

PENRITH CITY COUNCIL

MAJOR ASSESSMENT REPORT

Application number:	DA16/1083.04
Proposed development:	Section 4.55(1A) Modification for Extension of Closing Time to 12 Midnight for Swimming Pool, Outdoor Bar & Kitchen & Conference Room - Eight (8) Storey Serviced Apartments Building containing 58 Serviced Apartments, Related Facilities, Three (3) Ground Floor Commercial Tenancies & Two (2) Levels of Basement Car Parking
Property address:	21 Woodriff Street, PENRITH NSW 2750
Property description:	Lot 106 DP 1236304
Date received:	11 January 2021
Assessing officer	Mahbub Alam
Zoning:	Zone B4 Mixed Use - LEP 2010
Class of building:	Class 2 , Class 6 , Class 7a
Recommendations:	Approve

Executive Summary

Council is in receipt of a modification application for an amendment to the approved hours of operation that are contained within condition number 8 of the consent. This modification seeks to extend the closing times of the swimming pool, outdoor bar/kitchen and conference room to 12 midnight at 21 Woodriff Street PENRITH NSW 2750

The subject site is zoned B4 Mixed Use under Penrith Local Environmental Plan (PLEP) 2010 and the proposal is permissible with consent.

The modification application has been notified to adjoining and nearby properties and exhibited between 25 January and 08 February 2021. Council received no submissions in response.

An assessment under Section 4.15 and Section 4.55(1A) of the Environmental Planning and Assessment Act 1979 has been undertaken and the application is recommended for approval, subject to recommended consent condition amendments.

Site & Surrounds

The subject site is located on the corner of Woodriff Street and Union Lane in Penrith with an irregular shape covering a total area of 2,471m². The site is identified as being flood prone land as well as being impacted by a right of carriageway easement and easement for services within the southern portion of the site to provide access to the car park on the adjoining western site. The site is also impacted by a right of footway and easement for underground cables and street lighting equipment to the northern portion of the site.

The neighbouring property to the west is occupied by Judges Car Park (3 storey car park), the neighbouring property to the south is occupied by a car parking area whereas the surrounding properties to the north, north-west, north-east, east and south-east are occupied by commercial tenancies with the exception of the local heritage item 'Memory Park' to the north-east and second storey flats to the south-east at 26 Woodriff Street.

The subject site benefits from an approval issued by the Sydney Western City Planning Panel on 24/9/2018 for the construction of an eight storey serviced apartments building containing 58 serviced apartments, related facilities, three ground floor commercial tenancies and two levels of basement car parking (DA16/1083). It is also noted that the subject site was created from an approved 2 lot Torrens Title subdivision (DA17/0890) which sought to dedicate a portion of the driveway to Judges Car Park as road reserve.

Proposal

The proposed modified development includes the following aspects:

- Amended Hours of operation for the swimming pool, outdoor bar/kitchen and conference room to be extended to 12 midnight, seven days per week.

Plans that apply

- Local Environmental Plan 2010 (Amendment 4)
- Development Control Plan 2014
- Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

- **Section 4.15 - Evaluation**

The modified development has been assessed in accordance with the matters for consideration under Section 4.15 and Section 4.55(1A) of the EP&A Act, and having regard to those matters, the following issues have been identified for further consideration.

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

Pursuant to Section 4.55(1A) of the Environmental Planning and Assessment Act 1979 (the Act), Council may modify a development consent provided several parameters are satisfied. These parameters are briefly discussed below.

(a) The proposed modifications are of minimal environmental impact.

- The proposed amendments will not result in any negative environmental impact. Amended Acoustic Report was submitted to support this amendments. The Acoustic Report was also reviewed by Council's Environmental Management Team and who raised no objection to extend the closing times of the swimming pool, outdoor bar/kitchen and conference room to 12 midnight.
- The development would be substantially the same. Its use and building form are consistent with the original application. The development will continue to be consistent with what was described and approved in the original application.

(b) The modified development is substantially the same development as was previously approved.

The submitted Section 4.55(1A) application does not alter the nature of the development. The development will remain the same as originally approved. It is therefore considered that the proposed modifications represent substantially the same development for which consent was originally granted.

(c) The application has been notified where required.

The application has been notified to adjoining and nearby properties and was exhibited between 25 January and 08 February 2021. Council received no submissions in response.

(d) Any submissions received from the notification process have been considered.

No submissions were received in relation to the modification application.

