

Modification of Development consent State Significant Development SSD 5243

Section 96(1) of the *Environmental Planning and Assessment Act 1979*

As delegate of the Minister for Planning and Infrastructure under delegation executed on 14 September 2011, I, Heather Warton, Director, Metropolitan and Regional Projects North, approve the modification (MOD 1) of the Stage 2A consent referred to in Schedule 1, subject to the conditions in the attached Schedule 2.



Heather Warton
Director
Metropolitan and Regional Projects North

Sydney

4 May

2013

SCHEDULE 1

Application No.:	SSD 5243
Applicant:	UrbanGrowth NSW (formerly Landcom)
Consent Authority:	Minister for Planning and Infrastructure
Land:	North Penrith Development Site, Penrith (Part Lot 11 DP 1159973, Lot 1 in DP 33753, Lot 1 in DP 532379)
Development:	<p>Stage 2A of the North Penrith Development Site comprising:</p> <ul style="list-style-type: none">- demolition, tree removal and bulk earthworks- construction of roads, retaining walls and the provision of utilities- landscaping including to Thornton Park- subdivision to create 31 residential lots, 1 integrated housing site, 1 super lot, 1 heritage lot, 1 open space lot and road reserve.
Modification Number:	SSD 5243 MOD 1
Modifications:	The proposed amendment to the approval for Stage 2A of the North Penrith development site is to replace Schedule 2 with Schedule 2(a) are in order to correct minor errors and provide greater clarity to the conditions of consent.

SCHEDULE 2

The Stage 2A development consent for the North Penrith development site is amended by deleting Schedule 2 and replacing with new Schedule 2 as follows:

SCHEDULE 2

A ADMINISTRATIVE AND DEVELOPMENT CONTRIBUTIONS CONDITIONS

Development Description

- A1 Except as amended by the conditions of this consent, development consent is granted only to carrying out the development as described in Condition A2.

Development in Accordance with Plans and Documents

- A2 The Applicant shall carry out the project generally in accordance with the:
- a) 'North Penrith State Significant Site Study, Concept Plan and Stage 1 Project Application' report prepared by JBA Planning dated November 2010, as amended by the Preferred Project Report for the North Penrith Mixed Use Development prepared by JBA Urban Planning Consultants dated April 2011 and as modified by modifications 1 and 2 of concept plan MP10_0075.
 - b) 'North Penrith Design Guidelines 2013' version 19 March 2013.
 - c) 'Environmental Impact Statement, North Penrith Subdivision, Civil and Infrastructure Works (Stage 2A)' prepared by JBA planning dated July 2012; as amended by:
 - i) 'North Penrith Stage 2A Development Application (SSD 5243) – Response to Submissions' by JBA planning dated 30 October 2012 and attached Appendices A to I.
 - d) The following drawings, except for:
 - (1) any modifications which are Exempt or Complying Development;
 - (2) otherwise provided by the conditions of this consent.

Plan of Subdivision Drawings prepared by Craig & Rhodes,			
Drawing No.	Revision	Name of Plan	Date
07210L25	[06]	North Penrith: Stage 2A – Plan of Proposed Subdivision	29/02/2012

Inconsistency between documents

- A3 If there is any inconsistency between the plans and documentation referred to above, the most recent document shall prevail to the extent of the inconsistency. However, conditions of this approval prevail to the extent of any inconsistency.

Lapsing of approval

- A4 This consent will lapse five years from the date of consent unless the works associated with the project have physically commenced.

Prescribed Conditions

- A5 The Applicant shall comply with all relevant prescribed conditions of development consent under Part 6, Division 8A of the Regulation.
- A6 1) Contributions shall be made payable to Penrith City Council for the purposes of district open space facilities at a rate per dwelling type as shown below.

Development Type	Contribution
Multi-dwelling housing, and Shop-Top Housing	\$1,566 for each new dwelling
Dwelling Houses, Dual Occupancies and Subdivision	\$2,427.30 for each new dwelling or new lot
Housing for older people	\$1,174.50 for each new dwelling

2) The contributions are to be paid to Council prior to Construction Certificate being issued for a dwelling.

3) Deferred or periodic payments may be permitted subject to agreement from Council. Council may require the applicant to provide a bank guarantee for the full amount of the contribution or the outstanding balance.

