

PENRITH CITY COUNCIL

NOTICE OF DETERMINATION

DESCRIPTION OF DEVELOPMENT

Application number:	DA19/0744
Description of development:	Alterations & Additions to South-Western Corner of Westfield Penrith Shopping Centre
Classification of development:	Class 6

DETAILS OF THE LAND TO BE DEVELOPED

Legal description:	Lot 1 DP 1137699
Property address:	569 - 595 High Street, PENRITH NSW 2750

DETAILS OF THE APPLICANT

Name & Address:	Scentre Group Limited C/- Urbis Level 8 123 Pitt Street SYDNEY NSW 2000
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DECISION OF CONSENT AUTHORITY

In accordance with Section 4.18(1) (a) of the Environmental Planning and Assessment Act 1979, consent is granted subject to the conditions listed in attachment 1.

Please note that this consent will lapse on the expiry date unless the development has commenced in that time.

Date from which consent operates	7 April 2020
Date the consent expires	7 April 2025
Date of this decision	20 March 2020

POINT OF CONTACT

If you have any questions regarding this determination you should contact:

Assessing Officer:	Kathryn Saunders
Contact telephone number:	+612 4732 8567

NOTES

Reasons

The conditions in the attached schedule have been imposed in accordance with Section 4.17 of the Environmental Planning and Assessment Act 1979 as amended.

Conditions

Your attention is drawn to the attached conditions of consent in attachment 1.

Certification and advisory notes

You should also check if this type of development requires a construction certificate in addition to this development consent.

It is recommended that you read any Advisory Note enclosed with this notice of determination.

Review of determination

The applicant may request Council to review its determination pursuant to Division 8.2 of the Environmental Planning and Assessment Act 1979 within six months of receiving this Notice of Determination.

These provisions do not apply to designated development, complying development or crown development pursuant to Section 8.2(2) of the Environmental Planning and Assessment Act 1979.

Appeals in the Land and Environment Court

The applicant can appeal against this decision in the Land and Environment Court within six months of receiving this Notice of Determination.

There is no right of appeal to a decision of the Independent Planning Commission or matters relating to a complying development certificate pursuant to clause 8.6(3) of the Environmental Planning and Assessment Act 1979.

Designated development

If the application was for designated development and a written objection was made in respect to the application, the objector can appeal against this decision to the Land and Environment Court within 28 days after the date of this notice.

If the applicant appeals against this decision, objector(s) will be given a notice of the appeal and the objector(s) can apply to the Land and Environment Court within 28 days after the date of this appeal notice to attend the appeal and make submissions at that appeal.

Sydney Western City Planning Panels

If the application was decided by the Sydney Western City Planning Panel, please refer to Section 2.16 of the Environmental Planning and Assessment Act, 1979 (as amended) for any further regulations.

ATTACHMENT 1: CONDITIONS OF CONSENT

General

- 1 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 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 **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 **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 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 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 **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 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 **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 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 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 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 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 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 **The development shall not be used or occupied until an Occupation Certificate has been issued.**
- 16 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 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 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 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 **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 A **Construction Certificate** shall be obtained prior to commencement of any building works.
- 22 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 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 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 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 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 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 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 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 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 An appropriately qualified person/s shall:

- Supervise all filling works.
- (On completion of filling works) carry out an independent review of all documentation relating to the filling of the site, and submit a review findings report to Council and any Principal Certifying Authority. All fill material documentation is to (at minimum):
 - be prepared by an appropriately qualified person with consideration of all relevant guidelines, standards, planning instruments and legislation (e.g. EPA, NEPM, ANZECC, NH&MRC),
 - clearly state the legal property description of the fill material source site and the total amount of fill tested,
 - provide details of the volume of fill material to be used in the filling operations,
 - provide a classification of the fill material to be imported to the site in accordance with the NSW Environment Protection Authority's "Waste Classification Guidelines" 2014, and
 - (based on the fill classification) determine whether the fill material is suitable for its intended purpose and land use and whether the fill material will or will not pose an unacceptable risk to human health or the environment.
- Certify by way of a Compliance Certificate or other written documentation that fill materials have been placed on the site in accordance with all conditions of this consent and that the site will not pose an unacceptable risk to human health or the environment. A copy of the Compliance Certificate or other documentation shall be submitted to Council and any Principal Certifying Authority.

The contact details of any appropriately qualified person/s engaged for the works shall be provided with the Notice of Commencement.

If the Principal Certifying Authority or Penrith City Council is not satisfied that suitable fill materials have been used on the site, further site investigations or remediation works may be requested. In these circumstances the works shall be carried out prior to any further approved works.

{Note: An appropriately qualified person is defined as “a person who, in the opinion of Council, has a demonstrated experience, or access to experience in hydrology, environmental chemistry, soil science, ecotoxicology, sampling and analytical procedures, risk evaluation and remediation technologies. In addition, the person will be required to have appropriate professional indemnity and public risk insurance.”}

- 32 Dust suppression techniques are to be employed during demolition and construction to reduce any potential nuisances to surrounding properties.
- 33 Mud and soil from vehicular movements to and from the site must not be deposited on the road.
- 34 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 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 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 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 **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 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 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 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 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 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 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 **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 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 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 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 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 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 Prior to the issue of any Construction Certificate, a Section 138 Roads Act application, including payment of application and inspection fees, shall be lodged and approved by Penrith City Council (being the Roads Authority for any works required in a public road). These works may include but are not limited to the following:

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

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

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

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 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 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 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 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 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 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 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 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 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 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.

- 62 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.

- 63 **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 been 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.
- 64 **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.
- 65 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
- 66 Subleasing of car parking spaces is not permitted by this consent.

Landscaping

- 67 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.

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

- 69 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.

- 70 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.

- 71 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.

- 72 **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.

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

Section 94

74 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

75 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.

76 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.

SIGNATURE

Name:	Kathryn Saunders
Signature:	

For the Development Services Manager