It is noted that under *Clause 123BA Functions exercisable by council on behalf of Regional Panel* of the Environmental Planning and Assessment Regulation 2000 that Council is able to determine the subject modification application.

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

Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

An assessment of the development proposal has previously been conducted against relevant criteria within Sydney Regional Environmental Plan No. 20 - Hawkesbury-Nepean River (No. 2 - 1997) and it was determined as being satisfactory subject to the imposed conditions of consent. The proposed modifications will not impact this outcome.

Local Environmental Plan 2010 (Amendment 4)

Provision	Compliance
Clause 1.2 Aims of the plan	Complies
Clause 2.3 Permissibility	Complies - See discussion
Clause 2.3 Zone objectives	Complies
Clause 7.2 Flood planning	Complies
Clause 7.8 Active street frontages	Complies - See discussion
Clause 8.6 Serviced apartments	Complies - See discussion
Clause 8.1 Application of Part	Complies

Clause 2.3 Permissibility

The subject site is zoned B4 Mixed Use under Penrith Local Environmental Plan (PLEP) 2010 and the proposal is permissible with consent.

Clause 7.8 Active street frontages

The proposed modifications do not alter the original assessment of the proposal against this clause.

Clause 7.26 Serviced apartments

The proposed modifications do not alter the original assessment of the proposal against this clause.

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

There are no draft environmental planning instruments that directly apply to the modifications.

Section 4.15(1)(a)(iii) The provisions of any development control plan

Development Control Plan 2014

Provision	Compliance
DCP Principles	Complies - see Appendix - Development Control Plan Compliance
C1 Site Planning and Design Principles	Complies
C2 Vegetation Management	N/A
C3 Water Management	Complies
C4 Land Management	Complies
C5 Waste Management	Complies
C6 Landscape Design	N/A
C7 Culture and Heritage	Complies
C8 Public Domain	N/A
C9 Advertising and Signage	N/A
C10 Transport, Access and Parking	Complies
C11 Subdivision	N/A
C12 Noise and Vibration	Complies
C13 Infrastructure and Services	Complies
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 applicable to the subject site or development.

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

In accordance with Clause 143 of the Environmental Planning and Assessment Regulation 2000, an assessment of the fire protection and structural capacity of the proposed building is necessary.

The proposed modified development complies with the relevant requirements of the Regulations.

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

Noise Impacts

The submitted Noise Impact Assessment (NIA) prepared by Rodney Stevens Acoustics satisfactorily addresses the potential noise impacts. The report calculated the impact the outdoor bar, swimming pool and conference centre will have on nearby sensitive receivers by calculating the noise impact of 50% of the people talking at a raised level. The application was referred to Council's Environmental Management Officer for review and comment. Council's Environmental Management Officer raised no objection.

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

The site remains suitable for the development in accordance with the original development consent granted.

Section 4.15(1)(d) Any Submissions

Community Consultation

The modification application has been notified to adjoining and nearby properties and was exhibited between 25 January and 08 February 2021. Council received no submissions in response.

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
Landscape Architect	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
Tree Management Officer	No objections - subject to conditions

Section 4.15(1)(e) The public interest

The development as modified is consistent with the objectives of the *EP&A Act 1979* in so far as it promotes the co-ordinated, orderly and economic use and development of the land. The above assessment has noted that the modified proposal complies with the aims and objectives and numerical standards of the relevant statutory and non-statutory controls. As a result, Council can be satisfied that the development as modified is consistent with the public interest.

Section 94 - Developer Contributions Plans

The subject modification application has been discussed with Council's Development Contributions Coordinator who has stated that there are no additional development contributions applicable to the proposal.

Conclusion

The proposed modifications to the development have been assessed against the relevant heads of consideration contained in Section 4.15 and Section 4.55(1A) of the Environmental Planning and Assessment Act 1979 and have been found to be satisfactory. Each of the relevant criteria under Section 4.15 and Section 4.55(1A) of the Act has been satisfied. The development as modified will achieve minimal environmental impact and is substantially the same development as originally approved. The proposed modifications to the development are therefore acceptable and worthy of approval.

Recommendation

That DA16/1083.04 for modifications to an approved serviced apartments development including extension of the closing times of the swimming pool, outdoor bar/kitchen and conference room to 12 midnight at 21 Woodriff Street, Penrith, be approved subject to the following modified conditions of consent.