4) If not paid within the current quarterly period, the contribution will be reviewed at the time of payment in accordance with the adopted Section 94 plan.

Note: Section 94 Contributions are not required for the community facility or any other non-residential development.

Director General as Moderator

- A7 Where this consent requires further approval from public authorities, the parties shall not act unreasonably in preventing an agreement from being reached. In the event that an agreement is unable to be reached within 2 months or a timeframe otherwise agreed to by the Director-General, the matter is to be referred to the Director-General for resolution. All areas of disagreement and the position of each party are to be clearly stated to facilitate a resolution. The Director-General's resolution of the matter will be binding on the parties.

Legal notices

- A8 Any advice or notice to the consent authority shall be served on the Director-General.

B PRIOR TO COMMENCEMENT OF WORKS

Erosion and Sedimentation Control

- B1 Soil erosion and sediment control measures shall be designed in accordance with the document *Managing Urban Stormwater-Soils & Construction Volume 1* (2004) by Landcom. Details are to be submitted to the satisfaction of the Certifying Authority prior to commencement of works.

Stormwater and Drainage Works Design

- B2 Final design plans of the stormwater drainage systems, prepared by a qualified practicing professional and in accordance with the requirements of Penrith City Council shall be submitted to the Certifying Authority prior to commencement of works. The hydrology and hydraulic calculations shall be based on models described in the current edition of Australian Rainfall and Runoff

Road Design

- B3 Final road design plans shall be prepared by a qualified practising Civil Engineer and submitted to the Certifying Authority prior to commencement of works. The plans shall include the following:
- a) kerb and gutter, stormwater drainage, full road width pavement including traffic facilities (roundabouts, median islands etc) and paved footpaths shall be constructed along the full length of the new roads. All Roads shall be designed in accordance with the relevant requirements of Penrith City Council;
 - b) the swept path of the longest vehicle (including garbage trucks) entering and exiting the subject site, as well as manoeuvrability through the subject site, shall be in accordance with AUSTROADS; and
 - c) car parking associated with the proposal (including queuing areas, grades, turn paths, sight distance requirements, aisle widths, and parking bays) shall be in accordance with AS 2890.1 – 2004, AS 2890.6 for accessible spaces and AS 2890.2-2002 for heavy vehicle usage.
- B4 A stage 3 (detailed design road safety audit (RSA) shall be undertaken on the proposed road works by an accredited auditor who is independent of the design consultant. A copy of the RSA shall accompany the design plans and be submitted to Council prior to the commencement of works.

Prior to the commencement of works the Certifying Authority shall ensure that the recommendations of the RSA have been addressed in any plans.

Works in Road Reserve

- B5 Separate approval must be obtained prior to commencement of any works within a Council or RMS road reserve. Design plans must be submitted to and approved by the appropriate authority prior to commencement of works.

Sydney Water Notice of Requirements

- B6
- a) An application shall be made to Sydney Water for a Certificate under Part 6, Division 9, section 73 of the *Sydney Water Act 1994* (Compliance Certificate) prior to commencement of works.
 - b) The Application must be made through an authorised Water Servicing Coordinator. Please refer to the "Your Business" section of the web site www.sydneywater.com.au then follow the "e-Developer" icon or telephone 13 20 92 for assistance.

- c) Following application a "Notice of Requirements" will advise of water and sewer extensions to be built and charges to be paid. Please make early contact with the Coordinator, since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.

Demolition

- B7 The demolition work shall comply with the provisions of Australian Standard AS2601: 2001 *The Demolition of Structures*. The work plans required by AS2601: 2001 shall be accompanied by a written statement from a suitably qualified person that the proposals contained in the work plan comply with the safety requirements of the Standard. The work plans and the statement of compliance shall be submitted to the satisfaction of the Certifying Authority prior to the commencement of works.

Subdivision Works

- B8 Prior to commencement of works the Certifying Authority shall ensure that the subdivision works have been designed in accordance with Penrith City Council's Design Guidelines and Construction Specifications for civil works.

