

PENRITH CITY COUNCIL

MAJOR ASSESSMENT REPORT

Application number:	DA19/0744
Proposed development:	Alterations & Additions to South-Western Corner of Westfield Penrith Shopping Centre
Property address:	569 - 595 High Street, PENRITH NSW 2750
Property description:	Lot 1 DP 1137699
Date received:	25 October 2019
Assessing officer	Kathryn Saunders
Zoning:	Zone B3 Commercial Core - LEP 2010
Class of building:	Class 6
Recommendations:	Approve

Executive Summary

Council is in receipt of a development application for alterations and additions to the southern retail tenancies and building facades, attached to the Penrith Westfield shopping complex at 569-595 High Street, Penrith.

The proposal is defined as alterations and additions to an existing *commercial premises* which is a permissible form of development within the B3 Commercial Core zone, with consent, under Penrith Local Environmental Plan 2010 (PLEP).

Key issues identified through the assessment of the development application included:

- Environmental impacts related to the proposal for the additional tenancies to operate between the hours of 6.30am to 12.00am seven days,
- Impacts of the development during the construction phase, and of the development on the arrangement of seating, circulation and usability of the Mondo community space,
- Visual, acoustic and amenity impacts resulting from the location of an external upper level plant machinery area,
- Potential for contamination at the site,
- The proposal to make alterations and additions to an existing tenancy which will result in the removal of an existing Community College, and
- Tree removal.

The applicant has submitted new plans and additional information which seeks to address the scale and visual presentation of roof mounted plant. The additional information has also clarified areas of internal seating and the children's play area concept, and the proposed hours of operation have been discussed with the applicant and are reduced to 6.00am to 10.00pm seven days. A meeting was also held with the applicant's environmental consultant after which additional information was provided related to unexpected finds during construction which is considered to satisfy matters related to soil contamination. Notwithstanding, conditions of consent are recommended with regard to construction phasing, hours of operation, and with regard to the relocation of plant room/machinery.

The proposed alterations and additions to Tenancy R1 will result in the removal of the existing Community College tenant. The original consent for the Penrith Plaza contains a condition that requires that this tenancy be retained for community uses (as discussed further in this report). Additional information related to the retention of the tenant elsewhere within the Westfield complex was received and although in principle may be acceptable, the information provided was not considered adequate in responding to the requirement of the condition or its intent,

which remains relevant, when imposed. A condition has been recommended to require the retention of the Community College tenant within the Westfield complex whether in the same tenancy or another (to the agreed specifications).

The application has been notified to adjoining properties and was advertised and exhibited between 15 November and 29 November 2019, in accordance with the Penrith Development Control Plan 2014 and the Regulations. Due to an administration error the notification was extended through to 9 December 2019. Four submissions were received and matters raised within relate to the loss of the existing Nepean Community College tenant within the Westfield building. One of the submissions was from the Nepean Community College.

Submissions raised included that the Nepean Community College was conveniently located in particular for community members with a disability. One submission raised that the Nepean Community College is one of two community colleges offering courses for the intellectually disabled (the other being in Sutherland), and that the impacts of the loss of this service on the life outcomes, health and further isolation for people with a disability would be negative.

The development proposal was presented to Council's Access Committee and was also referred to the Roads and Maritime Services (RMS) due to the site's frontage to High Street. Council's Access Committee and the RMS have not raised any fundamental objections to the proposal and have provided their comments for consideration in the assessment of the application. It is noted that the RMS identify land at the intersection of High and Worth Streets for future road works which will not currently impact the Westfield basement carpark entry arrangement.

This application is to be determined under delegated authority by Council. 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 conditions.

Related Development Application

The applicant had previously lodged a development application for a similar, although more expanded development of the shopping complex under development application no. DA19/0178, which included a number of other, two and three storey tenancies and included a licensed tavern. This application was Refused under delegation due to unsupportable environmental impacts related to site suitability, acoustic impacts on the Joan Sutherland Performing Arts Centre (Joan SPAC), matters related to tree removal and overall design quality and detail.

The design under the new development application has been amended to remove the tavern and a significant volume of retail floor area, and was endorsed by Council's Urban Design Review Panel. Matters raised as part of the assessment of the original application which were related to tree removal, have been resolved by the retention of some significant trees at the western end of the site, under the new scheme. Further, it is confirmed that the Joan SPAC has not objected to the new proposal which adequately addresses acoustic impacts.

A pre-lodgement meeting was attended by the applicant on 17 September 2019, prior to the lodgement of this application (PL19/0065), and an electronic review of the plans was undertaken by Council's Urban Design Review Panel (UDRP). No major concerns were raised in the UDRP review. The pre-lodgement advice issued raised the following matters: The requirement to comply with clause 8.4 design excellence of PLEP, the need for utilities to be considered in the design of the development, the need for the development to respond to crime prevention through environmental design (CPTED), the design and placement of the children's play area at the entry point, landscaping, tree removal, SEPP 55 matters and noise impacts of the development.

It is considered that the matters raised during the assessment and within submissions raised are largely addressed by the amended design submitted as part of this development application and subject to the recommended conditions of consent which also address the retention of the community college tenant, the proposal is acceptable.

Site & Surrounds

The Westfield Site

The subject site is an irregular shaped allotment which is legally described as Lot 1 in Deposited Plan 1137699 and has a site area of 90,325sqm's. The Site is currently occupied by Westfield Penrith and has frontage to Jane Street to the north, Riley Street to the east, High Street to the south and south-east and shares its most western boundary with a 6391sqm Council owned, public square and community space known as 'The Mondo'. The Site is zoned B4 Mixed Use under PLEP 2010.

The site is located in close proximity to the Penrith Railway Station, Council's Civic Centre and Library, and is within the Penrith City Centre. The Westfield site is located within the Penrith City Centre and is located within the Civic and Cultural Precinct as identified in Section E11 of the Penrith DCP.

Works proposed as part of this development application are limited to the southern retail tenancies and façade areas of Westfield Penrith, with frontage to the Mondo. Proposed works include alterations and additions to the west facing façade of an existing elevated car park deck and the provision of additional retail floor area.

The existing southern retail tenancies include the Heritage Café which includes an element of daytime outdoor dining, back of house areas and an education campus known as the Nepean Community College.

The west facing multi level carpark deck is of open construction and is currently flanked by landscaped planting (hedging and trees), ground level pedestrian access points to the carpark and a double height, steel framed awning spanning north-south providing covered pedestrian access to the southern food court entry to Westfield. The strong design theme of the architecture of this area of the Westfield incorporates white painted steel circular hollow sections arranged in triangular trusses spanning between white circular concrete columns.

The design is considered to be complementary to that of the Joan Sutherland Performing Arts Centre (the Joan SPAC).

The Mondo

The Mondo area spans between Westfield, the Joan SPAC and the Penrith City Council Library and Civic Centre. The Mondo serves as a circulation space providing connectivity between the neighbouring land uses, as a site for community events, markets and the like, and is also utilised as a 'break-out' space for the Joan SPAC and other adjoining uses including Council's Civic Centre and Library.

Council's Penrith Night Time Economy Study and Strategy Final Report, identifies the Mondo area as a Cultural and Civic Precinct as distinct from two other night time economy precincts which border the Westfield complex and include the Eat Street Precinct along Riley Street and the Riley and High Street Local Bar/Restaurant Precinct. The Cultural and Civic Precinct identifies opportunities which include to *'Maximise linkages between the precinct and other night time areas'*, and to *'Activate the precinct at night, through extended opening hours, special events or outdoor events which attract people and create a "noisy buzz" which spills over into other precincts'*. The Strategy also identifies Priority Linked Actions for the area which include for *'Council and the Joan to work together to support late night activity prior and post programmed events'* and to undertake *'wayfinding improvements to allow greater access between night time precincts for mutual benefit'*.

Proposal

The application proposes the following:

- Demolition and refurbishment of the south-western façade of the Westfield shopping centre including entry points at ground and at the upper level from the multi deck car park,
- Reconfiguration of internal shopping centre layout, seating, amenities and retail tenancy areas,
- Alterations and additions to the west facing multi-deck car park,
- A new internal children's play area,
- New building and business identification signage,
- Demolition and replacement of the existing colonnade awning and roof structure over the pedestrian arrival pathways,
- Replacement of the awning along the western walkway, and
- Landscaping works including tree removal.

The development will result in an increase in retail floor area of 1,456sqms and a reduction in overall car parking spaces from 3,558 to 3538 spaces. The proposal also includes the removal of the existing community college from an existing tenancy.

The proposed hours of operation of the external tenancies is proposed to be 6.30am to 12 Midnight seven days.

As a result of discussions with the applicant the proposed hours of operation have been reduced to be between 6.00am and 10.00pm, seven days and a condition of consent is recommended in this regard.

Plans that apply

- Local Environmental Plan 2010 (Amendment 4)
- Development Control Plan 2014
- State Environmental Planning Policy (Infrastructure) 2007
- State Environmental Planning Policy No 55—Remediation of Land
- State Environmental Planning Policy No 64—Advertising and Signage
- Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

Planning Assessment

• Section 4.15 - Evaluation

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

State Environmental Planning Policy (Infrastructure) 2007

The proposal has been assessed as being acceptable having regard to the applicable provisions of the SEPP (Infrastructure) as follows:

Clause 101 Development with frontage to classified road

The objectives of this clause include:

- (a) to ensure that new development does not compromise the effective and ongoing operation and function of classified roads, and*
- (b) to prevent or reduce the potential impact of traffic noise and vehicle emission on development adjacent to classified roads.*

The proposed retail tenancy, signage and landscaping works will not compromise the effective and ongoing operation and/or function of High Street in the area of the Mondo or southern retail tenancies of the shopping complex. The objectives of clause 101 are satisfied.

