof configuration to some villas. The subject development application is the detailed design of the independent living apartments detailed in Stage 2 of the approved concept.

Proposal

The proposed development is a Stage 2 Development Application submitted under Section 4.22(4)(a) of the EP&A Act. The previous stage (approved under DA18/0678) approved indicative building envelopes for the proposed seniors independent living apartments. This Development Application seeks consent for the construction of 3 seniors independent living apartment buildings comprising of 139 apartments in the following stages:

Stage 1

- Construction of Building A, part of the basement & vehicular access between Buildings A & B;
- Building A comprises:
 - 36 apartments (10 x 1 bedroom, 22 x 2 bedroom & 4 x 3 bedroom);
 - Communal facilities including swimming pool, art studio/multi-purpose room, café/restaurant, bar lounge, gym and library/media meeting room, theatre/cinema on the ground floor;
 - 45 car parking spaces (42 within the basement & 3 at-grade);
- Associated earthworks, tree removal and civil works.

Stage 2

- Construction of Building B & C, remainder of basement and vehicular access;
- Building B comprises of 52 x 2 bedroom apartments;
- Building C comprises of 51 x 2 bedroom apartments;
- 126 car parking spaces within the basement;
- Associated earthworks and civil works;

Stage 3

- Reduce ramp between buildings A & B to be one-way; and
- Landscaping.

Plans that apply

- Development Control Plan 2014
- Western Precinct
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- State Environmental Planning Policy (Housing for Seniors or People with a Disability) 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
- Sydney Regional Environmental Plan No.30 - St Marys

Planning Assessment

- **Section 2.12 – Sydney Western City Planning Panel (SWCPP)**

Under Clause 4.5(b) of the *Environmental Planning and Assessment Act 1979*, the consent authority is a regional planning panel for development that is declared by an environmental planning instrument as regionally significant development. Schedule 7 of *State Environmental Planning Policy (State and Regional Development) 2011*, specifies that development that has a capital investment value (CIV) of more than \$30 million is regionally significant development.

In accordance with 4.5(b) of the *Environmental Planning and Assessment Act 1979*, the Sydney Western City Planning Panel (SWCPP) is the determining authority as the proposal has a CIV of \$73,909,896.

- **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 following issues have been identified for further consideration:

- **Section 4.46 - Integrated development**

The proposal is defined as Integrated Development under Section 4.46 of the *Environmental Planning and Assessment Act 1979*, requiring an approval under the *Water Management Act 2000*, Section 89, 90 & 91, the *Rural Fire Act 1997*, Section 100B and the *National Parks and Wildlife Act 1974*, Section 90.

Accordingly, the application was referred to the NSW Department of Planning, Industry and Environment (DPIE), NSW Natural Resource Access Regulator (NRARS) and the NSW Rural Fire Service (RFS) on 28 November 2019.

In response, the NSW RFS issued their General Terms of Approval (GTA) dated 13 March 2020, raising no objection to the proposal subject to conditions.

The NRARS issued their GTAs dated 6 February 2020, raising no objection to the proposal subject to conditions.

As the original Aboriginal Heritage Impact Permit (AHIP) covering all aboriginal objects identified within the Western Precinct had expired, DPIE issued a stop the clock letter, dated 6 December 2019. The STC letter requested a current, complete and finalised Aboriginal Cultural Heritage Assessment Report (ACHAR) to be submitted. In response, the applicant provided a document titled '*Kingfisher Grove Retirement Village, Jordan Springs. Aboriginal Cultural Heritage Assessment Report*' prepared by GML Heritage and dated 22 May 2020 was received. This document was reviewed by the DPIE, who issued their GTA dated 21 July 2020, raising no objection to the proposal, subject to conditions.

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

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

This Policy ensures the implementation of the BASIX scheme which 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.

BASIX Certificate No. 1057654M was submitted with the Development Application demonstrating compliance with set sustainability targets for water and energy efficiency and thermal comfort. Relevant BASIX commitments have been nominated on the submitted architectural plans ensuring that the DA commitments have been met.

State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004

The application has been lodged under the provisions of *Sydney Regional Environmental Plan No. 30 - St Marys* (SREP 30). Under SREP 30 the proposal is defined as '*housing for older people or people with a disability*' (type of *housing*) which is a permissible land use in the Urban zone. In this regard, the proposal does not rely on the *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* (Seniors SEPP) to establish permissibility. Council's Legal Department have confirmed that as the applicant has elected to lodge under SREP 30, the provisions which apply to a development application '*made pursuant*' to the Seniors SEPP are not applicable in the assessment of the application (i.e. controls within Chapter 3, Part 4). However, an assessment against the relevant clauses of the Seniors SEPP is provided below:

Clause 33 Neighbourhood Amenity and Streetscape

The development is sympathetic to the character of the locality and is of a scale which is appropriate in the context. The height is consistent with other buildings/approvals within the town centre area. The proposed development incorporates three six storey buildings, which have been stepped back on the upper levels (levels 5 & 6) to reduce the bulk and scale and provide a appropriate transition to the adjoining single storey villas. The materials and colour palette of the apartment buildings complement the single storey villas. Given the location of the proposed apartments, the vast majority of shadows cast by the proposed development would fall onto the drainage channel and regional park and as such, there is minimal overshadowing impact. There are no listed heritage items within the vicinity of the site.

Clause 34 Visual and Acoustic Privacy

The development has been designed to maintain visual and acoustic privacy to adjoining properties and within the development. Given the location of the development site, significant separation is provided to adjoining properties. The closest neighbouring dwelling is located approximately 80m to the west. Approval has recently been granted for a nursing home located on the corner of Jordan Springs Boulevard and Lakeside Parade. Rooms within the nursing home will be approximately 40m from those within Building C. Given this separation, the development is not considered to result in any adverse visual privacy impacts for adjoining properties.

The layout and design of the proposed buildings and the provision of landscaping will ensure that privacy within the development is maintained. Design solutions include appropriate building setbacks, dwelling layouts, placement and sizes of window openings, placement of balconies, fence heights and location and landscaping.

The application was accompanied by an acoustic report, prepared by Acoustic Logic which demonstrated that the development would not result in adverse noise impacts for adjoining properties and residents of the development, subject to recommendations. These recommendations have formed conditions of consent.

Clause 35 Solar Access and Design for Climate

The design and siting of the proposed development will provide adequate sunlight access to the proposed

living areas and private open spaces of the majority of dwellings. Shadow diagrams were provided which demonstrated that the development will not impact on the solar access provided to the main living or private open space areas of neighbouring dwellings. This is due to the location of the proposed buildings, which is on the southern edge of the Jordan Springs estate.

Clause 36 Stormwater

The application was accompanied by stormwater plans, prepared by ADW Johnson and dated 3 August 2020 which demonstrated that stormwater could be appropriately managed on the site.

Clause 37 Crime Prevention

The development has been designed in accordance with the key CPTED principles, with the following design features being incorporated:

- Secure entries into all ground floor lobbies and the basement;
- Battened fences and low height planter beds around ground floor terraces to ensure privacy while still allowing for visual connectivity;
- Lighting around the entries into the building and common spaces; and
- Landscaping and fencing to distinguish between public and private spaces.

Clause 38 Accessibility

Pedestrian paths (1.5m and 1.2m wide) were provided throughout the development site under DA18/0678. These paths are connected to the external footpath network at two locations (one at the main entrance and one on driveway 4) linking the site to the nearby town centre and bus stops. Convenient access to parking for residents and their visitors is provided within the basement level and on the internal road network.

Clause 39 Waste Management

Waste and recycling bins are provided for residents within waste storage areas located within the basement level. These will be serviced by a private waste contractor, which is consistent with how waste from Stage 1 development will be collected.

State Environmental Planning Policy No 55—Remediation of Land

State Environmental Planning Policy No. 55 - Remediation of Land (SEPP 55) aims to provide a framework for the assessment, management and remediation of contaminated land throughout the state. Clause 7(1) of SEPP 55 prevents consent authorities from consenting to a development unless it has considered whether the land is contaminated and is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out.

The Western Precinct was the subject of extensive contamination investigations during the 1990s. The investigation work was undertaken with the full involvement of the EPA and subsequently an independent NSW accredited Site Auditor who produced and issued Site Audit Statement for the entire site (*Stage 2 Decontamination Audit of ADI St Marys Munition Factory*, dated 7 June 1999).

To review the contamination status of the site since the site audit statement was issued, a Supplementary Contamination Assessment prepared by Alliance Geotechnical P/L and dated 20 April 2018 was completed. This assessment found that the contamination status of the broader site was unlikely to have materially changed however, a number of stockpiles of soil were identified towards the western boundary. Soil sampling confirmed that these stockpiles contained contaminants of potential concern and asbestos. These stockpiles were removed from the site in July 2018. A Site Validation Report, prepared by Alliance Geotechnical P/L and dated 17 October 2018 was submitted to assess the potential for contamination to be present following the removal of the stockpiles. It was found that they were adequately removed from the site and that the site is suitable for the proposed land use, subject to the ongoing implementation of the URS 'Contamination Management Plan, Western Precinct Development Phase' dated 7 July 2008, ref: 4321 7287, as recommended in the site audit statement issued for the site.

As such, in accordance with Clause 7(b) of the *SEPP No. 55 - Remediation of Land*, the consent authority can be satisfied that the land will be suitable, after remediation, for the proposed use. This is subject to compliance with the Contamination Management Plan (CMP) for the Western Precinct, prepared on the basis of the relevant Site Audit Statement, which has already been adopted by Council. A condition is recommended to ensure measures to be undertaken are in accordance with the adopted CMP, should contamination and/or explosive ordinance material be uncovered during the proposed works.

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

State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development (SEPP 65) aims to improve the design quality of residential apartment development in New South Wales. The policy applies to residential flat buildings, shop top housing or mixed use development with a residential accommodation component of three or more storeys and containing four or more dwellings. SEPP 65 does not strictly apply to this development as the proposal is development for the purpose of seniors housing, which is not a type of development defined within SEPP 65. Despite this, an assessment has been undertaken of the proposed development in relation to the nine design quality principles and the related Apartment Design Guide.