Plans to Council

- B9 Prior to the commencement of works, plans and details of proposed fencing treatments to the interfaces of Thornton Park and Thornton Hall shall be submitted to the satisfaction of Council.
- B10 Prior to the commencement of works, plans and details regarding proposed embellishment works to the public pathway, including pavement treatments, landscaping, lighting, fencing and the like, shall be submitted to the satisfaction of Council.

Notice of Commencement of Works

- B11 The PCA and Council shall be given written notice, at least 48 hours prior to the commencement of works on the subject site.

Construction Environmental Management Plan

- B12
 - a) Prior to the commencement of any works on the subject site, a comprehensive Construction Environmental Management Plan (CEMP) shall be submitted to the PCA. The Plan shall include and be in accordance with the following:
 - (1) hours of work
 - (2) 24 hour contact details of site manager
 - (3) CEMP plans and considerations as outlined in the EIS for Stage 2A and the Response to Submissions dated 30 October 2012
 - (4) CEMP plans and considerations as referenced in the mitigating measures.
 - b) The CEMP must not include works that have not been explicitly approved in the development consent. In the event of any inconsistency between the consent and the CEMP, the consent shall prevail.
 - c) The Applicant shall submit a copy of the CEMP to the department and to the Council, prior to commencement of work.

Waste Management Plan

B13 Prior to the commencement of any works on the subject site a Construction Waste Management Plan prepared by a suitably qualified person in consultation with the Council, shall be submitted to the PCA. The Plan shall demonstrate compliance with the relevant legislation, codes, standards and guidelines and address, but not be limited to, the following matters:

- a) recycling of demolition materials including concrete;
- b) removal of hazardous materials, particularly the method of containment and control of emission of fibres to the air;
- c) disposal of hazardous waste to an approved waste disposal facility.

The applicant shall submit a copy of the Plan to Council, prior to commencement of work.

Traffic & Pedestrian Management Plan

B14 a) Prior to the commencement of any works on the subject site, a Traffic and Pedestrian Management Plan prepared by a suitably qualified person shall be submitted to the PCA. The Plan must be prepared in consultation with the Council, and where required, the approval of the council's traffic committee obtained.

b) The Plan shall address, but not be limited to, the following matters:

- (i) ingress and egress of vehicles to the subject site,
- (ii) including construction zones,
- (iii) predicted traffic volumes, types and routes,
- (iv) pedestrian and traffic management methods, and

c) The Applicant shall submit a copy of the final Plan to the Council, prior to the commencement of work.

Dilapidation Report

B15 Prior to the commencement of work a dilapidation report of all infrastructure adjoining Stage 2A of the North Penrith Development site, is to be submitted to Penrith City Council. The report is to include, but is not limited to, the road pavement, kerb and gutter, footpath, services and street trees adjacent to the development.

Utility Services

B16 Prior to the commencement of work the Applicant is to negotiate with the utility authorities (e.g. Ausgrid and Telecommunications Carriers) to establish if relocation and/or adjustment of any services infrastructure is required in order to connect the necessary utilities into Stage 2A of the North Penrith development site.

B17 The developer shall be responsible for adjustment or relocation of all public utilities as required by various public utility authorities and/or their agents.

Anti-Graffiti Finish

B18 Prior to the commencement of works, details regarding low maintenance anti-graffiti treatments to the proposed walls and bench seating in Thornton Park shall be submitted to the PCA for approval.

C DURING CONSTRUCTION

Hours of Work

- C1 The hours of construction, including the delivery of materials to and from the subject site, shall be restricted as follows:
- a) between 7:00 am and 6:00 pm, Mondays to Fridays inclusive;
 - b) between 8:00 am and 1:00 pm, Saturdays;
 - c) no work on Sundays and public holidays.
 - d) works may be undertaken outside these hours where:
 - i) the delivery of materials is required outside these hours by the Police or other authorities;
 - ii) it is required in an emergency to avoid the loss of life, damage to property and/or to prevent environmental harm;
 - iii) variation is approved in advance in writing by the Director General or his nominee.

Erosion and Sediment Control

- C2 All erosion and sediment control measures, are to be effectively implemented and maintained at or above design capacity for the duration of the construction works and until such time as all ground disturbed by the works has been stabilised and rehabilitated so that it no longer acts as a source of sediment.