Clause 101(2) states that:

The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that:

- (a) where practicable and safe, vehicular access to the land is provided by a road other than the classified road, and*
- (b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of:
 - (i) the design of the vehicular access to the land, or*
 - (ii) the emission of smoke or dust from the development, or*
 - (iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land,**and**
- (c) the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.*

The development proposal is satisfactory having regard to the requirements of clause 101.

Clause 104 Traffic-generating development

The development proposal is assessed to be traffic-generating development as the proposal involved alterations and additions to a retail development (the area to be renovated includes the use of the area for food and drink premises) which will result in the creation of greater than 300sqm's of floor area, and as the site has frontage to a classified road (western section of High Street).

The development application was referred to the Roads and Maritime Services (RMS). The RMS have not objected to the proposal and have provided standard conditions for inclusion in any consent, should consent be granted. In addition, the RMS have noted their interest in a portion of land identified to be the northern side of the signalised intersection at the corner of Worth and High Streets. It is not expected that the proposed works will impact on these future RMS works, notwithstanding, a condition of consent is recommended to require compliance with the RMS conditions.

State Environmental Planning Policy No 55—Remediation of Land

An assessment has been undertaken of the development proposal against the relevant criteria within State Environmental Planning Policy No. 55—Remediation of Land and it is found to be satisfactory, subject to recommended conditions of consent.

Council's internal environmental management referral response originally raised matters related to the suitability of the site in terms of potential asbestos contamination and the approach proposed to address potential 'unexpected finds'. Since this time, Council has met with the contamination consultant JBS&G who has confirmed in subsequent written advice dated 4 February 2020, that the land subject to the development proposal is outside of the areas of concern in relation to previous asbestos findings. As such, with consideration of the requirements of SEPP 55, the conclusions of the Preliminary Site Investigation are supported, in that the site is considered suitable for the proposed use. In turn, it is agreed that any unexpected asbestos finds can be addressed through the prepared Asbestos Management Plan dated 2 October 2019.

Notwithstanding the above, it is assessed that should any unexpected finds require removal or remediation, that these remedial works will require development consent. This varies from the approach put forward by JBS&G in their written advice and in the Asbestos Management Plan. A condition has been recommended for inclusion in the development consent requiring that a separate development application be made for remediation works, if they are found to be required.

State Environmental Planning Policy No 64—Advertising and Signage

The development application includes the erection of several 'Westfield' business identification signs.

Signage related to the occupation of the proposed new retail tenancies will be the subject of future development applications (noting that some signage may be undertaken under the Codes SEPP).

Notwithstanding, a signage strategy has been provided as part of the application. The signage strategy on plan 2.05 prepared by Scentre Group and The GPT Group details example images of projecting wall signs although notes that these are indicative only and that signage will be subject to future application(s).

One x 1.6m high 'Westfield' sign is proposed to be fixed to the upper level glazing above the south facing entryway and one 0.6m high 'Westfield' sign is proposed to be fixed to a new curved masonry wall fronting High Street, close to the intersection with Worth Street.

An assessment of the signage has been undertaken having regard to State Environmental Planning Policy No. 64 - Advertising and Signage, and in particular against Schedule 1 Assessment criteria and is found to be acceptable. As little detail is provided related to signage dimensions, illumination or lighting of the Westfield signage, a condition of consent requiring final design details to be provided to, and approved by Penrith City Council is recommended.

Assessment against Schedule 1 of SEPP 64

Assessment Criteria	Matters for consideration	Comment
Character of the area	<ul style="list-style-type: none">- Compatibility with existing and desired future character of the area.- Consistency with themes.	Yes.
Special areas	<ul style="list-style-type: none">-Is the proposal detracting from amenity or visual quality of sensitive or special area?	Acceptable.
Views and vistas	<ul style="list-style-type: none">- Does the proposal obscure views, dominate the skyline, respect viewing rights?	Acceptable.
Streetscape, setting or landscape	<ul style="list-style-type: none">- Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscaping?- Does the signage contribute to visual interest, streetscape?- Does the proposal reduce visual clutter?	Signage is suitable in the location and will contribute to visual interest. Conditions of consent are recommended with regard to provision of further information related to signage scale and illumination.
Site and building	<ul style="list-style-type: none">-Is the signage compatible, proportionate?-Does the proposal respect important features of the site?-Does the proposal show innovation, imagination and relate to the building?	Acceptable.
Associated devices, logos, structures	<ul style="list-style-type: none">-Have safety devices, lighting and the like been designed as integrated?	Lighting and fixing methods are acceptable.
Illumination	<ul style="list-style-type: none">-Does the proposal result in unacceptable glare, affect safety, detract from the amenity of any residence?-Can illumination be adjusted or is it subject to curfew?	Conditions of consent are recommended with regard to provision of further information related to signage scale and illumination.
Safety	<ul style="list-style-type: none">-Would the proposal reduce safety of roads, pathways etc?	Safety is not impacted.

Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

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

Local Environmental Plan 2010 (Amendment 4)

Provision	Compliance
Clause 1.2 Aims of the plan	Complies
Clause 2.3 Permissibility	Complies
Clause 2.3 Zone objectives	Complies
Clause 2.7 Demolition requires development consent	Complies
Clause 4.3 Height of buildings	Complies - See discussion
Clause 4.4 Floor Space Ratio	Complies - See discussion
Clause 7.1 Earthworks	Complies
Clause 7.2 Flood planning	Complies
Clause 7.4 Sustainable development	Complies
Clause 7.6 Salinity	Complies
Clause 7.7 Servicing	Complies
Clause 7.8 Active street frontages	Complies
Clause 7.12 Maximum gross floor area of commercial premises	N/A
Clause 8.1 Application of Part	Complies
Clause 8.2 Sun access	Complies
Clause 8.3 Minimum building street frontage	Complies
Clause 8.4 Design excellence	Complies - See discussion
Clause 8.5 Building separation	N/A

Clause 4.3 Height of buildings

The maximum permissible height for the Site under PLEP is 20m. The proposal is for a maximum height of 10.37m, which complies with the requirement.

Clause 4.4 Floor Space Ratio

The site area is nominated as 90,325sqm with a gross floor area of 101,170sqm's. The existing FSR is 1.12:1. The maximum permissible floor space ratio for the Site under PLEP is 1.5:1. The proposed increase in floor area of 1,456sqm's (102,626sqm's) will result in an FSR of 1.14:1, which complies.

Clause 8.4 Design excellence

Clause 8.4 Design Excellence, subclause (1) states that development consent must not be granted for development involving the construction of a new building, or external alterations to an existing building, on land to which this part applies unless, in the opinion of the consent authority, the proposed development exhibits design excellence. Clause 8.4(2) provides that *in deciding whether development to which this clause applies exhibits design excellence, the consent authority must have regard to the following matters:*

- (a) *whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved,*
- (b) *whether the form and external appearance of the development will improve the quality and amenity of the public domain,*
- (c) *whether the development will detrimentally impact on view corridors,*
- (d) *(Repealed)*
- (e) *how the development will address the following matters:*
 - (i) *the suitability of the land for development,*
 - (ii) *existing and proposed uses and use mix,*
 - (iii) *heritage issues and streetscape constraints,*

- (iv) the relationship of the development with other buildings (existing or proposed) on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form,
- (v) bulk, massing and modulation of buildings,
- (vi) street frontage heights,
- (vii) environmental impacts such as sustainable design, overshadowing, wind and reflectivity,
- (viii) the achievement of the principles of ecologically sustainable development,
- (ix) pedestrian, cycle, vehicular and service access, circulation and requirements,
- (x) the impact on, and any proposed improvements to, the public domain.

With regard to (a), (b) and (c) above, it is considered that the development application has adequately demonstrated that the proposal exhibits design excellence. Materials and finishes and the locations and extent of glazing and signage are acceptable, particularly having regard to the impacts of design quality on the Mondo area, and on the architecture of the Joan SPAC. Architectural sections provided adequately explain the existing building and its connection to the new awnings, and glazing locations.

With regard to (b) and (e), the proposal to retain trees located at the western site boundary is supported. The design response resolves view lines and provides for amenity and a visual connection through to landscaping and treed areas surrounding the Civic Centre and Joan SPAC further to the west. The proposal to remove two mature trees located along the southern façade was reviewed in detail and is supported, as sufficient reasoning is provided for their removal. The trees (T8 and T9) are growing in a confined location and their canopy which has grown above the existing awning (to be retained), is lifting roofing materials and damaging the building.

It is agreed with the applicant's arborist report, that the *Ficus benjamina* (Benjamina Figs) species can grow to a large scale and that the two trees are located external to the building, and are in a confined space, noting though that the two trees are growing to their site conditions and are mature and healthy, and provide quality amenity in the location.

Architectural matters

Architectural sections provided to Council, enable an assessment to be undertaken of how the architecture of the proposed building alterations and additions will relate to the architecture of the Joan SPAC. The Joan SPAC is identified as having high architectural merit and significance as a Phillip Cox design. The design was discussed with Council's Urban Design consultant and no objections were raised with the exception of some commentary related to impacts of roof mounted plant. A condition of consent is recommended in this regard.