The application was accompanied by a design verification statement from a suitably qualified designer. This document states, in summary, that the development is appropriate in terms of scale, orientation, amenity, sustainability and aesthetics due to the combination of surrounding locality and the proximity to transport and services, generous setbacks, maintains key views and vistas, landscape embellishments, adequate deep soil areas, common space and diversity of accommodation and clear and simple layouts that facilitate crime prevention.

The proposal is generally in accordance with the provisions of the SEPP and the Design Guide with the exception noted below:

Solar Access

The ADG specifies that living rooms and private open spaces of at least 70% of apartments in a building should receive a minimum of 2 hours direct sunlight between 9am and 3pm at mid-winter in the Sydney Metropolitan Area (includes Penrith) and in the Newcastle and Wollongong local government areas. The ADG also specifies that a maximum of 15% of apartments in a building receive no direct sunlight between 9am and 3pm at mid-winter. The proposal does not comply with either of these controls. The application was accompanied by Solar and Daylight Access Study Jordan Springs, prepared by Lendlease and dated 18 November 2019. This document outlines that the overall development achieves 60% of apartments with a minimum of 2 hours of direct sunlight between 9am and 3pm and 32% of apartments receive no direct sunlight during the same period. The non-compliance with these controls is due to the sitting of the development along the southern edge of the precinct and the proximity to the BAL exclusion zone which gives little opportunity to re-orient the buildings. Despite this non-compliance, the development provides substantial communal living and dining space on the ground floor with access to sunshine throughout the day. Further, while direct sunlight access may be limited, the positioning of the apartments (with the regional park to the south and lake to the west) will ensure residents are provided with ambient light and extensive views.

Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

Sydney Regional Environmental Plan No. 20 - Hawkesbury-Nepean River (No. 2 - 1997) (SREP 20) integrates planning with catchment management to protect the Hawkesbury-Nepean river system, requiring the impact of future land use to be considered in a regional context. The plan covers water quality and quantity, environmentally sensitive areas, riverine scenic quality, agriculture and urban and rural-residential development. It controls development that has the potential to impact on the river environment. The plan applies to all parts of the catchment in the Sydney region (15 local government areas, including Penrith), except for land covered by Sydney Regional Environmental Plan No. 11 - Penrith Lakes Scheme. SREP 20 is supported by an Action Plan which includes actions necessary to improve existing conditions.

An overarching strategy titled '*St Marys Project Western Precinct Plan - Water, Soils and Infrastructure Report*' prepared by Sinclair Knight Merz and dated 2009 was developed for the entire Jordan Springs Release Area which sets the framework for water management. Stage 1 (approved under DA19/0878) represented an increase in density to what was previously considered by the 2009 report. As such, the application was accompanied by '*Retirement Village Stormwater Management Strategy*' prepared by J. Wyndham Prince (JWP) and dated 2018. The aim of this report was to review the proposed development and make comparisons on the footprint, assumptions and principles which were adopted in the overarching strategy. A water quality assessment was included that determined what additional water quality measures are required in order to deliver consistent pollutant management with the original intent. These included the use rainwater tanks on each dwelling, as well as enviropods, a gross pollutant trap and storm filter cartridges. The report concludes that these measures in conjunction with the regional devices will achieve objectives ensuring the "the combined annual pollutant export from the developed site does not exceed the existing" (SKM, 2009).

The current application was accompanied by '*Stormwater Management Report. Proposed Retirement Living Apartments*' prepared by ADW Johnson P/L and dated November 2019. The purpose of this report was to consider the impact of the proposed Stage 2 layout on the abovementioned stormwater strategy (JWP, 2018) and determine if any additional water quality or quantity measures are required to ensure compliance with the overarching strategies. It concluded that the majority of the Stage 2 development is catered for within the infrastructure to be provided with the stage 1 works and that the only additional water quality devices required under the current proposal are the provision of litter baskets on the landscaped podium area.

Council's Development Engineers and Environmental Waterways Team have reviewed the application and subject to recommended conditions relating to stormwater management and erosion and sediment controls and have no objection to the proposal.

Sydney Regional Environmental Plan No.30 - St Marys

Permissibility

The land is zoned Urban under the provisions of *State Regional Environmental Plan No. 30 – St Marys*. The proposal is defined as *housing for older people or people with a disability* (type of housing) and is a permissible land use in the Urban zone, subject to Council consent.

Aims of REP

The proposal would support the St Marys Environmental Planning Strategy for the sustainable development and management of Jordan Springs and facilitate urban and employment-generating developments that integrate with the surrounding developments to achieve the desirable environmental, social and economic outcomes.

Zone Objectives

The proposal is consistent with the objectives of the zone in relation to:

- The development provides additional residential accommodation within the Jordan Springs estate;
- The subject site is within walking distance to Jordan Springs town centre and therefore within close proximity to public transport and services; and
- It has been demonstrated (through the accompanying documentation) that the development will not have a negative impact on biodiversity or conservation within the Regional Park zone.

Clause	Response
Clause 20 - Development Consent Restrictions	<p>A Precinct Plan for the Western Precinct (WPP) and an accompanying Development Control Strategy (DCS) have been prepared and adopted by Council at its Ordinary Meeting on 23 March 2009 to guide the future development of the Western Precinct.</p> <p>Council in the course of assessment, has taken into consideration the precinct plan and development control strategy for the Western Precinct and is satisfied that the proposal has demonstrated:</p> <ul style="list-style-type: none"> • consistency with the terms of the planning agreement • the performance objectives and the zone objectives and other requirements prescribed by the REP can be achieved • development control strategies contained in the environmental planning strategy has been considered in the planning and design of the proposal.
Part 5 – Performance Objectives	
Clause 21 – Required outcomes for any development	As outlined below the proposal is consistent with the performance objectives.
Clause 22 – Ecological Sustainable development	The development is consistent with the goals of ecological sustainable development. The application was accompanied by a BASIX certificate demonstrating that the development will be carried out in a sustainable manner. In addition, the development will provide for additional residential accommodation within close proximity to transport and services.
Clause 23 – Air quality	Conditions of consent will ensure that potential air quality impacts of the proposed development are minimised. The development provides additional residential accommodation within close proximity to transport and services and incorporates footpaths to encourage walking.
Clause 24 – Conservation	The application has demonstrated that it will not adversely impact on the vegetation and fauna habitats within the Regional Park.
Clause 25 – Heritage	<p>The site does not contain any non-aboriginal heritage items as shown on the SREP 30 Heritage Map.</p> <p>A Aboriginal Heritage Impact Permit (AHIP) was granted on 13 February 2009 (AHIP No. 1099059) which covered all aboriginal objects identified within the Western Precinct. However, this was issued for a period of 10 years and is no longer valid. As such, the application was referred to the NSW Department of Planning, Industry and Heritage (DEIP) who granted general terms of approval requiring that a AHIP for the proposed works be obtained prior to the commencement of works.</p>
Clause 26 – Community Services	The Western Precinct Plan is supported by a Community Plan that details the social infrastructure to be provided throughout the estate.
Clause 27 – Open Space and Recreation	A range of open space and recreational areas and facilities for passive and active recreation is provided within close proximity to the subject site. These will be easily accessible to the future residents. The development includes communal facilities (i.e. swimming pool, gym etc.) within building A that will be accessible to residents the entire retirement village.

Clause 28 – Watercycle	The applicant has submitted stormwater concept plans including sediment and erosion control measures with this application. Council's Development Engineer have not raised any objections to the proposal and recommended conditions to be imposed in the consent.
Clause 29 – Soils	The application was supported by a Geotechnical Report prepared by Alliance Geotechnical P/L and dated 3 August 2018. One of the objectives of this report was to obtain the physical properties of the soil. The construction of the slab will be based on the findings of this report.
Clause 30 – Transport	The development is easily accessible via Jordan Springs Boulevard, which has access to public transport and is in close proximity to the Jordan Springs Town Centre. Pedestrian access was provided under the Stage 1 development (DA18/0678).
Clause 31 – Urban Form	The development provides an alternative type of housing within close proximity to services and facilities. Private and public spaces are distinguished by the use of landscaping and fencing.
Clause 32 – Employment and business development	NA
Clause 33 – Housing	The proposal represents a new form of housing (senior independent living apartments) within the Jordan Springs estate. The site is within walking distance to public transport, human services, retail and community and recreation facilities.
Clause 34 – Energy Efficiency	The applicant has submitted a BASIX Certificate incorporating energy, water and thermal comfort commitments. Council is satisfied that the proposal has adopted the principles of energy efficiency and best practice for energy management in the design of the building.
Clause 35 – Waste Management	The application was accompanied by a Waste Management Plan, prepared by Elephants Foot and dated 19 November 2019. This plan covers the ongoing management of waste generated by the development. Concerns have been raised with the proposed waste management methods which are discussed under the 'likely impacts' section of the report.
Part 7 – Development Controls	
Clause 44 – Consultation with NPWS	In accordance with Clause 44, the application was referred to NPWS on 19 December 2019. A response was received dated 9 January 2020 advising that the NPWS had no specific requirements/comments on the proposal.
Clause 45 – Subdivision	NA - Subdivision does not form part of the subject application.
Clause 46 – Development near zone boundaries	NA - The proposal is a permissible land use in the Urban Zone.
Clause 47 – Demolition	NA - Demolition does not form part of the subject application.
Clause 48 - Interim uses	NA
Clause 49 - Land below the PMF level	NA - The probable maximum flood (PMF) level is shown on the structure plan. The subject site is above the PMF level.
Clause 50 - Filling of land	NA - The site is located above the PMF level.