- Amendment of consent condition no.1.
- Amendment of consent condition no.8.
- Amendment of consent condition no.23.
- Amendment of consent condition no.36.
- Amendment of consent condition no.87.

General

1 A001

The development must be implemented substantially in accordance with the following plans and documents approved by the Sydney Western City Planning Panel, the application form and any supporting information received with the application, except as may be amended in red on the approved plans and documents and by the following conditions:

Doc No.	Issue	Title	Prepared By	Date
Architectural Plans				
DA11	B	Demolition Plan	Morson Group	27 August, 2018
DA12	C	Floor Plan – Basement B1 & B2	Morson Group	13 April, 2018
DA13	E	Floor Plan – Ground Level	Morson Group	24 August, 2018
DA14	D	Floor Plan – Podium Level	Morson Group	24 August, 2018
DA15	D	Floor Plan – Typical Levels 2-5	Morson Group	24 August, 2018
DA16	D	Floor Plan – Level 6	Morson Group	24 August, 2018
DA17	C	Floor Plan – Level 7	Morson Group	6 August, 2018
DA18	C	Roof Plan	Morson Group	6 August, 2018
DA19	E	Elevations – North & South	Morson Group	27 August, 2018
DA20	D	Elevations – East & West 1	Morson Group	27 August, 2018
DA21	D	Elevations – West 2 & South 2	Morson Group	24 August, 2018
DA22	C	Overall Sections – Sheet 1	Morson Group	6 August, 2018
DA23	C	Overall Sections – Sheet 2	Morson Group	6 August, 2018
DA24	C	Façade Cross Section	Morson Group	24 August, 2018
DA25	C	Traffic & Footpath Planning	Morson Group	24 August, 2018
DA26	BP	Adaptable Apartments & Porte Cochere Details	Morson Group	15 August, 2018
DA28	C	Window Schedule & Elevations	Morson Group	24 August, 2018
DA29	A	Council Easement Plan	Morson Group	4 May, 2018
DA31	A	Temporary Traffic Diversion & Site Storage Location	Morson Group	13 October, 2016
Stormwater Plans all Job Reference No. E286341				
D1	B	Details, Notes & Legend	Donovan Associates	2 March, 2018
D2	B	Stormwater Management Basement Level 2 Floor Plan	Donovan Associates	2 March, 2018
D3	B	Stormwater Management Basement Level 1 Floor Plan	Donovan Associates	2 March, 2018
D4	B	Stormwater Management Site / Ground Floor Plan	Donovan Associates	2 March, 2018
D5	B	Stormwater Management Podium Level Plan	Donovan Associates	2 March, 2018
D6	B	Stormwater Management Roof Plan	Donovan Associates	2 March, 2018
D7	B	Stormwater Management WSUD Plan	Donovan Associates	2 March, 2018
D8	B	Stormwater Details	Donovan Associates	2 March, 2018
D9	B	Sediment Control Plan	Donovan Associates	2 March, 2018
D10	B	Sediment Control Details	Donovan Associates	2 March, 2018
Landscape Plans all Drawing No. LPDA 16 - 505				
1	G	Landscape Plan (Ground Level)	Conzept Landscape Architects	21 August, 2018
2	E	Landscape Plan (Podium Level)	Conzept Landscape Architects	7 March, 2018
3	B	Specification & Detail	Conzept Landscape Architects	21 August, 2018

dated 27 September, 2016;

- Detailed Contamination Assessment and Remediation Action Plan prepared by Geotechnique Pty Ltd, Report No. 13704/2-AA, dated 14 July, 2016;
- Contamination Assessment of Soil prepared by Geotechnique Pty Ltd, Job No. 13704/3, Reference no. 13704/3-AA, dated 22 June, 2018;
- Acoustic Impact Assessment prepared by Rodney Stevens Acoustics, Report No. 170016R1, Revision 1, dated 4 June, 2018;
- Overland Flow Assessment prepared by Donovan Associates, Reference No. E286341, Issue C, dated 2 March, 2018;
- Water Sensitive Urban Design Strategy prepared by Donovan Associates, Job Reference No. E286341, Issue B, dated 2 March, 2018;
- Draft Site Specific Operations and Maintenance Manual prepared by Donovan Associates, Job Reference No. E286341, dated 12 October, 2016;
- Energy Efficiency Evaluation under Section J of the BCA 2016 prepared by Partners Energy, Reference 6030, dated 27 July, 2016;
- Access Review prepared by Funktion, Issue DA 02, dated 27 September, 2016;
- Refuse Collection Arrangements associated with proposed mixed use development prepared by Stanbury Traffic Planning, dated 10 April, 2018;
- Obtrusive Lighting Report prepared by Designbybow, dated 8 June, 2018; and
- Landscape Design letter prepared by Conzept Landscape Architects, dated 12 January, 2018;