The installation of the new glass awning and retail tenancy along the west facing façade of the multi-deck car park includes the removal of existing tubular steel trusses which form part of the existing steel awning to be removed. The trusses are attached to the façade of the multi-deck carpark and their removal will require some careful consideration of the final appearance of the facades. Consideration will need to be given to how the removal of the existing tubular steel awning over the carpark colonnade will be treated where it intersects with the most southern corner of the carpark. Currently the colonnade awning wraps around the carpark deck to the south. The architect was contacted with regard to these matters and it was confirmed that the colonnade awning will terminate in a gable end at the southern carpark corner and that the steel connection to the carpark upper levels will be uncoupled and made good.

Engineering matters

A site visit has been undertaken and confirms that the multi deck car park slabs are reinforced utilising a post tensioned system. As the alterations to the Westfield building will require the post tensioned cables to be cut, an advisory note is recommended requiring consultation with a structural engineer as to this aspect of the design.

Solar access

Plans indicate that solar access to the Mondo area will not be impacted by the planned works. The proposal is assessed as being acceptable having regard to the clause, subject to the recommended conditions.

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

Draft Environment State Environmental Planning Policy

The Draft Environment SEPP was exhibited from 31 October 2017 to 31 January 2018. This consolidated SEPP proposes to simplify the planning rules for a number of water catchments, waterways, urban bushland, and Willandra Lakes World Heritage Property.

Changes proposed include consolidating a total of seven existing SEPPs being:

- *State Environmental Planning Policy No. 19 – Bushland in Urban Areas*
- *State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011*
- *State Environmental Planning Policy No. 50 – Canal Estate Development*
- *Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment*
- *Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (No.2-1997)*
- *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005*
- *Willandra Lakes Regional Environmental Plan No. 1 – World Heritage Property.*

It is noted that the proposed changes to State Environmental Planning Policy No. 19 – Bushland in Urban Areas (SEPP 19) are not considered to impact the proposed development. In addition, the amendments to Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (No. 2 – 1997) do not impact the proposed development. In this regard, the proposal is not inconsistent with the provisions of this Draft Instrument.

Draft Remediation of Land SEPP

The Department of Planning and Environment has announced a Draft Remediation of Land SEPP, which will repeal and replace the current State Environmental Planning Policy No. 55—Remediation of Land.

The proposed new land remediation SEPP will:

- provide a state-wide planning framework for the remediation of land,
- maintain the objectives and reinforce those aspects of the existing framework that have worked well,
- require planning authorities to consider the potential for land to be contaminated when determining development applications and rezoning land,
- clearly list the remediation works that require development consent, and
- introduce certification and operational requirements for remediation works that can be undertaken without development consent.

It is also proposed that it will transfer the requirements to consider contamination when rezoning land to a direction under Section 9.1 of the Environmental Planning and Assessment Act 1979. The development proposal is not inconsistent with the provisions of the draft SEPP.

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	Complies
C9 Advertising and Signage	Complies
C10 Transport, Access and Parking	Complies
C11 Subdivision	N/A
C12 Noise and Vibration	Complies
C13 Infrastructure and Services	Complies
D5.1. Application of Certification System	N/A
D5.2. Child Care Centres	N/A
D5.3. Health Consulting Rooms	N/A
D5.4. Educational Establishments	N/A
D5.5 Parent Friendly Amenities	Complies - see Appendix - Development Control Plan Compliance
D5.6. Places of Public Worship	N/A
D5.7. Vehicle Repair Stations	N/A
D5.8. Cemeteries, Crematoria and Funeral Homes	N/A
D5.9. Extractive Industries	N/A
D5.10 Telecommunication Facilities	N/A
D5.11 Boarding Houses	N/A
E11 Penrith	Complies - see Appendix - Development Control Plan Compliance

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

There are no planning agreements in place that apply to this development application.

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

The proposal is considered to respond to the requirements under the Environmental Planning and Assessment Regulation 2000, including those that relate to fire safety, public notification and participation. The proposal has been referred to Council's building surveyors with no objections made.

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

Likely impacts of the proposed development as identified throughout the assessment and consideration of submissions received are discussed below.

Impacts of the development on the community uses within the Mondo

Existing conditions of consent applicable to DA No. 343/89 will remain applicable to the development. The proposal does not encroach on the activities or spaces which currently are attributed to the Mondo and pedestrian desire lines and thoroughfares are maintained.

It is noted that the works will delete the current smoking area from the northern entry of the Westfield building. The deletion of this smoking area will result in more smokers utilising the Mondo area. A condition of consent is recommend to require the installation of no-smoking signage within the Mondo and adjacent areas, in consultation with Penrith City Council.

Social and Community Impacts - Nepean Community College

Public submissions received raised matters related to:

- The relocation and/or loss of the existing Nepean Community College. Submissions include that the college will have to move, the many who use the college arrive by public transport and will be significantly disadvantaged by the closure of the College,
- Penrith Station being a limited stops station for trains from the Blue Mountains line (making accessibility easy).
- The College operating some of the only courses in the Sydney area available for the intellectually disabled (nearest alternative being Sutherland),
- The lack of accessible courses will create significant disadvantage for those attending the College resulting in social isolation, reduced independence and life outcome, and
- The location supporting independent travel for people with a disability attending courses close to transport and the Plaza (Westfield).

A submission was received from the Nepean Community College itself and the submission raises the following summarised matters:

- While Scentre Group expresses a desire to ensure that the College remains within the centre, they remain silent on the detail.
- The submission raises matters related to private negotiations between Scentre Group and the College which have not confirmed any mutually agreeable outcomes and references are made to alternative tenancies and locations, site suitability, and moving and fit-out costs.
- The submission states that the conclusion is that since the current application identifies the current space as being set for demolition with no viable alternate offered, the risk is that the development will effectively extinguish the Community Contribution attached to the original development of the centre.
- The submission states that the *"current location of the College remains the best option to fulfil the vision of that original Consent in that it created a visible, accessible community space that in time would be synonymous with adult and community education opportunities"*.

A review of the original Penrith Plaza consent (DA No. 343/89) was undertaken and it is confirmed that a condition of consent requiring a tenancy to be provided to the Nepean Community College was included. Condition 37 requires that the applicant *"provide and carry out the proposed on-site social and community facilities, activities and programmes nominated within the applicant's submissions dated 23 August 1989 and 18th October 1989 accompanying the development application..."*

Although copies of the above 'applicant's submissions' could not be located in Council's archives, clear reference to the commitments within these documents is provided in the business papers attached to the Services & Administration Committee Meeting held 22nd June 1992, and the Ordinary Meeting Environmental Planning Manager's Report dated 21 November 1989.

Further, a Penrith Plaza Social and Community Facilities Management Plan, prepared by Lend Lease was submitted dated 31 August 1994, in compliance with Condition 37 of consent 343/89. This document clarifies that *"The Nepean Community College provides adult education for the local residents...Penrith Plaza provides space for the Nepean Community College to house its offices and classes. In addition the Centre provides management support for the College and its steering committee."* The Plan also confirms under *"Action Plan"* that *"Penrith Plaza will continue to support the Community College and will encourage its growth."*

Various supportive documents submitted in support of the Penrith Plaza as part of the development application and in response to the consent conditions, outline that the most south-western corner tenancy

(noted as being R1 on the submitted plans) is to be utilised for a multi function room with flexible fit-out arrangement is to be set aside for community uses owing to its ability to operate independent of the shopping facility.

The applicant provided a response to this matter in correspondence dated 28 February 2020. The response included that:

- (a) *The current application will not effect on-going compliance;*
- (b) *Westfield Penrith plays a very active role in supporting the community via various means and through these initiatives satisfies the intent of Condition 37,*
- (c) *Scentre Group does not agree that the Nepean Community College is required for compliance and that the details of the community centre size or location are not specified,*
- (d) *Scentre Group has offered alternate space within the centre to the College (Shop 3- 0071), should it wish to remain in the Westfield complex, and state that*
- (e) *concerns in relation to the operation of Condition 37 should be addressed outside this application as Condition 37 relates to a separate development consent.*

Consideration has been given to the matters raised in the submissions and the existing conditions of consent which apply to the Westfield complex. Consideration has also been given to the reasoning provided behind the inclusion of Condition 37 on the consent, which remain relevant and to the applicant's response. Although it is agreed that Condition 37 relates to another consent, sufficient documentation exists which describes the location, nature and requirements under DA 89/343 which remain relevant and which would be ended should consent be granted for the proposed. Details of private arrangements or offers to the tenant (whether the tenant agrees to these or not) do not form part of this proposal and would be contrary to the conditions of the original consent.

It is recommended that works related to proposed Tenancy R1, currently being occupied by the Nepean Community College can be undertaken although those works must be undertaken in consultation with the tenant such that negative impacts on their ongoing operations is avoided and the tenant is to remain in place. A condition of consent is recommended to make clear that no change of use is approved for Tenancy R1.

It is noted that the condition does not itself tie those acting on the consent to the nominated location within the Plaza, although it does, in the associated supportive documents endorsed as part of the consent, require the provision of a space of a certain description and location, facilitating the agreed outcome in practical and operational terms.

Scentre group are encouraged to liaise with Council and the Tenant with regard to remaining compliant with the original consent conditions. A condition is recommended to allow the re-location of the tenant, whilst maintaining compliance with the intent of the original condition, in consultation with Council and with the Community College tenant.