Clause 51 - Salinity and highly	A salinity assessment has been undertaken as part of the Western Precinct Plan. The recommendations arising from this assessment are recommended to be conditioned to ensure that the key requirements of the SREP are complied with.
Clause 52 - Tree preservation	The proposal includes the removal of trees and vegetation. This issues is further discussed under the likely impacts section of this report under 'Flora and Fauna Impacts'.
Clause 53 - Items of environmental heritage	No items of environmental heritage (as identified in the Heritage Map) are located within the subject site.
Clause 54 - General heritage considerations	No identified heritage items are located on or in the immediate vicinity of the site.
Clause 55 - Conservation of items of environmental heritage	No identified heritage items are located on or in the immediate vicinity of the site.
Clause 56 - Demolition of items environmental heritage	The proposal will not demolish, deface or damage an item of environmental heritage.
Clause 57 - Access	The proposal does not include direct vehicular access to the Northern Road, Palmyra Avenue, Forrestors Road or Ninth Avenue.
Clause 58 - Certain development prohibited	NA
Clause 59 - Retail and commercial development restricted	NA
Clause 60 - Services	Standard condition for obtaining a Section 73 Certificate from Sydney Water and documentary evidence from Integral Energy and telecommunication provider is recommended to ensure services are available to support future developments on the site.
Clause 61 - Subdivision without consent	NA
Clause 62 - Bush fire reduction works	NA

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	Complies
C11 Subdivision	N/A
C12 Noise and Vibration	Complies
C13 Infrastructure and Services	Complies

Western Precinct Plan

Provision	Compliance
Western Precinct Plan	Does not comply - see Appendix - Development Control Plan Compliance

Section 4.15(1)(a)(iiia) The provisions of any planning agreement

Penrith City Council, St Marys Land Limited and Lend Lease Development entered into a Planning Agreement in 2009. The St Marys Penrith Planning Agreement has made provisions for open space, transport, human services and infrastructure works for the Western and Central Precincts of the St Marys Development Site. In 2018, the Planning Agreement was amended due to increased residential yield. The subject site is within the site known as "VC Sites" (made up of VC10, VC2, VC3) which has a total dwelling count of 400 dwellings. The development is under this limit and as such, no further contributions are payable.

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

Urban Design

The layout of the Jordan Springs Retirement Village and indicative building envelopes for the seniors independent living apartments was considered and approved under DA18/0678. This application was accompanied by perspectives showing the relationship of the apartment buildings and the single storey villas. The separation provided by the internal road network and the proposed landscaping treatment was considered to provide an adequate interface between the lower scale villas and the apartment buildings. The subject application includes detailed plans of the apartment buildings showing that the upper storeys have been setback to achieve an appropriate scale relationship when viewed from street level.

Concerns were raised with the interface treatment along the eastern and southern boundaries, due to the basement protrusion and location of the driveways and services. In response to these concerns the basement level was dropped, resulting in a 630mm reduction in the basement protrusion in the north-eastern corner. Due to accessibility requirements for seniors living development, the location of the podium level and the maximum permitted ramp gradient, the basement cannot be further dropped or incorporate a split level design. Despite this, the interface treatment along the eastern and southern boundaries is acceptable given:

- To the south of the site is the regional park. This is heavily vegetated and would obscure any views to the site from the nearest residential properties which are over 400m to the south.
- The driveway along the eastern boundary has been amended to be one way, reducing its width and allowing for additional landscaping along the eastern boundary.
- Council is in receipt of an application for a tavern on the adjoining site to the east (Lot 3989 DP 1190132). Plans show that tavern building will be located along the common boundary acting as a visual barrier from Lakeside Parade. The internal layout of the tavern provides back-of-house uses orientated towards the subject seniors apartment buildings.

The development incorporates high quality design finishes and materials, with subtle changes across the colour palette of each building. All three buildings are defined by a single storey base, a three storey mid-level and a two storey setback upper-level. Materials include brick, pre-finished cladding panels and non-combustible timber-look panels.

Noise Impacts

The application was supported by "Jordan Springs Retirement Village Development; Stage 2: DA Acoustic Report" prepared by Acoustic Logic and dated 28 April 2020. The purpose of the report was to determine the effects of external noise intrusion on the proposed development from nearby noise sources (mainly traffic noise from Lakeside Parade and Jordan Springs Boulevard) and assess the impact of noise emissions from the developments operation (gym, cafe etc.) on surrounding residential receivers.

To quantify the existing acoustic environment both long term unattended noise logging and attended noise measurements were conducted. Unattended noise monitoring was conducted over a seven day period between 29 August and 5 September 2018. Attended noise measurements were undertaken on 29 August 2018. Based on the data obtained, the proposed development is deemed to comply with the noise criteria contained within AS/NZS 2107:2016 Acoustics - Recommended design sound levels and reverberation times for building interiors, subject to recommended building treatments. A condition of consent is recommended to ensure that the internal noise criteria is achieved.

The report provides an assessment against the developments potential noise emission sources including: mechanical plant; the use of the community centre (i.e. patrons voices, music etc.); operational noise (from the cafe, cinema, waste collection); and gym vibrations. In accordance with the EPA's Noise Policy for Industry, data obtained in the noise monitoring was used to establish site specific noise criteria. As the mechanical plant details have not been finalised, the report recommends that an acoustic assessment of mechanical service equipment be undertaken during the detailed design phase to determine acoustic treatments to control noise emissions to satisfactory levels. This recommendation has formed a condition of consent.

The report also includes recommendations to ensure adopted noise criteria is achieved in relation to the community centre, operational noise and gym vibrations. These include operational restrictions (i.e. cafe outdoor dining to cease at 10pm) and building treatments. Conditions of consent have been included to reflect these recommendations.

Traffic, Access and Parking

The Stage 1 application (approved under DA18/0678) was supported by a Traffic Impact Assessment (TIA) prepared by Bitzios Consulting and dated 3 July 2018. This report included a traffic generation assessment of the 51 single storey villas (approved under DA18/0678), adjoining low density residential lots (approved under DA18/0655) and the proposed seniors independent living apartments (based on 150 apartments). The Roads and Maritime Service (RMS) Technical Direction 2013/04a (Guide to Traffic Generating Developments - Updated Traffic Surveys) was used to determine the traffic rates. Based on this document, it was found that a maximum of 51 vehicles per hour (VPH) would likely be generated in the morning peak period and 112VPH during the afternoon peak. It was concluded that the additional traffic resulting from the proposal will not have unacceptable traffic implications on the local road network.

The subject application was accompanied by Transport Assessment, prepared by GTA Consultants and dated 19 November 2019. This report included an updated traffic assessment. As outlined above, the original traffic report was based on 150 apartments whereas the current proposal only includes 139 apartments. The GTA Consultants Transport Assessment identified that the proposal will generate marginally less traffic than that estimated by the Bitzios TIA. Intersection analysis found that the Jordan Springs Boulevard/ Hortsmann Circuit would operate with acceptable delays (Level of Service A) during the road network peak periods following completion of the development.

The proposal includes 171 onsite parking spaces predominately located within the basement level. During Stage 1, 45 parking spaces (including three within the porte cochere) will be available, with the remaining 126 spaces to be constructed in Stage 2. Penrith Development Control Plan 2014 does not provide a car parking rate for seniors living development. The RMS document '*Guide to traffic generating development*' outlines that parking for housing for aged and disabled persons should be provided in accordance with the following rate: 2 spaces per 3 units (residents), plus 1 space per 5 units (visitors). Given the proposal includes the construction of 139 apartments, 121 parking spaces (93 residents and 28 visitor spaces) are required. The proposal exceeds this requirement with 171 parking spaces, which included 28 visitor parking spaces and 31 accessible spaces.

Access to the seniors living development is provided via Hortsmann Circuit, off Jordan Springs Boulevard. The internal road network was approved under Stage 1 (DA18/0678) and is currently under construction. Access to the basement level will be provided via a ramp located between Buildings A and B. During Stage 1 of the development this ramp will be two way, acting as both the entry and exit point. However, upon completion of the remainder of the basement and Buildings B and C (Stage 2), this will be converted to one way entry point, with permanent exit ramp being provided from Building C along the eastern boundary. While both the entry and exit points were originally proposed from Building C, during the course of the assessment, this was modified to allow for greater landscaping to be provided along the eastern boundary.

A separate loading dock is provided within the basement level. These facilities are accessed via a driveway adjacent to the eastern boundary. Swept paths have been provided that demonstrate the loading dock can accommodate a 9.7m heavy rigid vehicle. As trucks are required to perform a 3-point turn to reverse into the basement, it is recommended that a condition of consent be included requiring a truck detection system and stop LED signal system be required to provide additional traffic control measures.

Bushfire Risk

The subject site is partially mapped as bushfire prone land and the proposal (senior housing) is defined as *special fire protection purpose* development under Section 100B of the Rural Fires Act 1997. As such, the

application was accompanied a Bushfire Assessment prepared by Peterson Bushfire and dated 12 November 2019. This report confirms that a 40m asset protection zone (APZ) to the south is required. This APZ comprises of a stormwater basin within a 25m wide lot, which includes a 4m wide perimeter maintenance road, followed by a 15m building setbacks. This APZ is contained within the development lots and do not impact on the surrounding regional park.

The application was referred to the NSW Rural Fire Service (RFS), and a conditional bushfire safety authority was issued. Conditions recommended by the RFS have been applied in the conditions of consent.

Flora and Fauna

The site is mapped as containing Cumberland Plain Woodland (CPW), a Critically Endangered Ecological Community under State and Federal legislation. The biodiversity offsets scheme, established by the Biodiversity Conservation Act 2016, has now commenced. However, to manage the commencement of the biodiversity scheme, transitional arrangements were put in place for some Western Sydney local government areas (including Penrith LGA). These transitional arrangements detail that former planning provisions continue to apply, for local development applications submitted before 25 November 2019. As the subject application was submitted on 22 November 2019, the biodiversity offset scheme is not applicable. As such, the application was accompanied by a document '*Jordan Springs Retirement Stage 2 Development - Addendum to Species Impact Statement*' prepared by Cumberland Ecology and dated 14 November 2019. The purpose of this document was to provide an addendum to the Species Impact Statement (SIS) for Jordan Springs Retirement Village development, prepared by Cumberland Ecology, submitted in support of DA18/0678. This SIS assessed the entire area of Stage 1 and Stage 2, assuming complete clearing and was found to be satisfactory by Council's Biodiversity Officer. However, due to the time since the SIS report was prepared, an addendum was required to confirm that the impacts to threatened flora and fauna and ecological communities are as anticipated in the 2018 SIS. The findings of this addendum report, indicate that the proposed works will not result in any additional or significant impact to threatened species, populations or ecological communities further to those identified and assessed in the SIS.