Disposal of Seepage and Stormwater

- C3 Any seepage or rainwater collected on-site during construction or groundwater shall not be pumped to the street stormwater system unless separate prior approval is given in writing by Council.

Fill

- C4 An appropriately qualified person, as defined in the Penrith City Council Contaminated Land Development Control Plan, shall:
- a) supervise the filling works,
 - b) no fill shall be imported to the site until such time as a validation certificate (with a copy of any report forming the basis for the validation) for the fill material has been submitted to the PCA.
 - c) No filling, regrading or stockpiling of materials is to be undertaken in the portion of the site nominated to be protected by the section 88b instrument, being the Cumberland Plain Woodland and the aboriginal site known as AHIMS No 45-5-2491, or within a 3 metre radius of trees marked to be retained as per the Demolition Plan, by Brown Smart Consulting, dwg No 901 dated 26/10/12 (see Appendix B of the Response to Submissions dated 30 October 2012).
 - d) (On completion of filling works) carry out an independent review of all documentation relating to the filling of the site, and shall submit a review findings report to Council and any PCA.
 - e) Certify by way of certificate or 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 Certificate or other documentation shall be submitted to Council and any PCA.

Approved Plans to be On-site

- C5 A copy of the approved and certified plans, specifications and documents incorporating conditions of approval and certification shall be kept on the subject site at all times and shall be readily available for perusal by any officer of the Department, Council or the PCA.

Site Notice

- C6 a) A site notice(s) shall be prominently displayed at the boundaries of the subject site for the purposes of informing the public of project details including, but not limited to the details of the Builder, PCA and Structural Engineer.
- b) The notice(s) is to satisfy all but not be limited to, the following requirements:
- i) Minimum dimensions of the notice are to measure 841mm x 594mm (A1) with any text on the notice to be a minimum of 30 point type size;
 - ii) The notice is to be durable and weatherproof and is to be displayed throughout the works period;
 - iii) The approved hours of work, the name of the site/project manager, the responsible managing company (if any), its address and 24 hour contact phone number for any inquiries, including construction/noise complaint are to be displayed on the site notice; and
 - iv) The notice(s) is to be mounted at eye level on the perimeter hoardings/fencing and is to state that unauthorised entry to the subject site is not permitted.

Construction Noise Management

- C7 The development shall be constructed with the aim of achieving the construction noise management levels detailed in the Interim Construction Noise Guideline (Department of Environment and Climate Change, 2009). All feasible and reasonable noise mitigation measures shall be implemented and any activities that could exceed the construction noise management levels shall be identified and managed in accordance with the Construction Noise and Vibration Management Plan, submitted to the PCA.
- C8 If the noise from a construction activity is substantially tonal or impulsive in nature (as described in Chapter 4 of the NSW Industrial Noise Policy), 5dB(A) must be added to the measured construction noise level when comparing the measured noise with the construction noise management levels.
- C9 The Applicant shall schedule rock breaking, rock hammering, sheet piling, pile driving and any similar activity only between the following hours unless otherwise approved in the Construction Noise and Vibration Management Plan.
- a) 9.00 am to 12.00 pm, Monday to Friday;
 - b) 2.00 pm to 5.00 pm Monday to Friday; and
 - c) 9.00 am to 12.00 pm, Saturday
- C10 Any noise generated during the construction of the development must not be offensive noise within the meaning of the *Protection of the Environment Operations Act, 1997* or exceed approved noise limits for the subject site.

Vibration Criteria

- C11 Vibration caused by construction at any residence or structure outside the Subject Site must be limited to:
- a) for structural damage vibration, German Standard DIN 4150 Part 3 Structural Vibration in Buildings. Effects on Structures; and

- b) for human exposure to vibration, the evaluation criteria presented in British Standard BS 6472- Guide to Evaluate Human Exposure to Vibration in Buildings (1Hz to 80 Hz) for low probability of adverse comment.
- c) Vibratory compactors must not be used closer than 30 metres from residential buildings unless vibration monitoring confirms compliance with the vibration criteria specified above.
- d) These limits apply unless otherwise outlined in a Construction Noise and Vibration Management Plan, submitted to the PCA.