Contamination

Council requested further information from the applicant with regard to the potential for unexpected finds during the construction works as it was noted that during Council's redevelopment of the Mondo area, some asbestos contaminated material was found in a services trench. Council met with the applicant's environmental consultant and was provided with additional information in this regard. Council's environmental health officer has reviewed the additional information and has found the proposal satisfactory, subject to conditions.

Visual impacts and location of services

Visual and acoustic impacts related to the location of service machinery was raised with the applicant who has provided an amended set of plans and written response. Plant machinery located external to the building façade has been reduced in scale and some relocated to a partly enclosed area adjacent to the southern carpark external ramps. A small area of plant machinery remains situated on the awning of the west facing retail tenancy (R4) and although screened (metal screening and horizontal cladding) it will be highly visible and will detract from the architectural quality of the design. The plant room (drawing 2.01[A]) will be visible above the awning is within a view corridor attached to a pedestrian desire line. In this respect, a condition of consent is recommended to require its removal and relocation elsewhere.

The relocation of the majority of the plant machinery to the roof above the southern carpark ramps is acceptable having regard to acoustic and visual impacts.

Noise and acoustic impacts - Hours of operations

The application seeks approval for operating hours of 6.30am through to 12 Midnight, seven days. The particular use and fit-out of each tenancy is not known and will be subject to a future application.

The proposed development has been reviewed by Council's environmental health officer and has been discussed with the operators of the Joan Sutherland Performing Arts Centre (Joan SPAC). The activities undertaken within the Joan SPAC may be impacted by late night noise emanating from tenancies adjacent to the Mondo. The Joan SPAC is particularly sensitive to noise impacts owing to its design which allows the sound of music to filter out into the Mondo area. The Joan SPAC also has fire safety ventilation grills open along its north eastern elevation which allow noise to penetrate the building's façade. Further, being a performing arts centre, the spaces within the Joan facilitate theatre, music and dance events, and music and performance lessons are also provided within the spaces which require limited external noise interruptions or distractions.

Further to the above, the site is identified as being within the *Cultural and Civic Precinct* within the Penrith Night Time Economy Study and Strategy Final Report. The report identified opportunities to activate the precinct at night, through extended opening hours, special events or outdoor events which attract people and create a "noisy buzz" which spills over into other precincts, although does not identify the area as a late night precinct or for late night trading. Priority linked actions identified for the precinct are for Council and Joan SPAC to work together to support late night activity prior and post programmed events, and to integrate events and trading to support and activate night time economy. Priority actions also include to improve way-finding and allow for greater access between night time precincts.

In this regard, the proposal for 6.30am to midnight hours of operation cannot be supported. The hours of operation were discussed with the applicant and it is agreed to limit the approved hours of operation to be between 6.00am and 10.00pm seven days, and a condition of consent is recommended as such. This will allow the area to be sufficiently activated after hours although will limit late night trading, in line with the Penrith City Council Night Time Economy Study. Should the area evolve or change such as that the elements impacting the ability of the area to sustain late night trading, a modification application may be lodged to request an extension of these hours for individual tenancies.

Construction impacts

A construction staging plan has been submitted with the application and indicated the development will be staged in two main parts, being internal works and external works. Accessibility through the Mondo to the Joan SPAC, Worth Street, High Street, the Council Civic Centre, Library and Carparks can be maintained. Relevant conditions of consent are recommended. Disruptions to the normal condition will be limited to the period of construction works. Noise and other amenity impacts expected during the construction period are able to be appropriately managed through the conditions of consent.

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

The site is considered to be suitable for the proposed development as the development adequately responds to the constraints in the location, subject to the recommended conditions of consent. The design responds to the site's context and to its proximity to the Mondo community space and the Joan Sutherland PAC and will remain an accessible community oriented space. The proposal, subject to the recommended conditions represents a compliant design and fulfills the existing requirements related to local social and community impacts as endorsed under the original consent for the development of the Plaza in that the existing community college space will be retained, if not in the same tenancy, within the Westfield complex as may be agreed.

Section 4.15(1)(d) Any Submissions

Community Consultation

In accordance with the requirements of the Environmental Planning and Assessment Act 1979 and the Environmental Planning and Assessment Regulation 2000, consideration has been given toward any

necessary referrals and any public submissions made.

The development application was notified to nearby and adjoining property owners/occupiers and was advertised and exhibited between 15 and 29 November 2019. Due to an administration error the exhibition period was extended through to 9 December 2019. Four submissions were received.

Submissions

The following matters were raised in the submissions received, and have formed part of the assessment of the development application.

Matter raised	Officer comment
<p><i>"I am a student of Nepean Community College...I have a disability and attend the College 2 days a week. The College needs to stay open where it's located it's easy for me to get there, to hear that you guys want to remove the College from the Penrith area is an absolute disgrace especially for someone like me who dedicates their time and hard work attending the classes there, this is the only place that has the best community college that I can attend.</i></p> <p><i>Please Keep Nepean Community College where it is".</i></p>	<p><i>It is noted that a Condition of consent under DA 343/89 requires that the Plaza, as originally approved "...provide and carry out the proposed on-site social and community facilities, activities and programs nominated within the applicant's submissions dated 23 August 1989 and 18th October 1989 accompanying the development application..."</i></p> <p><i>It is clear in the submissions with the original Plaza development application that a multifunction space was to be set aside for the use of the community and that Nepean Community College was identified as one of those parties. It is assessed that the Condition remains valid and as Scentre Group has not successfully negotiated a suitable alternative for the community space, a condition of consent is recommended that works related to the existing tenancy (R1) can be undertaken subject to liaison with the Community College who are to remain in position.</i></p> <p><i>The condition on the original consent does not itself tie those acting on the consent to the nominated location within the Plaza, although it does in it the associated supportive documents endorsed as part of the consent. The endorsed documents require the provision of a space in the location, of a certain description, facilitating the desired outcome in practical and operational terms.</i></p>
<p><i>"The Nepean Community College is a thriving centre of education catering for a wide cross section of the community and is ideally situated close the public transport.</i></p> <p><i>My daughter has a disability and attends a weekly Reading and Writing course at the college. Because the college is near the train station and the plaza is a safe place she can travel independently to her course.</i></p> <p><i>If the college had to move she would have to find transport depriving her of an important opportunity to practice independent travelling."</i></p>	<p><i>Refer to the comments provided above.</i></p>

"We wish to make a comments on the negative impacts of this DA on Nepean Community College and those who use this service.

- 1. If the Development Application is accepted in its current form we have been informed the college would have to move.*
- 2. If this is the case many who use public transport as their only means of transport will be significantly disadvantaged. An essential part of this is due to Penrith's accessibility by the limited stops mountain trains*
- 3. Its proximity to Penrith Station is essential.*
- 4. The College operates some of the only courses in the Sydney area available for the intellectually disabled. The next closest college or educational institution is in the Sutherland shire.*
- 5. Lack of accessible courses will create significant disadvantage for those currently attending the college in terms of:*
 - i. Social isolation*
 - ii Reduced life outcomes*
 - iii Reduced Independence."*

Refer to the comments provided above.

"While the Scentre Group identified the space the College currently occupies is categorised as "Community" tenancy...., and while they have expressed a desire to ensure the College remains within the Centre, they remain silent in salient details. In particular, requests for written undertakings in relation to:

- Maintenance of the Lic. Fee Agreement*
- The configuration of Shop 71*
- The responsibility for the Fit Out costs of Shop 71*
- Any issues raised in relation to Borec House...*

...the conclusion is that since the current application identifies the current space as being set for demolition and no viable alternate offered, the risk is that the development will effectively extinguish the Community Contribution attached to the original development of the Centre...

...The current location of the College remains the best option to fulfil the vision of that original Consent in that it created a visible, accessible community space that in time would be synonymous with adult and community education opportunities...

...In so far as the College considers its current location as the best location for the discharge of its Objects we would ask that the Council assist in the maintenance of the original conditions and avoid the extinguishment of that Community Contribution."

Refer to the comments provided above.

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

Social Planning

It is noted that Council's Social Planner has objected to the proposal and has raised issues related to the need to protect and enhance the Mondo space adjacent to the development including to ensure that equitable access is provided during and after construction. The planner has also raised that the development should not impeded the ability of Council to undertake events in the space, including those that offer free food for people living with disadvantage or other community events Council may wish to run. Matters related to maintaining the existing Alcohol Free Zone within the Mondo area, provision of a power supply, maintenance and graffiti and litter removal, and the staging of construction works have also been raised.

On balance, the proposal is considered to be acceptable and subject to the recommended conditions which include that a power supply be provided (as is the situation currently) and that construction staging and equitable access be maintained throughout and after the works. The recommended conditions were discussed with Council's City Activation, Community and Place team and are considered to be generally acceptable.

Section 4.15(1)(e)The public interest

The proposed development subject to the recommended conditions is not likely to generate any significant issues of public interest. The recommended conditions of consent include the requirement to retain the occupancy known as the Nepean Community College, recognising that this is a current requirement of consent no 343/89 and the associated endorsed plans and reports.

The proposal will result in a redevelopment of the area is support of the applicable strategic plans and policies applying to the Precinct.

Section 94 - Developer Contributions Plans

The Penrith City Centre Civic Improvements Plan 2008 (CIP) applies to the subject development as detailed below.