Waste Management

The development is proposed over three stages, with the loading/service area and waste infrastructure to be provided within Stage 2 (with the construction of Buildings B & C and the remainder of the basement). As such, a temporary waste collection arrangement is required to service the residents of Stage 1 (Building A), while Stage 2 is being completed. The application was accompanied by a document titled '*Stage 1 Temporary Waste Strategy*' prepared by Elephants Foot and dated 16 June 2020. This document details that a waste room will be provided within the basement level of Building A that is of sufficient size to accommodate 4 x 1100L bins. These bins would be accessed directly by the residents and then maintenance staff would be responsible for transferring the bins to the temporary holding area (located at the kerbside adjacent to the basement access ramp). A private contractor would then service the bins via kerb side collection.

In support of the final waste collection arrangement, the application was accompanied by an Operation Waste Management Plan (WMP), prepared by Elephants Foot and dated 19 November 2019. This report details that waste collection rooms containing 1100L bins will be located within the basement of each building. Penrith City Council's waste generation rates were referenced to calculate the total number of bins, which resulted in a total of 18 x 1100L bins throughout the development (4 bins within Building A, 6 bins within Building B and 6 bins within Building C). Residents will be required to access the waste room via the elevators and dispose of waste into the corresponding bin themselves. The facility manager/waste caretaker is then responsible for the transportation of bins from the waste rooms in Buildings A and B to the collection/loading area in Building C. A private contractor would then collect all residential waste and recycling from the service area within the basement of Building C.

Council raised concerns regarding the temporary and permanent waste arrangements. Under both arrangements, residents are required to directly access 1100L bins. This is not supported due to the height of a 1100L bin and the weight of the lid, making it harder for residents to use. While the applicant has outlined that this is common practice throughout their other retirement villages within NSW, it is recommended that a condition of consent be included requiring 240L bins be provided within the waste storage rooms. These bins would then be emptied by maintenance staff into 1100L bins located within Building C.

Another concern is that the proposed waste arrangement requires the residents of Building C to dispose of their waste directly into bins located within the service/loading area. This is considered to be a potential safety issue. As such, it is recommended that a condition of consent be included requiring 4 parking space (car spaces 79, 80, 146 & 147) be used for additional waste infrastructure, which would allow a separate collection room to be provided. As outlined within the 'Traffic, Access and Parking' section of this report, there is a surplus of parking spaces to accommodate this arrangement.

Further, safety concerns were raised as the transfer of bins is proposed to occur via the vehicle ramp, resulting in potential conflicts with resident/staff vehicles. However, given the temporary nature of the arrangement and the number of bins required to be relocated, this is considered to be satisfactory.

While Council considers that a development of this scale should include a chute system, the applicant has been resistant to incorporating one into the design. In addition, there is no specific waste controls for seniors living developments with Council's DCP and on balance (with the required amendments) the waste arrangements are considered satisfactory. Despite this, Clause 496 of the *Local Government Act 1993* specifies that Council must levy a charge for domestic waste management services for rateable land. As a private contractor is proposed to be used, it is recommended that a positive covenant be placed on the title that requires notification that such a fee will be charged in addition to any private waste contract fees. This recommendation will form a condition of consent.

Landscaping

The application was accompanied by a Landscape Plan, prepared by Clouston Associates and dated 6 August 2020. This plan details that the podium level provides communal recreational spaces and includes lawn bowls, pocket gardens, gathering spaces and BBQ and picnic areas. The podium level includes approximately 700m² of planter beds (with a depth of approximately 1m) allowing for the establishment of trees. While the majority of the trees species are endemic to the area, some exotic flowering species have been included to provide a range of colours. The plan includes mass plantings in front of retaining walls to provide a visual screen. This plan has been reviewed by Council's Landscape Architect who requested the following amendments:

- A greater range of tree species along the southern boundary. The landscape plan shows that Hickory Wattle (*Acacia implexa*) will be the only tree species provided between the basement of Buildings B and C and the southern boundary. Concerns were raised with this arrangement as: that this boundary line is the regional park interface and should present as a natural informal landscape; the pollen from wattles can cause issues for residents with allergies; and Hickory Wattles are relatively short lived.
- That bottle brushes (or similar denser shrub species) be included in the shrub species to increase the screening of the retaining walls.

A condition of consent is recommended that an amended landscape plan, incorporating the above requirements be submitted to and approved by Council prior to the issue of a Construction Certificate.

It is also recommended that a condition of consent be included requiring plants be procured prior to the issue of a construction certificate for stage 1. This is due to a supply issue within the industry and the timing of obtaining plants with larger pot sizes. Condition this requirement will ensure that plant species are

not required to be substituted.

Social Impact

The independent living apartments, along with the 51 seniors villas, will form the Jordan Springs Retirement Village. The development provides additional seniors housing, in a location that is accessible to local shops, community facilities and public transport. The proposal will contribute to housing supply and diversity in the local area, whilst supporting ageing in place. The development includes open space and communal facilities to meet the needs of residents of both Stage 1 and Stage 2 that will encourage and support social interactions and recreational activities.

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

The site is suitable for the following reasons:

- The site is within close proximity to the Jordan Springs Village Centre and is well serviced by public transport;
- The site adjoins a drainage channel to the south which provides an asset protection zone from vegetation within the regional park;
- The site is located adjacent to an approved nursing home (approved under DA19/0465);
- The use is compatible with surrounding/adjoining land uses;
- The grade of the site is suitable for the design proposed; and
- The site is able to drain to Council's satisfaction.

Section 4.15(1)(d) Any Submissions

Community Consultation

In accordance with Clause 4.4 of Appendix F4 of Penrith Development Control Plan 2014, the proposed development was advertised in a local newspaper and notified to owners and occupiers of nearby and adjoining properties residents. A total of thirty-three (33) property owners and occupiers were notified in the surrounding area. The public exhibition period for the proposal was from 6 December 2019 to 31 January 2020. Council has received one (1) objection to the proposal, which was sent over several submissions.

Submissions

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

<i>Issue Raised</i>	<i>Comments</i>
<i>The height of buildings will impact on the amenity of neighbouring properties</i>	The Western Precinct Development Control Strategy (DSC) permits buildings up to 6 storeys (for apartments) within the village centre. The scale of the proposed building is consistent with others development/approvals within the local area (i.e. six storey mixed use development on Lakeside Parade and approved 5 storey nursing home). Given the location of the apartments, the height is not considered to result in adverse impacts for adjoining residents.
<i>Owners of adjoining lots who purchased after DA was lodged have not been notified</i>	In accordance with Council's Development Control Plan, the application was notified to all the adjoining property owners and occupiers at time of lodgement. An advertisement was also placed in a local newspaper and details of the proposal made available on DA tracker for enquiry as due diligence investigations prior to purchase.
<i>Building A is positioned too close to water body and will detract from the amenity.</i>	Given the proximity of the development to the mapped waterbody (dam) the application was referred to the NSW Natural Resource Access Regulator (NRARs). NRARs had no objection to the proposal and proposed general terms of approval. The development has been designed to utilise and respond to the adjoining dam. Building A has communal facilities on ground floor with an outdoor courtyard orientated towards the dam, improving the amenity for residents.
<i>Development will result in privacy issues for adjoining residents</i>	Given the location of the development site and the separation to the nearest residential development (approximately 80m), the proposal is not considered to result in privacy issues.
<i>The community centre will result in acoustic issues for adjoining residential development.</i>	This issue is further discussed under the 'Likely Impacts' section of the report.
<i>The development is inconsistent with the Western Precinct Development Control Strategy</i>	This issue is further discussed under the 'Western Precinct' section of the report.
<i>The proposal is inconsistent with the Penrith Open Space Action Plan</i>	This issue is further discussed under the 'Western Precinct' section of the report.

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 - Environmental management	No objections - subject to conditions
Environmental - Waterways	No objections - subject to conditions
Environmental - Public Health	No objections - subject to conditions
Environmental - Biodiversity	Not supported, however conditions provided
Waste Services	No objections - subject to conditions
Traffic Engineer	No objection subject to conditions

Environmental - Biodiversity

Council's Biodiversity Officer objected to the development given it includes the removal of native vegetation. However, removal of this vegetation has previously been accepted by Council. The application for DA18/0678 was accompanied by a Species Impact Statement (SIS) (prepared by Cumberland Ecology) that covered the entire area of Stage 1 and Stage 2 and assumed complete clearance. This document was found to be satisfactory by Council's Biodiversity Officer and conditions were provided. The subject application has been accompanied by an addendum SIS (prepared by Cumberland Ecology and dated 14 November 2019) that indicate that the proposed works will not result in any additional or significant impact to threatened species, populations or ecological communities further to those identified and assessed in the SIS.

Section 4.15(1)(e)The public interest

The proposal is considered to be in the public interest as it will provide an increased supply in housing for seniors in a site that is well located in terms of public transport and services. The proposal also includes communal facilities that will service residents of Stages 1 and 2 of the development.

Conclusion

In assessing this application against the relevant environmental planning policies, being Sydney Regional Plan No. 30 - St Marys and Western Precinct Plan & Development Control Strategy, the proposal satisfies the aims, objectives and provisions of these policies. The site is suitable for the proposed development, the proposal is in the public interest, and there is unlikely to be negative impacts arising from the proposed development. Therefore, the application is worthy of support, subject to recommended conditions.