And as further amended by the following plans and documents:

Doc No.	Issue	Title	Prepared By	Date
A117	2	GA Plan - Level 7	Morson Group	8 May 2020
170016R1	3	Acoustic Impact Assessment	Rodney Stevens Acoustics	23 September 2020

And as further amended by the following document:

Doc No.	Issue	Title	Prepared By	Date
170016R1	5	Acoustic Impact Assessment	Rodney Stevens Acoustics	5 March 2021

As amended on 30 October 2020 and 16 July 2021 under the provisions of Section 4.55(1A) of the Environmental Planning Assessment Act 1979.

2 [A019 - OCCUPATION CERTIFICATE \(ALWAYS APPLY\)](#)

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

3 [A046 - Obtain Construction Certificate before commencement of works](#)

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

4 [A Special \(BLANK\)](#)

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

5 [A Special \(BLANK\)](#)

Construction works will 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 construction work is permitted on Sundays and Public Holidays.

In the event that the construction relates to works inside the building and do not involve external walls or the roof, and do not involve the use of equipment that emits noise then the construction works are not restricted to the hours stated above.

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

6 [A Special \(BLANK\)](#)

Prior to occupation of the commercial tenancies within the building, separate Development Approval is to be obtained to use each tenancy within the building.

7 [A Special \(BLANK\)](#)

A separate Development Application for the erection of a sign or advertising structure, other than an advertisement listed as exempt development, is to be submitted to Penrith City Council, complying with the requirements of Penrith Development Control Plan 2014.

8 [A Special \(BLANK\)](#)

For the purpose of preserving the amenity of neighbouring properties, hours of operation (Monday to Sunday) for the following uses are to be restricted to between:

- Serviced Apartments Reception: 24 hours.
- Gymnasium: 7am to 10pm.
- Swimming Pool, Outdoor Bar and Kitchen: 8am to 12 midnight.
- Conference Room: 8am to 12 midnight.

As amended on 30 October 2020 and 16 July 2021 under the provisions of Section 4.55(1A) of the Environmental Planning Assessment Act 1979.

9 [A Special \(BLANK\)](#)

Prior to the issue of an Occupation Certificate, correspondence is to be provided to the nominated Certifying Authority from Telstra indicating that the telecommunication facilities located upon the subject site have been maintained in a manner to the satisfaction of Telstra.

10 [A Special \(BLANK\)](#)

A temporary car park and access to Judges Car Park as shown on Drawing No. DA29, Issue A, 'Temporary Traffic Diversion & Site Storage Location', dated 13 October, 2016 prepared by Morson Group forming part of the consent is to be provided and operated during the construction period.

11 [A Special \(BLANK\)](#)

DELETED

As amended on 12 February 2019 under the provisions of Section 4.55(1A) of the Environmental Planning and Assessment Act 1979.

12 [A Special \(BLANK\)](#)

No approval is expressed or implied by this consent for the development to operate as a residential flat building.

13 [A Special \(BLANK\)](#)

Prior to the issue of an Occupation Certificate, evidence is to be provided to the certifying authority that the Torrens Title Subdivision x 2 Residue Lots & Road Widening provided by DA17/0890 has been registered with the NSW Land Registry Services.

14 [A Special \(BLANK\)](#)

Morson Group Architects (or such other architects as is approved by the NSW Government Architect) are to have an ongoing role in the design and construction of the approved development.

Specifically, no Construction Certificate is to be issued for the construction of the new building (other than site preparation works) unless a Construction Certificate drawings are accompanied by a written confirmation that the plans are consistent with the design intent of the approved development application plans and will achieve design excellence.

15 [A Special BLANK](#)

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

(a) Be satisfied that suitable evidence is provided to demonstrate that the products and systems proposed for use or used in the construction of external walls including finishes and claddings such as synthetic or aluminium composite panels comply with the relevant requirements of the NCC; and

(b) Ensure that the documentation relied upon in the approval processes include an appropriate level of detail to demonstrate compliance with the NCC as proposed and as built.