Indigenous and Non-Indigenous Heritage Superintendent

C12 Works on heritage components of the Subject Site shall be superintended by a consultant(s) experienced in the conservation of similar heritage buildings or items.

Vegetation to be Retained

C13 Trees and vegetation proposed for retention and in particular, works to the Cumberland Plain Woodlands area of Thornton Park and the stand of trees to be retained in block C3, are to be clearly identified on all the final approved engineering plans. All construction contractors and personnel are to be advised of the importance of conserving these areas as part of their site and OH&S induction program. No clearing of trees or vegetation or storage of vehicles, fill or materials or access is to occur within retained areas.

C14 All trees that are required to be retained as part of the development are to be protected in accordance with the tree protection standards prescribed in Section 2.6 (Landscape) of Penrith Development Control Plan 2006.

C15 Street trees shall be located so as not to diminish the effectiveness of street lighting.

Work Cover Requirements

C16 To protect the safety of work personnel and the public, the work site shall be adequately secured to prevent access by unauthorised personnel, and work shall be conducted at all times in accordance with relevant Work Cover requirements.

Hoarding Requirements

C17 The following hoarding requirements shall be complied with:

- a) No third party advertising is permitted to be displayed on the subject hoarding/fencing.
- b) The construction site manager shall be responsible for the removal of all graffiti from any construction hoardings or the like within the construction area within 48 hours of its application.

Impact of Below Ground (sub-surface) Works – Non-Aboriginal Relics

C18 If any archaeological relics are uncovered during the course of the work, then all works shall cease immediately in that area and the OEH Heritage Branch contacted. Depending on the possible significance of the relics, an archaeological assessment and an excavation permit under the *NSW Heritage Act 1977* may be required before further works can continue in that area.

Discovery of Aboriginal Heritage

C19 In the event that surface disturbance identifies a new Aboriginal object, all works must halt in the immediate area to prevent any further impacts to the object(s). A suitably qualified archaeologist and the registered Aboriginal representatives must be contacted to determine the significance of the objects. The proponent must consult with the

Aboriginal community representatives, the archaeologist and OEH to develop and implement management strategies for all objects/sites.

Waste Removal

- C20 The Applicant must notify the Roads and Maritime Authority's Traffic Management Centre (TMC) of the truck route(s) to be followed by trucks transporting waste material from the site, prior to the commencement of the removal of any waste material from the site.

Traffic Control

- C21 All vehicles should enter and leave the subject site in a forward direction. In the event that site constraints do not permit heavy rigid vehicles to enter and leave the Site in a forward direction, then all reversing movements should be undertaken under the control of certified traffic controllers to ensure public safety when vehicles are reversing.
- C22 Appropriate pedestrian advisory signs are to be provided at the egress from the car park.

D PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE

Utilities Compliance Certificate

- D1 Prior to issuing a subdivision certificate, a Compliance Certificate shall be provided to the PCA showing that the development has met with the detailed requirements of the relevant water supply authority.
- D2 Prior to the issue of a subdivision certificate written advice shall be obtained from the electricity supply authority, an approved telecommunications carrier and an approved gas carrier (where relevant) stating that satisfactory arrangements have been made to ensure provision of adequate services.

Registration of subdivision

- D3 Prior to the issue of a subdivision certificate for Stage 2A, the approved Stage 1.1 subdivision, as illustrated in the indicative Staging Plan by JBA dated 09.11.2012, shall be registered.

Section 88B Restrictions

- D4 A Restrictive covenant must be provided on title pursuant to section 88B of the *Conveyancing Act 1919* prior to the issue of a subdivision certificate to ensure that the Cumberland Plains Woodland community within Thornton Park is protected and maintained at all times.
- D5 A Restrictive covenant must be provided on title pursuant to section 88B of the *Conveyancing Act 1919* prior to the issue of a subdivision certificate to ensure that the aboriginal site identified as AHIMS No.45-5-2491 and the stand of trees under which the items are located, are protected from destruction and maintained at all times.
- D6 Prior to the issue of a subdivision certificate, appropriate restrictive covenants and reciprocal rights of way shall be created under section 88B of the *Conveyancing Act 1919* for maintenance easements for residue lots with zero lot line construction, inter-allotment drainage easements and acoustic controls identified for Stage 2A.
- D7 All section 88B restrictions and covenants created as part of this consent shall contain a provision that they cannot be extinguished or altered except with the consent of the Director General.