Recommendation

1. That DA19/0808 for Stage two (2) works of an approved concept development application comprising the construction of three (3) six storey seniors living apartments buildings including 139 x independent living units, communal facilities, 171 x car parking spaces and associated earthworks and landscaping at 39 Jordan Springs Boulevard, Jordan Springs, be approved subject to the following conditions:

CONDITIONS

General

- 1 The development must be consistent with the following plans stamped approved by Council, the application form, the BASIX Certificate 1057654M and any supporting information received with the application, except as may be amended in red on the attached plans and by the following conditions.

Drawing Title	Project Number	Drawing No.	Prepared By	Dated
Site Plan	260436	DA_0_00004 (Rev 2)	Lendlease Integrated Solutions	20/05/2020
Staging Plan	260436	DA_0_00005 - DA_0_00006 (Rev 2)	Lendlease Integrated Solutions	20/05/2020
Sections	260436	DA_0_00007 - DA_0_00008 (Rev 2)	Lendlease Integrated Solutions	20/05/2020
Perspectives	260436	DA_0_00009 - DA_0_00010 (Rev 1 & 2)	Lendlease Integrated Solutions	27/05/2020
Basement Plan	260436	DA_0_10101 (Rev 3)	Lendlease Integrated Solutions	05/08/2020
Floor Plans	260436	DA_0_20001, DA_0_20101, DA_0_20401, DA_0_20501 (Rev 2)	Lendlease Integrated Solutions	20/05/2020
Roof Plan	260436	DA_0_20601 (Rev 2)	Lendlease Integrated Solutions	20/05/2020
Overall Elevations	260436	DA_0_30001 (Rev 2)	Lendlease Integrated Solutions	20/05/2020
Overall Sections	260436	DA_0_40001 (Rev 2)	Lendlease Integrated Solutions	20/05/2020
Building A Plans	260436	DA_1_10001, DA_1_20001, DA_1_20101, DA_1_20401, DA_1_20501, DA_1_20601, DA_1_30001, DA_1_30002, DA_1_40001, DA_1_40002 (Rev 1 & 2)	Lendlease Integrated Solutions	11/11/2019, 20/05/2020

Building B Plans	260436	DA_2_10001, DA_2_20001, DA_2_20101, DA_2_20401, DA_2_20501, DA_2_20601, DA_2_30001, DA_2_30002, DA_2_40001, DA_2_40002 (Rev 2)	Lendlease Integrated Solutions	20/05/2020
Building C Plans	260436	DA_3_10001, DA_3_20001, DA_3_20101, DA_3_20401, DA_3_20501, DA_3_20601, DA_3_30001, DA_3_30002 DA_3_40001, DA_3_40002 (Rev 2)	Lendlease Integrated Solutions	20/05/2020
Facade treatment and materials	260436	DA_5_63000 - DA_5_63004 (Rev 1& 2)	Lendlease Integrated Solutions	11/11/2019 20/05/2020
Civil Plans	-	300100(3)-CENG-001- 300100(3)-CENG-701 (Ver. G)	ADW Johnson P/L	03/08/2020
Landscape Plan	-	S19-0006 Issue J	Clouston Associates	06/08/2020

- 2 A copy of the General Terms of Approval (dated 6 February 2020) issued by the NSW Natural Resource Access Regulator under the *Water Management Act 2000* shall be submitted to the Principal Certifying Authority, before the Construction Certificate can be issued for the same development. A copy of the approval shall be submitted to Penrith City Council with the copy of the Construction Certificate, if Council is not the Principal Certifying Authority.

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

A satisfactory inspection from an authorised officer of Council's Environmental Health Department is required prior to the issue of the Occupation Certificate. The occupier is to contact the Environmental Health Department to organise an appointment at least 72 hours prior to the requested inspection time.

- 4 The food business is to be registered with Penrith City Council by completing the "Registration of Premises" form. This form is to be returned to Council prior to the issuing of the occupation certificate and operation of the business.

The proprietor of the food business shall ensure that the requirements of the NSW Food Act 2003, NSW Food Regulation 2010 and the Australian and New Zealand Food Standards Code are met at all times.

- 5 All requirements of the NSW Rural Fire Service's General Term of Approval (dated 13 March 2020) must be satisfied as follows:

a) Prior to the issue of an Occupation Certificate and in perpetuity, the proposed area demarcated for stage 2 shall be managed as shown in Figure 4 of the Bushfire Assessment Report dated 12 November 2019 prepared by Peterson Bushfire. The site of the southern aspect of the proposed works, including the drainage basin, must be managed as an inner protection area (IPA) for a distance of 40 metres. The IPA must comprise:

- Minimal fine fuel at ground level;
- Grass mowed or grazed;
- Trees and shrubs retained as clumps or islands and do not take up more than 20% of the area;
- Trees and shrubs located far enough from buildings so that they will not ignite the building;
- Garden beds with flammable shrubs not located under trees or within 10 metres of any windows or doors;
- Minimal plant species that keep dead material or drop large quantities of ground fuel;
- Tree canopy cover not more than 15%;
- Tree canopies not located within 2 metres of the building;
- Trees separated by 2-5 metres and do not provide a continuous canopy from the hazard to the building; and
- Lower limbs of trees removed up to a height of 2 metres above the ground.

b) New construction of the proposed independent living units must comply with Sections 3 and 5 (BAL 12.5) Australian Standard AS 3959-2009 Construction of buildings in bush fire prone areas or NASH Standard (1.7.14 updated) 'National Standard Steel Framed Construction in Bushfire Areas - 2014' as appropriate and Section A3.7 Addendum Appendix 3 of Planning for Bush Fire Protection 2006. Details are to be incorporated into the Construction Certificate plans.

c) Internal roads shall comply with following requirements of Section 4.2.7 of 'Planning for Bush Fire Protection 2006';

- Internal roads are two wheel drive, sealed, all weather roads.
- Internal perimeter roads are at least two traffic lane widths (carriageway 8 metres minimum kerb to kerb) with shoulders on each side, allowing traffic to pass in opposite directions.
- Roads are through roads. Dead end roads are not more than 100 metres in length from a through road, incorporate a minimum 12 metres outer radius turning circle, and are clearly signposted as a dead end road.
- Traffic management devices are constructed to facilitate access by emergency service vehicles.
- A minimum vertical clearance of 4 metres to any overhanging obstructions, including tree branches, is provided.
- Curves have a minimum inner radius of 6 metres and are minimal in number to allow for rapid access and egress.
- The minimum distance between inner and outer curves is six metres. Curves have a minimum inner radius of 6 metres and are minimal in number to allow for rapid access and egress.
- Maximum grades do not exceed 15 degrees and average grades are not more than 10 degrees.
- Crossfall of the pavement is not more than 10 degrees.
- Roads do not traverse through a wetland or other land potentially subject to periodic inundation (other than flood or storm surge).
- Roads are clearly signposted and bridges clearly indicate load ratings.
- The internal road surfaces and bridges have a capacity to carry fully-loaded fire fighting vehicles (15 tonnes).

d) Water, electricity and gas must comply with the following:

- Fire hydrant design, spacing, sizing and pressures must comply with AS 2419.1. Fire hydrants must not be located within any road carriageway.
- Ring main systems must be used for urban subdivisions with perimeter roads.
- Fire hose reels must be constructed and installed in accordance with AS/NZ 1221 and AS 2441.
- All aboveground water pipes external to the building must be metal including and up to any

taps/outlets/fittings.

- Electrical transmission lines should be located underground where possible.
- Overhead electricity lines must have short pole spacing (i.e. 30 metres) except where crossing gullies, gorges or riparian areas. No tree may be closer to an electricity line than the distance set out in ISSC3 Guideline for Managing Vegetation Near Power Lines.
- Gas must be installed and maintained as set out in the relevant standard and all pipes external to the building must be metal including and up to any taps/outlets/fittings. Polymer-sheathed flexible gas supply lines must not be used.

e) Prior to the issue of an Occupation Certificate and in perpetuity, landscaping of the site should comply with following principles of Appendix 5 of 'Planning for Bush Fire Protection 2006':

- Suitable impervious areas are provided immediately surrounding the building such as courtyards, paths and driveways.
- Grassed areas, mowed lawns or ground cover plantings are provided in close proximity to the building.
- Planting is limited in the immediate vicinity of the building.
- Planting does not provide a continuous canopy to the building (i.e. trees or shrubs should be isolated or located in small clusters).
- Landscape species are chosen in consideration needs of the estimated size of the plant at maturity.
- Species are avoided that have rough fibrous bark, or which keep/shed bark in long strips or retain dead material in their canopies.
- Smooth bark species of tree are chosen which generally do not carry a fire up the bark into the crown.
- Planting of deciduous species is avoided which may increase fuel at surface/ground level (i.e. leaf litter).
- Climbing species are avoided to walls and pergolas.
- Combustible materials such as woodchips/mulch and flammable fuel are stored away from the building.
- Combustible structures such as garden sheds, pergolas and materials such timber garden furniture are located away from the building.
- Low flammability vegetation species are used.

f) Prior to the issue of a Occupation Certificate, a restriction to the land use pursuant to section 88B of the 'Conveyancing Act 1919' of land shall be placed over the proposed Emergency Access identified in Figure 4.5. Lakeside Parade Site Access of the Traffic Impact Assessment, Project No. P3494 Version 004 dated 3 July 2018 prepared by Bitzios Consulting. The name of the authority empowered to release, vary or modify the instrument shall be Penrith Council.

g) Emergency Access road widths shall comply with Table 4.1 in 'Planning for Bush Fire Protection 2006'.

h) A Bush Fire Emergency Management and Evacuation Plan shall be prepared consistent with 'Development Planning- A Guide to Developing a Bush Fire Emergency Management and Evacuation Plan December 2014' and Australian Standard AS 4083- 2010 Planning for Emergencies in Health Care Facilities.

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

- 7 **Prior to the issue of a Construction Certificate**, the design recommendations of the Access Review, prepared by Morris Goding Access Consulting and dated 14 November 2009 shall be incorporated into the construction plans.

Prior to the issue of an Occupation Certificate, the works shall be certified accordingly by a suitably qualified access consultant.