Clause 4.2 of the CIP states that the contributions in the plan apply to all development that increases the gross floor area on land in the city centre and on surrounding land with significant development potential as shown on the map in Appendix 1. The subject site is located within the Penrith City Centre, is within the area identified on the map and includes a proposal to increase gross floor area, and in this respect the contributions plan applies.

Clause 4.4 of the CIP tables a summary of the contribution rates. The table includes a contribution rate for retail use, commercial office use and a car parking contribution for commercial development if not provided on the site. The Plan confirms that the contributions only apply to the additional gross floor area (GFA) resulting on a development site.

The Plan requires that car parking contributions apply to all commercial and business related uses where parking is not provided on-site. The existing GFA for the complex as identified within the applicant's Statement of Environmental Effects is 101,170sqms.

The development application proposes 1,456sqms of additional GFA and the deletion of 20 existing car parking spaces.

Clause 10.5.1, C.(1)(e) of Section C10 *Transport, Access and Parking* of the DCP, stipulates that, for existing developments, a new use must not commence or the floor area increased until the required car parking spaces have been provided on the site, corresponding to the land use outlined in Table C10.2. Table C10.2 does not detail rates for shopping centres and in this regard, the DCP states under Clause 10.5.1, C.(1)(f) that in the absence of specific requirements relevant to particular development, the parking requirements in the RTA's "Guide to Traffic Generating Developments" and AS 2890.1 and 2 -2004 should be referred to as a guide.

The RTA Guide to Traffic Generating Developments nominates gross leasable floor area (as 75% of GFA). In this regard, GLFA is calculated as being $101,170 + 1,456 = 102,626\text{sqm} \times .75 = 76,969.5\text{sqm}$ GLFA.

As per the Guide, car parking is required to be provided at a rate of 4.1 spaces per 100sqms of GLFA being $76,969\text{sqms} / 100\text{sqms} = 769.69\text{sqm} (\times 4.1) = 3,155.73$ spaces.

The existing development includes 3,558 parking spaces and is proposed to be reduced to 3,538 spaces. This exceeds the requirement to provide for 3,155.73 spaces as per the Guide and as such, the increase in floor area of 1,456sqms proposed does not attract any car parking contributions under the CIP.

Applicable rate calculations are as follows:

- Proposed increase in retail GFA = $1,456\text{sqms} \times \110 (as indexed) = \$160,160.00

It is recommended that a condition of consent is applied to require the payment of the contribution prior to the issue of a Construction Certificate for the works.

Conclusion

In assessing this application against the application environmental planning policies, including Penrith Local Environmental Plan 2010 and the Penrith Development Control Plan 2014, the proposed development is found to satisfy the aims, objectives and provisions of these policies, subject to the recommended conditions of consent.

Subject to conditions, the proposal will have a positive impact on the surrounding character of the area and assist in the activation and design quality of development adjoining the Mondo community space. The proposed design has been assessed as being appropriately design in response to the site with no objections being raised by Council's Urban Design Review Panel. The proposal complies with key development standards and planning guidelines and policies for the Precinct, and is thus is not contrary to the public interest.

The application is worthy of support, subject to recommended conditions.

Recommendation

1. That DA19/0744 for alterations and additions to the Westfield shopping complex at 569 - 595 High Street, Penrith, be approved subject to the attached conditions, and
2. That those making submissions are notified of the determination.

General

1 A001 - Approved plans table

The development must be consistent with the plans listed below, as may be further submitted to and endorsed by Penrith City Council, as a result of the conditions of this consent, or as stamped approved by Council, the application form and any endorsed supporting information received with the application, except as may be amended in red on the approved plans and by the following conditions.

Plan or Report	Plan no.	Prepared by	Revision	Date
Architectural Plans				
Demolition Plan Level 1 (Ground)	1.01	Scentre Group	-	2020-02-06
Demolition Plan Level 1 (Mezzanine)	1.02	Scentre Group	-	2020-02-06
Demolition Plan Level 2	1.03	Scentre Group	-	2020-02-06
Proposed Plan Level 1 (Ground)	1.04	Scentre Group	A	2020-02-06
Proposed Plan Level 1 Mezzanine	1.05	Scentre Group	A	2020-02-06
Proposed Plan Level 2	1.06	Scentre Group	A	2020-02-06
Proposed Plan Level 3 & Roof	1.07	Scentre Group	A	2020-02-06
Sections/Elevations	2.01	Scentre Group	A	2020-02-06
Sections/Elevations	2.02	Scentre Group	A	2020-02-06
Sections/Elevations	2.03	Scentre Group	A	2020-02-06
Proposed Materiality	2.04	Scentre Group	A	2020-02-06
Signage Strategy	2.05	Scentre Group	A	2020-02-06
Signage Strategy	2.06	Scentre Group	A	2020-02-06
Artist Perspective 01	4.01	Scentre Group	A	2020-02-06
Artist Perspective 02	4.02	Scentre Group	A	2020-02-06
Proposed Amenities Layout	RF06	Scentre Group	-	2019-09-17
Other Plans and Reports				
Preliminary Site Investigation	55324/124934	JBS&G	Rev 1	2 Oct 2019
Asbestos Management Plan	55324/124930	JBS&G	Rev A	2 Oct 2019

2 A001a - Approved Hours of Operation

The approved hours of operation for the development are as follows:

Tenancies marked R1, R2, R3 and R4 are to operate between the hours of 6.00am to 10pm seven days.

3 A001a - Hoarding - Special

Prior to the issue of a Construction Certificate and prior to the commencement of any works at the site, details and plans of the proposed hoarding and any construction fencing and site sheds and the like are to be submitted to and approved by the Manager of Development Services at Penrith City Council.

Hoarding and site fencing and associated structures are to be of a general high quality and are to be recessive in colour and durable in material. A photomontage or similar is to be provided indicating materials and colours, images and artwork. No advertising, branding, sales or leasing information is permitted to be installed or included on the hoarding or fencing, which is to be maintained and kept secure and free of graffiti.

4 A001b - Special - Community

Prior to the commencement of works approved by this consent, and should those acting on this consent pursue the relocation of the Nepean Community College, the Principal Certifying Authority is to be provided with 'satisfactory evidence' that the tenant has willingly agreed to relocate to another location within Westfield Penrith, and that the new location services the tenant's needs to an agreed capacity.

'Satisfactory evidence' shall demonstrate that consultation has been undertaken with key stakeholders which is to include Penrith City Council and Council's Development Services Department, and the tenant, being the Nepean Community College. A copy of the 'satisfactory evidence' and an endorsement letter issued by the Manager of Development Services at Penrith City Council, is to be provided to the Principal Certifying Authority.

No approval is granted for any change of use associated with that portion of the tenancy currently occupied by Nepean Community College marked as R1 on plan titled Proposed Plan Level 1 (Ground) 1.01 revision A, prepared by Scentre Group and GPT, dated 2020-02-06, unless the Applicant or those acting on the consent provides evidence satisfactory to the Manager of Development Services of Penrith City Council that the above has been undertaken.

Until such time as the above consultation has been undertaken and letter of endorsement issued, the use of this tenancy is to remain compliant with consent DA 343/89 and the related endorsed plans and reports including the Penrith Plaza Social and Community Facilities Management Plan, prepared by Lend Lease dated 31 August 1994, also endorsed in compliance with Condition 37 of consent DA 343/89.

Should the Nepean Community College tenant relocate in accordance with the above, the use of Tenancy R1 shall be subject to a future development application with Penrith City Council.

Advisory note:

It is noted that construction works approved as part of this consent will impact on the usual operations of the Nepean Community College. Those acting on the consent are to liaise with the College with regard to the commencement and timing of construction works, in order to limit the length of any disruptions and to allow the College to re-commence operations as may be required, as soon as possible, should a temporary closure be required to facilitate the approved works.

5 A002 - Special/Design Amendments

Prior to the issue of a Construction Certificate, the Principal Certifying Authority is ensure that amended plans have been submitted to and are approved by the Manager of Development Services at Penrith City Council, which indicates that the design complies with the below requirements:

(a) The plant machinery / plant room located above the tenancy marked 'R4' is to be relocated to be integrated into the design of the building, to the satisfaction of Council.

(b) An external power outlet is to be provided in a similar location as is existing (adjacent and external to the existing main south-western Westfield pedestrian entry), to facilitate in the use of the Mondo space for community events.

(c) A final detailed landscape plan and strategy is to be submitted to and approved by Penrith City Council.

(d) A set of public domain plans are to be prepared and submitted to Council for endorsement. The set of documentation is to detail all selected materials, colours and finishes and is to also include paved surfaces. The plans are also include detail of the activities related to the proposed entry landscaping, lighting, modified soft landscape edge adjacent to tree T11 (as noted on the Urbis Tree Retention Strategy plan), the proposed entry arbor and metal screen for Tenancy R4, and the precast concrete pavers proposed for the southern walkway.

Advisory notes:

(i) Should the development of the site result in the requirement to remove existing pavers (matching those along the frontage of the Civic Centre and Penrith City Library), the pavers are to be removed in tact and palletted for storage and re-use around the centre. Contact Council's Asset Management unit for advice, collection/delivery and Council storage location.

(ii) The applicant is advised to liaise with a structural engineer with regard to the alterations and additions to the multi-deck car park which is identified as a post tensioned concrete slab.

6 **A003 - Lighting Plan**

The applicant is to submit a final public domain and lighting plan for review and approval. **Prior to the issue of a Construction Certificate**, the Principal Certifying Authority is to be provided with a copy of the Council endorsed final public domain and lighting plans.