Roads

- D8 Road names are to be approved by Council
- D9 Prior to the issue of a subdivision certificate, the PCA shall ensure that all works within the road reserve have been inspected and approved by Penrith City Council.
- D10 Prior to the issue of a subdivision certificate and installation of regulatory/advisory line marking and signage, plans are to be lodged with Penrith City Council and approved by the local traffic committee.
- D11 Prior to the issue of a subdivision certificate, street signs are to be erected at road intersections.
- D12 The cost of repairing any damage caused to Council or other Public Authority's assets in the vicinity of the subject site as a result of construction works associated with the approved development, is to be met in full by the Applicant/developer prior to the issue of a Subdivision Certificate.

Note: Should the cost of damage repair work not exceed the road maintenance bond, Council will automatically call up the bond to recover the costs. Should the repair costs exceed the bond amount, a separate invoice will be issued.

- D13 All works/regulatory signposting associated with the proposed developments shall be at no cost to the relevant roads authority.

Dedication of Public Open Space

- D14 The areas of public open space and drainage in Stage 2A identified on the Landscape Concept Master Plan dated October 2010 and the Stage 2A EIS, are to be dedicated to Council free of cost.

Site Audit Statement

- D15 A site audit statement prepared by the nominated Site Auditor, shall be submitted prior to the issue of the subdivision certificate certifying that the stage is suitable for its intended use.

Works As Executed Plans

- D16 Prior to the issue of a subdivision certificate the PCA shall ensure that the approved works have been satisfactorily completed in accordance with the requirements of this approval and any remedial works required to be undertaken have been satisfactorily completed.
- D17 Prior to the issue of the subdivision certificate, one full set of works as executed plans, and other supporting documentation shall be submitted to the PCA and Penrith City Council.

Payment of Bonds

- D18 Prior to the issue of a subdivision certificate, a bond for the final layer of outstanding asphalt works (AC Bond) is to be lodged with Penrith City Council.

A final layer of asphalt on all roads shall not be placed without the written consent of Council (consent will generally be provided when 80% of the housing within the subdivision has been completed).

The value of the bond shall be determined in accordance with Penrith City Council's Bond Policy. The bond will be administered in accordance with this policy.

- D19 Prior to the issue of a subdivision certificate, a maintenance bond is to be lodged with Penrith City Council for civil works.

The value of the bond shall be determined in accordance with Penrith City Council's Bond Policy. The bond will be administered in accordance with this policy.

Compliance Documentation

- D20 Prior to the issue of a subdivision certificate, the following compliance documentation shall be submitted to the PCA. A copy of the following documentation shall be provided to Penrith City Council where Council is not the PCA.

- a) Works as executed (WAE) drawings for all civil works. The WAE drawings shall be marked in red on copies of the stamped construction drawings and signed, certified and dated by a registered surveyor or the design engineer. The WAE drawings shall be prepared in accordance with Council's Design Guidelines.
- b) The WAE drawings shall clearly indicate the 1% annual exceedence probability flood lines (local and mainstream flooding).
- c) The WAE drawings shall be accompanied by plans indicating the depth of fill for the entire development site. The plans must show, by various shadings or cross hatchings, the depth of any fill within 0.3m ranges.
- d) CCTV footage in DVD format to Council's requirements and a report in "SEWRAT" format for all drainage within future public roads and public land. Any damage that is identified is to be rectified in consultation with Penrith City Council.

- e) Surveyor's Certificate certifying that all pipes and services are located wholly within the property or within appropriate easements and that no services encroach boundaries.
- f) Documentation for all road pavement materials used demonstrating compliance with Council Design Guidelines and construction specifications.
- g) A geotechnical report certifying that all earthworks and road formations have been completed in accordance with AS 3798 and Council's Design Guidelines and Construction Specifications. The report shall include:
 - i) Compaction reports for road pavement construction
 - ii) Compaction reports for bulk earthworks and lot regrading
 - iii) Soil classification for all residential lots
 - iv) Statement of compliance
- h) Structural engineer's construction certification of all structures.