- 8 The following community safety and crime prevention through environmental design (CPTED) requirements are to be implemented for the development:

Lighting

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

Basement Car Parking

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

Building Security & Access Control

- Intercom, code or card locks must be installed for all common entries to the building.
- Australian Standard 220 – door and window locks must be installed in all dwellings and to all balcony/terrace doors.
- CCTV is to be provided to cover communal public space areas, including at the entrance to the basement car park. Cameras must be of sufficient standard to be useful in the event of criminal investigations. Lighting must be provided to support cameras at night (alternatively infra-red cameras are recommended). Signage must be displayed to indicate that CCTV cameras are in use.

Graffiti/Vandalism

- Graffiti resistant coatings must be used to external surfaces where possible, including signage, furniture, retaining walls etc.
- Procedures must be in place to ensure the prompt removal and/or repair of graffiti or vandalism to the buildings, fencing, and common areas. This includes reporting incidents to police and/or relevant authorities.

Landscaping

- All vegetation must be regularly pruned to ensure that sight lines are maintained and that trees should not provide access to second story balconies.

- 9 A copy of the General Terms of Approval (dated 21 July 2020) issued by the NSW Department of Planning, Industry and Environment under the *National Parks and Wildlife Act 1974* shall be submitted to the Principal Certifying Authority, before the Construction Certificate can be issued for the same development. A copy of the approval shall be submitted to Penrith City Council with the copy of the Construction Certificate, if Council is not the Principal Certifying Authority.

- 10 The development is to be carried out in 3 stages as per approved staging plans (DA_0_00005 & DA_0_00006) and anything in this consent making reference to a Construction Certificate or Occupation Certificate is to be read as applying to the relevant Construction Certificate or relevant Occupation Certificate for the relevant stage. For the avoidance of doubt this consent permits the issue of early works Construction Certificates, or staged Construction Certificates within the relevant Stage of the development and any conditions referring to the relevant stage are to be read as applying to the relevant Construction Certificate for the relevant stage.
- 11 All mechanical ventilation equipment, ducts, air conditioner services and the like shall be shown on the construction plans 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 screen from view.
- 12 **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 plans and specifications achieve or improve the design quality of the development for which development consent was granted.
- 13 **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 construction plans and specifications.

Heritage/Archaeological relics

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

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

Environmental Matters

- 15 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.

- 16 Noise levels from and within the premises shall not exceed the relevant noise criteria detailed in 'Jordan Springs Retirement Village Development, Stage 2: DA Acoustic Report' prepared by Acoustic Logic dated 28 April 2020 (Ref. No. 20190362.1/2804A/R3/TT).

The recommendations provided in the above-mentioned acoustic report shall be implemented and incorporated into the design and construction of the development, and shall be **shown on plans accompanying the Construction Certificate application.**

A certificate is to be obtained from a qualified acoustic consultant certifying that the development has been constructed to meet the noise criteria in accordance with the Council approved acoustic report. This certificate is to be submitted to the Principal Certifying Authority **prior to the issue of an Occupation Certificate.**

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

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

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

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

- 18 In the event that there is a function within the community centre with amplified music or a music performance (other than background music), doors to the community centre are to be kept closed.

No music is to be used in the outdoor areas of the cafe. Cafe outdoor dining is to cease at 10pm, with doors to be kept closed after that time.

Doors to the community centre are to be kept closed after 10pm.

19 An appropriately qualified person/s shall:

- Supervise all filling works.
- (On completion of filling works) carry out an independent review of all documentation relating to the filling of the site, and submit a review findings report to Council and any Principal Certifying Authority. All fill material documentation is to (at minimum):
 - be prepared by an appropriately qualified person with consideration of all relevant guidelines, standards, planning instruments and legislation (e.g. EPA, NEPM, ANZECC, NH&MRC),
 - clearly state the legal property description of the fill material source site and the total amount of fill tested,
 - 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 NSW Environment Protection Authority's "Waste Classification Guidelines" 2014, 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.
- 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: An appropriately qualified person is defined as "a person who, in the opinion of Council, has a demonstrated experience, or access to experience in hydrology, environmental chemistry, soil science, ecotoxicology, 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."}

20 Dust suppression techniques are to be employed during all works to reduce any potential nuisances to surrounding properties.

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

22 **Prior to the issue of the Construction Certificate**, a Construction Noise and Vibration Impact Assessment and Management Plan is to be prepared and submitted to Council for approval.

This assessment is to consider (at minimum) the noise and vibration impacts associated with the construction phase, as well as details of the construction program, construction methods, equipment and vehicles in association with the NSW Department of Environment and Climate Change's "Interim Construction Noise Guideline" 2009.

The recommendations of the Council approved Management Plan are to be implemented and adhered to during the construction phase of the development.

- 23 All mechanical plant and equipment is to comply with the noise criteria established in the Council approved 'Jordan Springs Retirement Village Development, Stage 2: DA Acoustic Report' prepared by Acoustic Logic dated 28 April 2020 (Ref. No. 20190362.1/2804A/R3/TT).

Prior to the issue of the Construction Certificate, further details on the type and location of all mechanical plant and equipment associated with the development is to be provided to Penrith City Council for consideration and approval. Suitable data and information assessed by a suitably qualified acoustic consultant is to be supplied to demonstrate compliance with the established noise criteria.

Prior to the issue of the Occupation Certificate, a Compliance Certificate, prepared by a suitably qualified acoustic consultant, is to be submitted to and approved by Council. The Certificate is to demonstrate that all plant and equipment has been installed to comply with the above information and the established noise criteria. Should the Compliance Certificate identify any non-compliance issues, the Certificate is to provide suitable recommendations for mitigation of those issues. Any mitigation works are to be undertaken within thirty (30) days from the date of notice from Council, unless otherwise specified.

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

- The bin storage rooms (buildings A-B) to be designed and line marked to accommodate the following minimum bin allocations:
 - Bin storage room for Building A: 8 x 240L bins along the southern wall
 - Bin storage room for Building B: 10 x 240L bins along the northern wall
 - Bin storage room for Building C: 10 x 240L bins
- Car spaces 79, 80, 146 and 147 to be allocated and re-designed to accommodate on-site waste collection infrastructure to permit a safe and efficient collection service for the development.
- A bin storage room for building C to be designed and located within the area of car spaces 146-147 and provide infrastructure in accordance with section 3.4.1 of the 'industrial, commercial and mixed-use waste management guideline;' document.
- The bin storage rooms (A-C) to incorporate 180-degree, outwards opening, self-closing, 1200mm wide and sealed doors to permit unobstructed resident access. The rollers doors to be deleted.
- All on-site waste collection infrastructure area to provide wash facilities through the use of a centralised mixing valve and hose cock. Respective drainage and water proofing to be installed to support the use of hose facilities in accordance with the Building Code of Australia.
- All on-site waste collection infrastructure are to provide automatic, mechanical ventilation and unobstructed height clearance of 2600mm.
- All on-site waste collection infrastructure to incorporate 180-degree, outwards opening doors, self-closing and sealed doors.
- The waste collection room (located south of loading bay) to be designed to accommodate the following:
 - Accommodate the full bin allocation (1100L bins)
 - A bin lifter to be provided and stored to permit the emptying of 240L bins from bin storage room A-C into the 1100L bins.
 - Provide infrastructure in accordance with section 3.4.1 of the 'industrial, commercial and mixed-use waste management guideline;' document.
 - Room to be fully enclosed, and walled and the floor area to be increased to enclose car spaces 79-80

- The ramp leading to the loading bay to be 1800mm wide and not exceed a maximum grade of 1:20.
 - The room to be locked to inhibit resident access
 - Room to incorporate 180 degree, outwards opening, sealed, dual 1800mm wide self closing doors. The roller doors to be deleted.
- The roller door for the on-site loading bay to be accessed by an Abloy key or similar locking system to permit unobstructed access for the designated waste collection contractor.
- Unobstructed access corridors to be provided on architectural to illustrated resident access from the respective elevator cores to the designated waste storage rooms (A-C). Potential resident conflict with basement traffic to be avoided and/or minimised through the implementation of traffic control technologies.
- An updated 'plan of operations' to be submitted to reflect the revised waste collection infrastructure in accordance with section 2.2.6 of the 'industrial, commercial and mixed-use waste management guideline;' document.
- A bin service lift to be provided for Stage 1 to permit the movement of bins from the basement to the ground floor interim presentation area. The interim presentation area to be enclosed and integrated within the built form to inhibit direct resident access.
- An interim waste collection area located within the basement to be provided for stage 1 to accommodate the full bin allocation. The collection area to incorporate the following:
 - Accommodate the full bin allocation (1100L bins)
 - A bin lifter to be provided and stored to permit the emptying of 240L bins from bin storage room A-C into the 1100L bins.
 - Provide infrastructure in accordance with section 3.4.1 of the 'industrial, commercial and mixed-use waste management guideline;' document.
 - Room to be fully enclosed and walled
 - The room to be locked to inhibit resident access
 - Room to incorporate 180 degree, outwards opening, dual 1800mm wide self-closing doors
 - Location to be outlined on amended architectural plans

25 **Prior to the issue of an Occupation Certificate**, Council's Waste and Resource Recovery Department is to conduct a site inspection of the on-site infrastructure to ensure a safe and efficient waste collection service.

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

All remediation works within the Penrith Local Government Area are considered to be Category 1 works under State Environmental Planning Policy 55-Remediation of Land. Should any contamination be found during development works and should remediation works be required, development consent is to be sought from Penrith City Council before the remediation works commence.

{Note: An appropriately qualified person is defined as "a person who, in the opinion of Council, has a demonstrated experience, or access to experience in hydrology, environmental chemistry, soil science, ecotoxicology, 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".}

- 27 Wastewater from the washing of garbage bins and vehicles is not to enter the stormwater system.

BCA Issues

- 28 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.

- 29 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

30 The construction, fit out and finishes of the food premises must comply with Standard 3.2.3 of the Australian and New Zealand Food Standards Code, and AS4674-2004 *Design, Construction and Fitout of Food Premises*.