7 **A004 - Final Materials and Finishes Schedule**

Prior to the issue of a Construction Certificate, a final materials and finishes schedule is to be provided to and endorsed by the Manager of Development Services at Penrith City Council. The schedule shall detail and nominate the selected materials, finishes and colours, and shall including all paving treatments and metal screening, wall and roof materials.

8 **A005 - RMS Letter and compliance**

The works approved as part of this consent are to remain compliant with the advice provided within the Roads and Maritime Services (RMS) letter, reference number SYD19/01606/01, dated 17 January 2020 which requires that all buildings and structures together with any improvements integral to the future use of the site are wholly within the freehold property (unlimited in height or depth), along the High Street boundary.

9 **A006 - Construction access and safety**

Prior to the commencement of works at the site, a final construction staging plan is to be submitted to and is to be endorsed by Penrith City Council. The plan is to outline pedestrian safety, access and connectivity, site office, hoarding and security fencing locations and is to include a time line of works related to site preparation and construction works and activities.

10 **A008 - No ATMs**

No approval is granted for the installation of Automatic Teller Machines into the façade of the complex, in the area of the approved development.

11 **A009 - External security shutters, signage, and shop fit out**

Those acting on the consent are to have regard to the following requirements:

(a) Tenancy use

The first use of each new tenancy shall be subject to a development application to Council.

(b) Security shutters and devices

No approval is granted for the installation of external roll-a-door/roller door, security shutters, security grills, expandable safety shutters, security bars or the like as shop front security in this precinct.

(c) Signage, glazing, after-hours lighting and shop fit-outs

No signage is permitted to be fixed to the awning fascia. No signage is to be located above the awnings or fixed to the upper facades of the building or structures (other than that approved as part of this consent). All signage is to be located under the awning and is to be high quality 'hamper style'.

(i) Shop front tenancies shall be gently internally illuminated after hours, and retail glazing fronting the Mondo shall be clear and must not be frosted, obscured, stickered or otherwise covered for more than 25% of the glazing associated with each tenancy, to assist in activating the space, contributing to design excellence, increasing safety and reducing instances of crime.

(ii) The colour palette for external tenancy fit-out is to comprise of soft and/or natural tones.

Free standing movable menu boards, signs or flags and the like associated with the tenancies fronting the Mondo, are not permitted by this consent.

12 **A011 - Engineering Works DCP**

All civil engineering construction works shall be carried out substantially in accordance with Penrith City Council's Engineering Works Development Control Plan and accompanying Guidelines for Engineering Works for Subdivisions and Developments Part 2-Construction.

13 **A012 - Food Act**

The proprietor(s) of any food business/food specialty store 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.

14 **A019 - Occupation Certificate**

Food premises 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.

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

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

16 **A01S - Parent and carer friendly amenities**

The development must be implemented substantially in accordance with the plan titled 4. Proposed amenities - Layout, drawing number RF06, revision -, dated 2019-09-17, prepared by 'The GPT Group/Scentre Group'.

Prior to the issue of an Occupation Certification the Principal Certifying Authority is to ensure that the amenities and parent/carer room are provided with the following:

- A minimum of one nappy disposal unit,
- Hot and cold water to all hand wash basins and to the food preparation area in the parent/carer room,
- A microwave for use in the parent/carer room,
- An additional power point to the food preparation area,
- Cleansing wipes or similar to the change table areas,
- Entry doors to the adult/child WCs and parent/carer areas are a minimum of 1m width to allow for double prams,
- Hand dryers to all hand washing areas.
- A minimum of two low height child hand wash basins and soap dispensers within the male and female toilet hand wash areas, and
- An accessible baby change facility.

In addition, and prior to the issue of an Occupation Certification for the approved works, the Principal Certifying Authority is to ensure that the Westfield complex is provided with a suitably located (co-located within an amenities zone) Accessible Adult Change Facility in accordance with Part F2.9 and Specification F2.9 of Volume 1 (Building Code of Australia) of the National Construction Code.

17 **A021 - Business Registration**

Food businesses are to be registered with Penrith City Council by completing Council's 'Registration of Premises' form. This form is to be returned to Penrith City Council prior to the issuing of an Occupation Certificate and operation of each food business.

18 **A032 - Goods in buildings**

All materials and goods associated with the uses shall be contained within the building at all times. Furniture related to any outdoor dining must be contained within the approved outdoor dining area(s).

19 **A039 - Graffiti**

The finishes of all structures and buildings are to be maintained at all times and any graffiti immediately removed. Any required repairs are to be undertaken to the same or improved quality.

20 **A040 - Signage**

Prior to the issue of any Construction Certificate, a final set of signage plans are to be submitted to the Manager of Development Services at Penrith City Council for endorsement.

The documentation is to detail the selected materials, all of the dimensions of the signage, and any external lighting or internal illumination proposed. The plans are to include any way-finding signage. The applicant is to liaise with Penrith City Council as to the requirement to install 'No smoking' signage and/or cigarette bins within and/or adjacent to the Mondo area, and if required the devices and any signage is to be noted on plans.

A copy of the endorsed plans are to be provided to the Principal Certifying Authority **prior to the issue of the Construction Certificate.**

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

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

22 **A Special 1**

Westfield management shall be available at a mutually convenient time, at the invitation of Penrith City Council and/or the NSW Police, to discuss and action(s) to be agreed with regard to improving community safety, security or other issues in conjunction with other local stakeholders in the area, should the need arise.

23 [A Special CPTED Requirements](#)

The following community safety and crime prevention through environmental design (CPTED) requirements are required to be implemented:

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.

Building Security & Access Control

- CCTV is to be provided to cover communal public space areas. Cameras must be of sufficient standard to be useful for police 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.

Demolition

24 [B002 - AS FOR DEMOLITION AND DISPOSAL TO APPROVED LANDFILL SITE](#)

All demolition works are to be conducted in accordance with the provisions of AS 2601-1991 "The Demolition of Structures". **Prior to demolition**, all services shall be suitably disconnected and capped off or sealed to the satisfaction of the relevant service authority requirements.

All demolition and excavated material shall be disposed of at a Council approved site or waste facility. Details of the proposed disposal location(s) of all excavated material from the development site shall be provided to the Principal Certifying Authority **prior to commencement of demolition**.

25 [B003 - ASBESTOS](#)

The holder of the consent is to read Council's Fact Sheet titled "Handling and Disposal of Fibrous Cement Products" **before any demolition works commence on the site**.

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

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

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

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

Heritage/Archaeological relics

26 [C003 - Uncovering relics](#)

Should any archaeological relics, or items or places of Aboriginal cultural heritage be discovered during the course of the approved works no further work shall be undertaken at the Site until further directed by Penrith City Council or the NSW Heritage Office.

The applicant is advised that depending on the possible significance of the items, 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

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

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

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

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

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

29 **D013 - Approved noise level 1**

The recommendations provided in the 'Penrith Mondo: Penrith Mondo Revised DA Report' prepared by Arup Australia Pty Ltd dated 3 October 2019 (AC01 Issue 3) 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 approved acoustic report. This certificate is to be submitted to the Principal Certifying Authority **prior to the issue of an Occupation Certificate**.

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

30 **D026 - Liquid wastes**

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

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

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

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

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, eco-toxicology, sampling and analytical procedures, risk evaluation and remediation technologies. In addition, the person will be required to have appropriate professional indemnity and public risk insurance."}

32 **D - Dust**

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

33 **D - Mud/Soil**

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

34 **D Special - Acoustic**

In the event of ongoing noise complaints relating to the development, being received by Council, the owner and/or occupier of the development may be required by Penrith City Council to obtain the services of a suitably qualified acoustic consultant to undertake a noise impact assessment on the development to address the concerns of the community.

The noise impact assessment report is to be prepared and provided to Council for approval within 45 days of being requested. Any mitigation works are to be undertaken within thirty (30) days from the date of notice from Council, unless otherwise specified.

35 **D Special BLANK**

The 'Asbestos Management Plan: Westfield Penrith Alterations & Additions - High Street, Penrith NSW' prepared by JBS&G Australia Pty Ltd (dated 2 October 2019, Ref. No. 55324/124930 (Rev A)) is to be implemented and adhered to all times.

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

36 **D Special BLANK**

All mechanical plant and equipment is to comply with the noise criteria outlined in 'Penrith Mondo: Penrith Mondo Revised DA Report' prepared by Arup Australia Pty Ltd dated 3 October 2019 (AC01 Issue 3).

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 it to be provided to Council for consideration and approval. Suitable data and information on the noise impacts associated with this plant and equipment is also to be supplied, as prepared by a suitably qualified acoustic consultant, to demonstrate compliance with the established noise criteria.

Prior to the issue of the Occupation Certificate, a Compliance Certificate is to be submitted to and approved by Council. The Certificate is to outline that all plant and equipment have 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.

37 **D Special BLANK**

Background music and live entertainment is to be contained to internal areas. Noise monitors and/or limiters are to be installed to sound systems used throughout the retail spaces, in accordance with 'Penrith Mondo: Penrith Mondo Revised DA Report' prepared by Arup Australia Pty Ltd dated 3 October 2019 (AC01 Issue 3).

No amplified music is to be used in external areas.