Heritage Interpretation Strategy

D21 The interpretation works as described in the Heritage Interpretation Strategy dated June 2012 (Issue B) prepared by Tanner Architects shall be completed prior to the issue of a subdivision certificate. A report confirming satisfactory completion of these works shall be prepared by an appropriate heritage consultant specialist and forwarded to the PCA.

Thornton Park

D22 Thornton Park shall be:

- a) Landscaped and embellished in accordance with the approved landscape plans and details
- b) Dedicated to Penrith City Council at no cost to Council. Prior to dedication of the park to Council, the applicant shall provide to Council a certificate of currency for a public liability insurance policy for \$20 million for the land. The applicant shall also provide to Council a deed of agreement indemnifying Council for the duration of the maintenance period which shall extend beyond this period for the same period of that maintenance period.
- c) Maintained by the applicant for a period of 3 years prior to handover to Penrith City Council.
- d) Handed over to Penrith City Council at the completion of the 3 year maintenance period and following an inspection of the park's condition by Council.

ADVISORY NOTES

Appeals

AN1 The Applicant has the right to appeal to the Land and Environment Court in the manner set out in the Environmental Planning and Assessment Act, 1979 and the Environmental Planning and Assessment Regulation, 2000 (as amended).

Other Approvals and Permits

AN2 The Applicant shall apply to the council for all necessary permits including crane permits, road opening permits, hoarding or scaffolding permits, footpath occupation permits and/or any other approvals under Section 68 (Approvals) of the *Local Government Act, 1993* or *Section 138 of the Roads Act, 1993*.

Responsibility for other consents / agreements

AN3 The Applicant is solely responsible for ensuring that all additional consents and agreements are obtained from other authorities, as relevant.

Temporary Structures

AN4

- a) An approval under State Environmental Planning Policy (Temporary Structures) 2007 must be obtained from the council for the erection of the temporary structures. The application must be supported by a report detailing compliance with the provisions of the Building Code of Australia.
- b) Structural certification from an appropriately qualified practicing structural engineer must be submitted to the council with the application under State Environmental Planning Policy (Temporary Structures) 2007 to certify the structural adequacy of the design of the temporary structures.

Disability Discrimination Act

AN5 This application has been assessed in accordance with the Environmental Planning and Assessment Act 1979. No guarantee is given that the proposal complies with the Disability Discrimination Act 1992. The Applicant/owner is responsible to ensure compliance with this and other anti-discrimination legislation. The Disability Discrimination Act 1992 covers disabilities not catered for in the minimum standards called up in the Building Code of Australia which references AS 1428.1 - Design for Access and Mobility. AS1428 Parts 2, 3 & 4 provides the most comprehensive technical guidance under the Disability Discrimination Act 1992 currently available in Australia.

Commonwealth Environment Protection and Biodiversity Conservation Act 1999

AN6

- a) The *Commonwealth Environment Protection and Biodiversity Conservation Act 1999* provides that a person must not take an action which has, will have, or is likely to have a significant impact on a matter of national environmental significance (NES) matter; or Commonwealth land, without an approval from the Commonwealth Environment Minister.
- b) This application has been assessed in accordance with the New South Wales Environmental Planning & Assessment Act, 1979. The determination of this

assessment has not involved any assessment of the application of the Commonwealth legislation. It is the Applicant's responsibility to consult the Department of Sustainability, Environment, Water, Population and Communities to determine the need or otherwise for Commonwealth approval and you should not construe this grant of approval as notification to you that the Commonwealth Act does not have application. The Commonwealth Act may have application and you should obtain advice about this matter. There are severe penalties for non-compliance with the Commonwealth legislation.

Asbestos Removal

AN7 All excavation works involving the removal and disposal of asbestos must only be undertaken by contractors who hold a current WorkCover Asbestos or "Demolition Licence" and a current WorkCover "Class 2 (Restricted) Asbestos Licence and removal must be carried out in accordance with NOHSC: "Code of Practice for the Safe Removal of Asbestos"

Site contamination issues during construction

AN8 Should any new information come to light during demolition or construction works which has the potential to alter previous conclusions about site contamination then the Applicant must be immediately notified and works must cease. Works must not recommence on site until the consultation is made with the Department.