31 Cooking appliances which exceed a total maximum power input of 8kw for electrical, or a total gas input of 29MJ/h for a gas appliance are required to have a kitchen exhaust system installed in accordance with Clause F4.12 of the Building Code of Australia and Australian Standard AS1668 Parts 1 & 2.

Detailed plans together with calculations for the system must be provided as part of the development application or as part of the Construction Certificate application.

The exhaust hood must completely cover the equipment to be ventilation and extended at least 200mm beyond the perimeter of the equipment. The exhaust hood must be provided with a condensation gutter around its base. The gutter must be at least 50mm wide by 25mm deep. Where abutting walls are located the hood must be constructed so as to finish flat against the wall surface.

The low edge of a canopy type exhaust hood must be at least 2000 mm above floor level.

Prior to the issuing of an Occupational Certificate, and operation of the business, the exhaust system shall be certified by an appropriately qualified person to comply with the Building Code of Australia and Australian Standard AS1668 Parts 1 & 2. A copy of the certification and supporting documentation must be provided to Council's Environmental Health Department if Council is not the Principal Certifying Authority

32 The operator shall manage the deceased in accordance with the Public Health Act 2010 and Public Health Regulation 2012. NSW Health Guidelines for the Funeral Industry and any other relevant standards, guidelines or codes of practice published or endorsed by the NSW Ministry of Health.

33 Refrigerated body storage facilities in a body preparation room or holding room shall not be used for any other purpose than to store bodies.

34 Warm water system/s must be installed and operated in accordance with the Public Health Act 2010, the Public Health Regulation 2012 and the following:

- Installation in accordance with AS/NZS 3666.1:2011
- Operation in accordance with AS/NZS 3666.2:2011
- Evidence of safe and easy access to the operating plant.

The warm water system must also be notified to Council prior to operation.

Utility Services

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

In the event that a pad mounted substation is necessary to service the development, Penrith City Council shall be consulted over the proposed location of the substation before the Construction Certificate for the development is issued as the location of the substation may impact on other services and building, driveway or landscape design already approved by Council.

- 37 **Prior to the issue of a Construction Certificate**, the Principal Certifying Authority shall be satisfied that telecommunications infrastructure may be installed to service the premises which complies with the following:
- The requirements of the Telecommunications Act 1997;
 - For a fibre ready facility, the NBN Co's standard specifications current at the time of installation; and
 - For a line that is to connect a lot to telecommunications infrastructure external to the premises, the line shall be located underground.

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

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

Construction

- 38 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.

39 Prior to the commencement of construction works:

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

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

(b) All excavations and back filling 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.

40 **Prior to the issue of the Construction Certificate**, a Construction Waste Management Plan is to be submitted to Council for approval. This Plan is to address all waste materials generated during the construction phase of the development, including details of the proposed waste volumes, on site storage and management, designated waste contractors and waste facilities.

The Council approved Waste Management Plan must be implemented and adhered to on site, with supporting documentation / receipts retained in order to verify the disposal of materials in accordance with the approved Plan.

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

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

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

Other construction works carried out inside a building/tenancy and do not involve the use of equipment that emits noise are not restricted to the construction hours stated above.

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

Swimming Pools

43 The swimming pool must be registered on the NSW Swimming Pool Register when it is capable of holding water and before the issue of an Occupation Certificate. The swimming pool is to be registered at www.swimmingpoolregister.nsw.gov.au or in person at Penrith City Council (\$10 fee applies when registering at Council).

44 All backwash from the swimming pool shall be directed into the mains sewer.

In areas where sewer is not available, the following requirements apply -

- The swimming pool shall be provided with filtration equipment that does not require a backwash facility (eg. a cartridge filtration system).
- Overspill water shall be diverted away from the swimming pool and not directed onto adjoining properties.
- The frequency of emptying of the swimming pool water shall be minimised. Water resulting from the emptying of the pool shall be collected and disposed of by a private wastewater disposal contractor. Disposal by other means is not permitted.

45 The construction and operation of the public swimming pool/s and spa pool/s and associated premises shall comply with the Public Health Act 2010, Public Health Regulation 2012 and any relevant standards, guidelines or codes of practice published or endorsed by the NSW Ministry of Health

46 The occupier of premises at which a public swimming pool or spa pool is situated must not allow a person to use the pool unless the water in the pool is disinfected in such a way as to minimise the transmission of disease to the other users of the pool as required by the Public Health Act 2010 and Public Health Regulation 2012.

47 The occupier of premises at which a public swimming pool or spa pool is situated must ensure that the pool surrounds, including any toilets or change rooms, are kept clean and in such condition as to minimise the transmission of disease.

48 Prior to the issue of any Occupation Certificate:

- Access to the swimming pool is to be restricted in accordance with the Swimming Pools Act 1992.
- A warning notice is to be provided in the swimming pool area in accordance with the Swimming Pools Act 1992.

Engineering

- 49 All roadworks, stormwater drainage works, signage, linemarking, associated civil works and dedications, required to effect the consented development shall be undertaken by the applicant at no cost to Penrith City Council.
- 50 An Infrastructure Restoration Bond is to be lodged with Penrith City Council for development involving works around Penrith City Council's Public Infrastructure Assets. The bond is to be lodged with Penrith City Council prior to commencement of any works on site or prior to the issue of any Construction Certificate, whichever occurs first. The bond and applicable fees are in accordance with Council's adopted Fees and Charges.

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

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

- 51 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) Road occupancy or road closures
 - c) The placement of hoardings, structures, containers, waster skips, signs etc. in the road reserve
 - d) 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.

- 52 Prior to the issue of any 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 the proposed connection/s to Council's existing stormwater line.

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.

- 53 The stormwater management system shall be provided generally in accordance with the concept plan/s lodged for development approval, prepared by ADW Johnson, reference number 300100(3), revision G, dated 03/08/2020.

- The piped connection between pit A/1 and the internal basement pit is to be amended to ensure a minimum 1% fall to pit A/1 is achieved. Engineering plans demonstrating this requirement are to be provided prior to the issue of a Construction Certificate.

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 AS3500.3, Penrith City Council's Stormwater Drainage for Building Developments and Water Sensitive Urban Design (WSUD) policies.

- 54 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.

Details are also to be provided prior to the issue of any Construction Certificate demonstrating that forward entry is achievable for all proposed accessible parking spaces, to ensure that rear unloading/loading of a wheelchair can be achieved in accordance with the requirements of AS 2890.6. In particular, accessible parking spaces 127 and 137 are to be relocated to satisfy this requirement.

- 55 Prior to the commencement of any works on-site (including demolition works) or prior to the issue of any Construction Certificate, whichever occurs first, a Construction Traffic Management Plan (CTMP) shall be submitted to Council's City Assets Department for endorsement. The CTMP shall be prepared by a suitably qualified consultant with appropriate training and certification from the Roads & Maritime Services (RMS). The CTMP shall include details of any required road closures, work zones, loading zones and the like. Approval of the CTMP may require approval of the Local Traffic Committee. Please contact Council's City Assets Department on 4732 7777 and refer to Council's website for a copy of the Temporary Road Reserve Occupancy Application Form.
- 56 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 development 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 Construction Certificate and then updated and submitted prior to any Occupation Certificate confirming no damage has occurred.
- 57 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 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.
- 59 Prior to the issue of any Occupation Certificate, the Principal Certifying Authority shall ensure that all works associated with a S138 Roads Act approval or S68 Local Government Act approval have been inspected and signed off by Penrith City Council.
- 60 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 Certificate where Council is not the Principal Certifying Authority.

61 Prior to the issue of any Occupation Certificate, the Principal Certifying Authority shall ensure that the stormwater management system (including water sensitive urban design measures):

- 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.

62 Prior to the issue of an Occupation Certificate a restriction as to user and positive covenant relating to the stormwater management systems (including water sensitive urban design measures) 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 Specification for Building Development – Appendix F

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

64 Prior to the issue of any Construction Certificate the Principal Certifying Authority shall ensure that the plans include dimensions of driveways, ramps, aisles, parking spaces, columns and obstructions, car park headroom, accessible parking, bicycle parking with end of journey facilities and accessible pedestrian paths of travel complying with AS 2890, AS 1428, Council Development Control Plan (DCP) C10 and Council 'Industrial, Commercial and Mixed-use Waste Management Guideline'. These details shall include but not limited to:

- Minimum driveway, ramp, aisle and car space width and lengths in accordance with DCP C10, AS2890.1 and AS2890.6
- Minimum headroom (from floor to lowest ceiling obstruction) of 2.3 metres to accessible parking with minimum head room of 2.5 metres above accessible parking spaces.
- Swept turn path clearances at driveways (including accordance with AS 2890.1 Table 2.2 and Figure 2.9). External driveway access turning paths are to be provided and be at least 0.3 metres clear of driveway edges, parking and road centrelines and at least 300mm clear of kerbs and medians. Internal aisle and car park manoeuvring area vehicle turning paths are to be at least 0.3 metres clear of obstructions including to walls, bollards and other obstructions.
- At least 1 metre long indent at the end of dead end aisles.
- Car park ramp dimensions (including accordance with AS 2890.1 Table 2.2 and Figure 2.9) including additional 0.3 metre clearances to walls and other obstructions.
- Car park ramp headroom clearances including at grade transitions.
- Car park aisle widths, waste and service vehicle areas, car park column locations and clearances (including accordance with AS 2890.1 Figure 5.1 and 5.2).
- Additional car space clearances from obstructions (including accordance with AS 2890.1 B4.1 minimum additional clearance of 0.3 metres).
- Sight distance requirements in accordance with AS 2890.1 and / or AS 2890.2 Figure 3.2 at access driveways and Figure 3.3 Minimum sight lines for pedestrian safety along driveways, ramps and aisles including at lift core approaches.
- Accessible pedestrian paths of travel from all car parking spaces to the building points of entry.
- Separate accessible pedestrian paths of travel from the fronting roadway footpaths to access the car park area.
- Complying numbers of secure bicycle parking, end of journey facilities, change rooms, showers, and lockers are provided at convenient locations in accordance with DCP C10, AS 2890.3 Bicycle Parking Facilities and Planning Guidelines of Walking and Cycling (NSW Government 2004).