38 **D Special BLANK**

Prior to the issue of the Construction Certificate, a Construction Noise Impact Assessment and Management Plan is to be prepared and submitted to Council for approval. This assessment is to consider (at minimum) the 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 approved Management Plan are to be implemented and adhered to during the construction phase of the development.

39 **D Special BLANK**

The on-site site waste collection for the development is to be conducted in accordance with *Appendix G – Westfield Penrith Waste Management Plan* and Penrith Councils '*Industrial, commercial and mixed-use waste management guideline*' document provisions.

BCA Issues

40 **E01A - BCA compliance for Class 2-9**

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

- (a) complying with the deemed to satisfy provisions, or
- (b) formulating an alternative solution which:
 - complies with the performance requirements, or
 - is shown to be at least equivalent to the deemed to satisfy provision, or
- (c) a combination of (a) and (b).

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

Health Matters and OSSM installations

41 F001 - Development Application for Individual Food Premises

Plans accompanying any future development application for food premises must include a detailed plans which include the following:

- Details of the finish of the walls and ceiling (note acoustic panels not permitted in food preparation areas),
- Details and location of covering to all floor wall joins,
- Details and location of shelving to the storage area for food and packaging,
- Construction material of shelving indicating lowest shelf at least 150mm above ground level,
- Details of materials used on benches in kitchen,
- Reference to the construction of the premises being in accordance with the Australian New Zealand Food Standards Code, Food Safety Standard 3.2.3 "Food Premises and Equipment" and the AS 4674 – 2004 "Design, Construction and Fit Out of Food Premises",
- Hand wash facilities fitted with a hands free operation warm water through a common spout,
- Location of separate sink for (a) washing of vegetables and fruit (b) hand washing (c) washing (required) and sanitizing sinks (if no dishwasher),
- Location of any floor wastes (if being installed) and cleaners sink (may be in laundry),
- Details and location of all equipment in the kitchen including, but not limited to ovens, fridges, freezers, dishwasher etc.,
- Location of personal staff storage area,
- Any fluorescent light fittings being fitted with a smooth faced diffuser and identified on the plan,
- Location and information of mechanical ventilation for oven/stove in accordance with Section 2.5.2 of AS 4674 – 2004 "Design, Construction and Fit Out of Food Premises", and
- Location and information relating to storage rooms.

42 F001 - General Fitout

The construction, fit out and finishes of food specialty stores must comply with Standard 3.2.3 of the Australian and New Zealand Food Standards Code, and AS 4674-2004 *Design, Construction and Fit-out of Food Premises*.

43 F022 - Commercial kitchen (exhaust system)

Cooking appliances in food premises 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 AS 1668 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 ventilated 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 2000mm above floor level.

Prior to the issue of an Occupation Certificate for the food premises, and operation of that business, the exhaust system shall be certified by an appropriately qualified person to comply with the Building Code of Australia and Australian Standard AS 1668, 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

Utility Services

44 [G002 - Section 73 \(not for](#)

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

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

45 [G004 - Integral Energy](#)

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

No approval is granted for the installation of a pad mounted substation.

Construction

46 [H001 - Stamped plans and erection of site notice](#)

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

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

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

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

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

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

47 H002 - All forms of construction

Prior to the commencement of construction works:

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

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

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

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

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

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

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

48 H041 - Hours of work (other devt)

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

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

Other construction works carried out inside a building/tenancy 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.

Engineering

49 K101 - Works at no cost to Council

All roadworks, stormwater drainage works, associated civil works and dedications, required to effect the consented development shall be undertaken at no cost to Penrith City Council.

50 **K201 - Infrastructure Bond**

An Infrastructure Restoration Bond is to be lodged with Penrith City Council for development involving works around Penrith City Council's Public Infrastructure Assets. The bond is to be lodged with Penrith City Council prior to 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 (02) 4732 7777 or visit Penrith City Council's website for more information.

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

Prior to the issue of any Construction Certificate, a Section 138 Roads Act application, including payment of application and inspection fees, shall be lodged and approved by Penrith City Council (being the Roads Authority for any works required in a public road). These works may include but are not limited to the following:

- a) Vehicular crossings (including kerb reinstatement of redundant vehicular crossings)
- b) Concrete footpaths and/or cycleways
- c) Road opening for utilities and stormwater (including stormwater connection to Penrith City Council roads and other Penrith City Council owned drainage)
- d) Road occupancy or road closures
- e) The placement of hoardings, structures, containers, waste skips, signs etc. in the road reserve
- f) Temporary construction access

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

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

Advisory Notes:

- (a) Where Penrith City Council is the Certifying Authority for the development, the Roads Act approval for the above works may be issued concurrently with the Construction Certificate.
- (b) Separate approvals may also be required from the Roads and Maritime Services for classified roads.
- (c) All works associated with the Roads Act approval must be completed prior to the issue of any Occupation Certificate or Subdivision Certificate as applicable.
- (d) On completion of any awning over the road reserve, a certificate from a practising structural engineer certifying the structural adequacy of the awning is to be submitted to Council before Council will inspect the works and issue its final approval under the Roads Act.

52 **K209 - Stormwater Concept Plan**

The stormwater management system shall be provided generally in accordance with the concept plan/s lodged for development approval, prepared by Arcadis, project number 10019736, drawing numbers C1.01 – C221, Issue 4, dated 11/10/2019.

Details on water conservation measures as outlined in Section 3.1 of Council's WSUD Policy shall also be submitted to Council 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 a Construction Certificate, the Certifying Authority shall ensure that the stormwater management system has been designed in accordance with Council's Stormwater Drainage for Building Developments and Water Sensitive Urban Design Policy.

53 **K212 - No loading on easements**

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

54 **K214 - Flooding – Floor levels**

Prior to the issue of any Construction Certificate, the Certifying Authority shall ensure that all habitable floor levels are in accordance with the stamped approved plans with a minimum floor level of RL 27.2m AHD (1% AEP flood level).

55 **K217 - Flooding – Flood Compatible Materials**

Prior to the issue of any Construction Certificate, the Certifying Authority shall ensure that the structures below RL 27.7m AHD (1% AEP flood level + 0.5m freeboard) have been detailed with flood compatible building components in accordance with the publication 'Reducing the Vulnerability of Buildings to Flood Damage' produced by the Hawkesbury-Nepean Floodplain Management Steering Committee.

56 **K219 - Flooding - Flood Proofing**

Prior to the issue of any Construction Certificate, the Certifying Authority shall ensure that all electrical services associated with the proposed building works are adequately flood proofed in accordance with Penrith City Council's Development Control Plan relating to flood liable land. Flood sensitive equipment (including electric motors and switches) shall also be located above RL 27.7m AHD (1% AEP flood level + 0.5m freeboard).

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

Prior to the issue of any Construction Certificate, the Certifying Authority shall ensure that vehicular access, circulation, manoeuvring, pedestrian and parking areas associated with the subject development are in accordance with AS 2890.1, AS2890.2, AS2890.6 and Penrith City Council's Development Control Plan.

58 **K301 - Sediment & Erosion Control**

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

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

59 **K401 - Flooding – Surveyor Verification of floor levels**

A certificate by a registered surveyor verifying that all habitable floor levels are at or above RL 27.2m AHD (1% AEP flood level) shall be submitted upon completion of the building to that level. No further construction of the building is to be carried out until approval to proceed is issued by the Principal Certifying Authority.

60 **K406 - Underground Services**

All proposed services for the development are to be located underground in accordance with the relevant authorities regulations and standards. No approval is granted for the erection or placement of aerial services as part of this consent.

61 **K406 - Underground Services**

All existing (aerial) and proposed services for the approved development, are to be located or relocated underground in accordance with the relevant authorities regulations and standards. No approval is granted for the erection or placement of aerial services as part of this consent.

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

Prior to the issue of any Occupation Certificate, the Principal Certifying Authority shall ensure that all works associated with a S138 Roads Act approval or S68 Local Government Act approval have been inspected and signed off by Penrith City Council.

63 **K502 - Works as executed – General and Compliance Documentation**

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

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

64 **K503 - Stormwater Compliance**

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

- (a) Have been satisfactorily completed in accordance with the approved Construction Certificate and the requirements of this consent.
- (b) Have met the design intent with regard to any construction variations to the approved design.
- (c) Any remedial works required to be undertaken have been satisfactorily completed.
- (d) Details of the approved and constructed system/s shall be provided as part of the works-as-executed drawings.

65 **K504 - Restriction as to User and Positive Covenant**

Prior to the issue of an Occupation Certificate, a restriction as to user and positive covenant relating to the stormwater management systems (including 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 Developments – Appendix F.

66 **K - Waterways - Stormwater Management system operation and maintenance**

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

67 **K Special (BLANK)**

Subleasing of car parking spaces is not permitted by this consent.

Landscaping

68 **L001 - General**

All landscape works are to be constructed in accordance with the stamped approved plans and are to be substantially in accordance with Sections 2.8 and 2.9 of Appendix F5 of the Penrith DCP 2014.

Landscaping shall be maintained:

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

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

69 **L002 - Landscape construction**

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

70 L003 - Report requirement

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

71 L006 - Aust Standard

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

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

72 L007 - Tree protection measures—no TMP with DA

All trees that are required to be retained as part of the development are to be protected in accordance with the minimum tree protection standards prescribed in Appendix F5 of Council's Development Control Plan 2014.