65 **Prior to the issue of any Construction Certificate** the Principal Certifying Authority shall ensure that detailed design and documentation is provided to include:

- Provision of Type 2 speed humps (as per Section 4.9 (b) of AS 2890.1) adjacent to the lift cores in conjunction with vehicle detectors connected to amber warning lights that will flash to advise approaching vehicles of vehicles manoeuvring at their carparking spaces along the circulation aisle.
- Provision of "Give Way" holding lines and signage in line with the aisle departure from the adjacent lift core.
- A full dome mirror located to provide complying vision for approaching aisle drivers to pedestrians and manoeuvring vehicles past the lift cores.
- Provision of a truck detection system and stop LED signal system.

66 All car spaces and loading areas are to be sealed / line marked and dedicated for the parking of vehicles only and not be used for storage of materials/products/waste materials etc.

- 67 Subleasing of car parking spaces is not permitted by this Consent.
- 68 Prior to issue of an Occupation Certificate, appropriate signage, visible from the public road and on-site shall to be installed to reinforce designated vehicle circulation and to direct staff / delivery vehicle drivers / service vehicle drivers /ambulances / visitors to on-site parking, delivery and service areas to the satisfaction of the Principal Certifying Authority.
- 69 The required sight lines around the driveway entrances are not to be compromised by landscaping, fencing or signage.
- 70 All vehicles are to enter/exit the site in a forward direction.

Landscaping

- 71 All landscape works are to be constructed in accordance with the stamped approved Landscape Plan, S19-0006 Issue J and dated 06/08/2020 and Penrith Development Control Plan. The plan is to be amended to include:
- a) Variety of tree species along the southern boundary.
 - b) Bottle brush (or similar denser shrub species) within the shrub species planting schedule.
- 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.
- 72 The approved landscaping for the site must be constructed by a suitably qualified and experienced landscape professional.

- 73 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.

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.

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

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

- 75 **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).

- 76 **Prior to the commencement of any works**, a suitably qualified ecologist is to be engaged to oversee the implementation of the Cumberland Plain Land Snail Management Plan, prepared by Cumberland Ecology and dated 3 April 2019. The plan is to be implemented in its entirety.

Prior to the issue of a Construction Certificate, documentation demonstrating compliance with the pre-construction activities outlined in the plan is to be submitted to Council.

- 77 In association with on-site landscaping efforts, in advance of works commencing the landscaping contractor should harvest all suitable specimens of threatened flora species, under the guidance of a suitably qualified Ecologist. Implementing treatments to ensure the specimens' persistence for re-planting onsite. The extent and number of specimens/species is to reflect the available opportunity for planting at Stage 1, re-planting at Stage 2 and any associated areas suitable for re-vegetation.

A report must be submitted to Council for noting, listing all species and numbers retained for replanting within 2 months of works commencing.

- 78 To ensure a high quality finish internal and external of the development site, any retaining walls shall be of solid masonry construction. The surface shall be either rendered to match the external colour schedule or constructed in a face brick finish.
- 79 **Prior to the issue of a Construction Certificate for Stage 1**, all tree plantings are to be procured. Evidence showing the procurement process has occurred is to be provided to the Certifying Authority
- 80 Prior to the commencement of any works, as per the recommendations in the Pre-Clearance Report, prepared by Cumberland Ecology and dated 11 December 2018, trees identified for removal are to be agitated first and then lowered to the ground slowly when felling to allow any resident fauna time to escape and to ensure they aren't crushed by falling trees and branches. This replaces the need for pre-clearing hollow survey and inspection. This is to be done under the supervision of a qualified ecologist. Any fauna found are to be relocated. Should juveniles be contained within the affected tree then clearing is to be delayed until juveniles have vacated. WIRES are to be contacted in the case of any injured fauna.
- 81 All native trees with a trunk DBH (diameter at breast height) greater than 30cm that are scheduled for removal are to be stockpiled and transported for reuse in the following manner:
- All logs and branches greater than 30cm in diameter are to be trimmed into 2-4m lengths. No foliage material may remain on the logs and branches. Root balls and soil are to be removed.
 - These logs are to be transported, delivered and installed under the guidance of a professional bush regenerator, by the applicant and at the applicants cost, to a site to be determined through the consultation with Katie Littlejohn (Manager, Cumberland Area Greater Sydney Branch) National Parks and Wildlife Service, Office of Environment and Heritage.
 - Three (3) weeks prior to tree felling, the applicant is to contact Katie Littlejohn on 02 4580 2704 or 0419 753 789 or Katie.Littlejohn@environment.nsw.gov.au to arrange a suitable time for logs to be delivered. Exact location of delivery within the Regional Park will be confirmed on contact.

Prior to the issue of a Construction Certificate, receipts of works are to be submitted to Council.

Subdivision

- 82 **Prior to the issue of an Occupation Certificate**, a restriction to user and positive covenant shall be registered on the title of the property advising that Council's domestic waste fee will be charged to residents in addition to any private contact fees.
- 83 **Prior to the issue of any Occupation Certificate**, a covenant is to be registered on the title of the property that:
- 1) Limits the use of any accommodation erected upon the property to:
 - (a) seniors or people who have a disability,
 - (b) people who live within the same household with seniors or people who have a disability,
 - (c) staff employed to assist in the administration of a provision of services associated with this development.

Note: Seniors are people aged 55 years or more. People with disability are people of any age who, as a result of an intellectual, physical, psychiatric or sensory impairment either permanently or extended period have substantially limited opportunities to enjoy a full or active life.

Development Contributions

- 84 The land is subject to the provisions of the St Marys Penrith Planning Agreement, as amended. The obligations under the Planning Agreement with regard to the delivery of certain infrastructure and services as part of the development of the Western Precinct are to be met. All works shall be carried out in accordance with the requirements of the St Marys Penrith Planning Agreement, as amended.

Certification

- 85 An Occupation Certificate shall be sought from the Principal Certifying Authority prior to occupation of or commencement of use of each stage of the development. Before the Occupation Certificate can be issued for each stage of the development, a Compliance Certificate or other documentation suitable to the Principal Certifying Authority shall be sought indicating that all conditions of this development notice, but not those conditions relating to the operations of the development, commensurate with that stage of the development have been satisfied or met prior to the occupation or use of that stage of the development.

A copy of the Compliance Certificate or other documentation shall be submitted to Penrith City Council if obtained from an accredited certifier. A copy of the Occupation Certificate is also to be submitted to Penrith City Council, if Council is not the Principal Certifying Authority.

- 86 Prior to the commencement of any earthworks or construction works on site, the proponent is to:
- (a) employ a Principal Certifying Authority to oversee that the said works carried out on the site are in accordance with the development consent and related Construction Certificate issued for the approved development, and with the relevant provisions of the Environmental Planning and Assessment Act 1979, 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 of 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.

Appendix - Development Control Plan Compliance

Western Precinct

It is noted that the proposal includes some variations to the Western Precinct Plan and Development Control Strategy (DCS). However, the DCS diagrams are simplistic representations of the estate and the boundaries are somewhat unclear. Despite this, since the DCS was implemented, the St Mary Voluntary Planning Agreement has been amended. This document outlines the developers legal obligation in regards to infrastructure, services and open space provision. Further discussion against the relevant sections of the DCS is provided below:

4.2 Urban Structure and Major Land Use

The Framework Plan (Figure 1.1) identifies a portion of the site as passive open space with an area of 1 hectare. However, under the current draft SREP 30 amendment, Lot 3993 (approximately 1.2 hectares) is proposed to be rezoned from Urban to Regional Park and then transferred to National Parks and Wildlife Service (NPWS). This is due to discussions between Penrith City Council, the NSW Office of Environment and Heritage (OEH) and Lendlease which identified that a park in this location would be undesirable. This is due to the heavily vegetated and isolated nature of the site, making passive surveillance opportunities limited and reducing its value as a destination for families and children. Further, isolated sites of this nature have been found to have higher incidents of anti-social behavior and vandalism. As such, it is proposed that the site will be transferred to the NPWS for inclusion within the Wianamatta Regional Park. This proposal has been incorporated into the rezoning application of the employment zone to urban zone within the Central Precinct. This application is currently under assessment by the Department and Council does not have a clear indication of the likely time frames. However, as discussed below (under Section 4.9), the St Mary Voluntary Planning Agreement (VPA) has been amended, which deletes this area from the required open space provision.

4.3 Future Character Areas

The majority of the site is located within the Village Centre Character Area. In accordance with the principles of the Village Centre Character Area, the proposal incorporates: active ground level uses (within Building A); a walk-able pedestrian-friendly environment; accessible design; robust landscaping; and upper level setbacks.

4.9 Landscape and Open Space Network

Section 4.9 sets out the direction for open space provision within the Western Precinct and is based on the Open Space and Landscape Masterplan (prepared by Environmental Partnership). It acknowledges that the baseline open space provision ratios contained within the Penrith Council Open Space Action Plan (2007) were not utilised in determining the open space provisions, given the site specific characteristics and opportunities (such as the proximity to the regional park and the regional open space). It details that a total local open space contribution of 15.63 hectares is to be provided, based on a population of 6400 (equating to 2.44 hectares /1000 population). This rate was mirrored in the St Marys VPA, adopted in 2009.

However, a revised population forecast was undertaken in 2015, that indicated a significant population increase was anticipated (with an expected population of 9030). As such, an amended VPA was negotiated between Lendlease and Council. Under these negotiations, the locations, dimensions and quantity of local open space (LOS) was revised. As part of the revised open space allocation, the land nominated as the Remnant Farm Dam Park is to be transferred to the NSW Office of Environment and Heritage (OEH) and incorporated into the regional park. The money allocated to the establishment of the park is then to be reallocated to upgrade other existing parks. Through the negotiations the amount of open space has been increased to 25.26 hectares (8.5 hectares of active LOS and 16.76 hectares of passive LOS). These figures are reflected in the revised VPA which was adopted in 2018.