73 L010 - Existing trees

Prior to the issue of a Construction Certificate, the applicant is to meet with Penrith City Council's Tree Officer in relation the following works and trees:

(a) The mature Jacaranda noted as being Tree 7 in the submitted Arboricultural Impact Assessment, prepared by George Palmer, dated September 2019 is to be retained and protected throughout the works. Particular advice is to be sought and confirmed regarding the retention and protection of the Tree during works and the possibility of canopy reduction works to enable its retention long term.

(b) Any canopy reduction or pruning works to trees along the western multi-deck carpark façade, that may be required to facilitate the installation of the new awnings, are to be agreed with Council's tree officer **prior to the commencement of related works at the site.**

Agreed actions are to be confirmed in writing from Penrith City Council and undertaken in accordance with the requirements set out, and are to be completed **prior to the issue of the Occupation Certificate.**

A copy of Council's Tree Officer's correspondence is to be provided to the Principal Certifying Authority **prior to the issue of the Construction Certificate.** All agreed works form part of this consent.

74 L012 - Existing landscaping (for existing development)

Existing landscaping is to be retained and maintained at all times.

Development Contributions

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

This condition is imposed in accordance with Penrith City Council's Civic Improvement (Contributions) Plan. Based on the current rates detailed in the accompanying schedule attached to this Notice, **\$160,160.00** is to be paid to Penrith City Council prior to the issue of any Construction Certificate for this development (the rates are subject to quarterly reviews).

If the contribution is not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted contributions plan. The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule.

Council should be contacted prior to payment to ascertain the rate for the current quarterly period. The contributions invoice accompanying this consent should accompany the contribution payment. The Penrith City Council's Civic Improvement (Contributions) Plan may be inspected at Council's Civic Centre, 601 High Street, Penrith and is available to view on Council's website.

Certification

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

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

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

The Principal Certifying Authority shall submit to Council an "Appointment of Principal Certifying Authority" in accordance with Section 81A of the Environmental Planning and Assessment Act 1979.

Information to accompany the Notice of Commencement

Two (2) days before any earthworks or construction/demolition works are to commence on site (including the clearing site vegetation), the proponent shall submit a "Notice of Commencement" to Council in accordance with Section 81A of the Environmental Planning and Assessment Act 1979.

77 **Q05F - Occupation Certificate for Class10**

An Occupation Certificate is to be obtained from the Principal Certifying Authority on completion of all works and prior to the occupation/use of the portion of the development, being the subject of this consent.

The Certificate shall not be issued if any conditions of this consent, but not the conditions relating to the operation of the development, are outstanding.

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

Appendix - Development Control Plan Compliance

Development Control Plan 2014

D5 Other Land Uses

Parent Friendly Amenities

Objectives of the section include to ensure that:

- all developments likely to be frequented by parents and children have suitable parenting facilities in public places that support breastfeeding;
- parent friendly amenities are suitable for male and female carers; and
- the design of amenities consider the intended use and are designed to the appropriate standard.

The Section requires that the proposed development type is required to provide amenities and parent/carer friendly rooms which are accessible to all. The DCP requires that for the scale of the development the parent/carer room is to be a minimum of 30sqm's in area. The following design requirements of the area are also required by clause 5.5, D(2):

- The design and construction of the room must facilitate easy cleaning,
- The facility must be kept clean and tidy,
- A minimum of one sink with hot and cold water must be provided,
- Hand drying facilities are to be adjacent to the sinks,
- Bench space to allow for food preparation is to be provided (minimum 950mm w x 1.8m long),
- A baby change table is to be provided which must have a side or belt to prevent a baby rolling off,
- Cleansing wipes are to be made available to wipe the baby change table,
- A nappy disposal unit is to be provided,
- Non-smoking signage is to be present,
- The room is to be sign posted to allow it to be easily found and to identify that both male and female parent carers are allowed in the facility,
- Ventilation is to be provided to the room in accordance with AS 1668 Part 2 Acceptable indoor air qualities,
- A door entry of a minimum of 1m is to be provided to allow access for single and double prams. Doors are to be easily operated with one hand or are to be electrically operated.

The applicant has provided a detailed plan of the proposed relocated amenities and facilities which indicates that the parent/carer room will contain the following:

- a 43.16sqm parent/carer room inclusive of two private feeding rooms and a child play area,
- 5 linear meters of bench space inclusive of a wash basin and baby change bays,
- A separated food preparation bench with sink and microwave,
- A separated adult/child WC with hand wash basin and child size toilet.

The proposal is acceptable having regard to the required parent/carer facilities.

Parent/carer facilities recommended conditions

Conditions of consent are recommended with regard to ensuring that the hand wash basin in the child's WC room is low height to enable its use by both child and carer and that the following is provided:

- A nappy disposal unit is provided,
- Hot and cold water to all hand wash basins,
- A microwave,
- Power points to the food preparation area,
- Wipes or similar to the change table areas,
- Entry doors are 1m minimum in width to allow for double prams.

Accessible facilities

The submitted amenities detail plan also provides information on the other amenities provided in the zone and includes a separated accessible toilet with sliding door. A condition of consent is

recommended to require that an accessible fold down baby change facility.

Male facilities

Male facilities include 7 toilet cubicles including one ambulant cubicle, 7 urinals, 6 hand wash basins and a separated adult/child/ambulant WC.

Female facilities

Female facilities include 12 toilet cubicles including one ambulant cubicle, one adult/child/ambulant cubicle and 10 hand wash basins.

Male/female facilities recommended conditions

The facilities are assessed as acceptable, notwithstanding conditions of consent are recommended to require the installation of hand dryers, a minimum of 2 low height child hand wash basins and soap dispensers within the male and female hand wash areas.

E11 Penrith

The subject site is located within the Penrith City Centre and as such, Section E11 of the DCP applies. There are 8 precincts in the City Centre, all comprising their own characteristics. The Site is located within the Civic and Cultural precinct, toward the western end of the City Centre.

Civic and Cultural Precinct

The precinct contains Council's Civic Centre and library, the Joan SPAC and contains the Mondo, a civic green space spanning between the southern entry to the Westfield shopping complex, the Joan SPAC and the civic centre car park to the west.

The proposed development will not hinder the continued enjoyment of the Mondo or adjacent civic areas and uses, noting that that a condition of consent is recommended to limit the hours of operation of the southern tenancies to 10.00pm (hours of operation are detailed under the likely impacts section of this report).

The proposed development will maintain consistency with the objectives of Section E11, in that the proposal will enable the delivery of a balanced social, economical and environmental outcome. A condition of consent is recommended to ensure that the development will continue to provide a space for a social and community facility as approved under the original Penrith Plaza consent (refer to discussion under the likely impacts section of this report).

The proposal is assessed to be in accordance with the provisions of the Section which relate to site cover, deep soil zones and landscape design. Existing areas of deep soil around the west facing façade will be slightly reduced, although largely retained and enhanced by the reduction in colonnade columns (by the inclusion of a canter levered, lower height more pedestrian scaled awning) and the embellishment of landscaping at the corner of High Street, near the Worth Street intersection. Landscaping proposed is suitable in the context of the site.

Pedestrian Amenity and Crime Prevention Through Environmental Design (CPTED)

Pedestrian amenity is acceptable in that awnings are provided over the public way along each façade (south and west facing). Existing pedestrian linkages through the area will be maintained as per the links identified in the E11 Section of the DCP (along the western elevation of the multi-deck carpark). Covered seating is provided adjacent the Mondo civic area and glazing is provided to shop fronts, which will allow for passive surveillance opportunities and increased edge activity. A condition of consent is recommended to prevent the installation of external automatic teller machines and roll-a-door, security grills or bars as shop front security in this precinct.

Conditions of consent are recommended with regard to the provision of way finding signage and under awning lighting.

Landscape Design and Deep Soil

The DCP requires that commercial and retail developments are to incorporate planting into accessible outdoor spaces. Controls also include that remnant vegetation must be maintained throughout the site wherever practicable. The DCP requires that where deep soil zones are

provided, they must accommodate existing mature trees as well as allowing for the planting of trees and shrubs that will grow to be mature trees. It is noted that the development of this area of the site will result in a reduction of deep soil areas and landscaping however, remaining areas are appropriately embellished and the proposal to remove Tree 8 and Tree 9 is supported as it is additionally assessed that these trees are constrained and are damaging the roof structure.

Building Exteriors

Part E11 of the DCP states that Penrith's cityscape and public domain is defined by its buildings, streets and public areas. Objectives of the section include that development must positively contribute to the streetscape and public domain by means of high quality architecture and robust selection of materials and finishes. Other objectives are aimed at ensuring finer grain, pedestrian scaled and high quality treatments, visually interesting and articulated facades. The submitted elevations and materials and finishes provided, although conceptually supportable are not of the scale or detail to properly determine that the objective and controls of this section will be achieved. In this respect, a condition of consent is recommended to require the submission of a more detailed set of documents that describe the selected materials and finishes.

Site Facilities and Services

The DCP requires that infrastructure attributed to the development, including associated cabling, should be located below ground, and that air conditioning units, service vents and other associated structures are to be located away from street frontages and lanes, located in a position where the likely impacts are minimised, and adequately setback from the perimeter wall or roof edge of buildings. Mechanical plant remains positioned above the west facing retail tenant identified as R4 on the submitted plans. The scale and position of this infrastructure is not compatible with the high quality design of the precinct and will detract from the overall visual amenity and ability of the development to maintain design excellence. A condition of consent is recommended to require that this plant area be deleted, relocated or integrated into the design of the alterations and additions to the existing building.