16 A Special BLANK

Prior to the commencement of the development's use and in perpetuity, the following community safety and crime prevention through environmental design (CPTED) requirements shall be satisfied:

Lighting

- Pedestrian pathways, laneways and access routes in outdoor public spaces should be lit to the minimum Australian Standard of AS 1158. Lighting should be consistent in order to reduce the contrast between shadows and illuminated areas. Lighting should be designed in accordance with AS 4282 – Control of the obtrusive effects of outdoor lighting.

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, commercial tenancies and common areas. This includes reporting incidents to police and/or relevant authorities.

Building Security & Access Control

- Intercom, code or card locks or similar must be installed for all entries to the building including from the car park.
- Lift access within the building must be restricted to guests of the apartments, or authorised visitors to the conference facilities. This must be controlled via access card or security/concierge.
- Australian Standard 220 door and window locks must be installed in all apartments.
- 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.
- A Plan of Management for the operation of the outdoor bar must be prepared, including details of security measures and patron management.

As amended on 30 October 2020 under the provisions of Section 4.55(1A) of the Environmental Planning and Assessment Act 1979.

Environmental Matters

17 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.

18 D009 - Covering of waste storage area

All waste materials stored on-site during construction works 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.

19 D010 – Appropriate disposal of excavated or other waste

All excavated material and other wastes generated as a result of the development are to be re-used, recycled or disposed of in accordance with the approved waste management plan.

Waste materials not specified in the approved waste management plan are to be disposed of at a lawful waste management facility. Where the disposal location or waste materials have not been identified in the waste management plan, details shall be provided to the Certifying Authority as part of the waste management documentation accompanying the Construction Certificate application.

All receipts and supporting documentation must be retained in order to verify lawful disposal of materials and are to be made available to Penrith City Council on request.

20 D014 - Plant and equipment noise

The operating noise level of plant and equipment shall not exceed 5dB(A) above the background noise level when measured at the boundaries of the premises. The provisions of the Protection of the Environment Operations Act 1997 apply to the development, in terms of regulating offensive noise.

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

No fill material shall be imported to the site until such time as a Validation Certificate (with a copy of any report forming the basis for the validation) for the fill material has been submitted to Council. The Validation Certificate shall:

- state the legal property description of the fill material source site,
- be prepared by an appropriately qualified person (as defined in Penrith Contaminated Land Development Control Plan) with consideration of all relevant guidelines (e.g. EPA, ANZECC, NH&MRC), standards, planning instruments and legislation,
- clearly indicate the legal property description of the fill material source site,
- 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 Environment Protection Authority's "Environmental Guidelines: Assessment, Classification & Management of Non-Liquid Wastes" 1997, 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.

An appropriately qualified person/s (as defined in the Penrith City Council Contaminated Land Development Control Plan) shall:

- Supervise the filling works,
- (On completion of filling works) carry out an independent review of all documentation relating to the filling of the site, and shall submit a review findings report to Council and any Principal Certifying Authority,
- 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: Penrith Development Control Plan 2014 defines an appropriately qualified person as "a person who, in the opinion of Council, has a demonstrated experience, or access to experience in hydrology, environmental chemistry, soilscience, 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."}

22 **D special BLANK**

If any suspect materials are encountered during any stage of future earthworks/ site preparation, the Unexpected Finds Management Protocol (prepared by Geotechnique, Attachment E, date 22 June 2018, Reference No. 13704/3-AA) is to be complied with at all times during the excavation and construction phase of the development.

23 **D Special BLANK**

The gymnasium floor is to be entirely covered with A1 rubber flooring system and EVA foam flooring (flooring material outlined in the Acoustic Report prepared by Rodney Stevens Acoustics, dated 5 March 2021, Ref: 170016R1, Revision 5).

With the exception of the designated treadmill area, this area is to be covered in accordance with the approved Acoustic Report by Rodney Stevens Acoustics, dated 5 March 2021, Ref: 170016R1, Revision 5.

A certificate is to be obtained from a qualified acoustic consultant certifying that the gymnasium flooring 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**.

As amended on 16 July 2021 under the provisions of Section 4.55(1A) of the Environmental Planning Assessment Act 1979.

24 **D Special BLANK**

Site remediation works shall be carried out generally in accordance with the approved Detailed Contamination Assessment and Remedial Action Plan prepared by Geotechnique Pty Ltd. dated 14 July 2016 (Report. No. 13704/2-AA) as well as Penrith Development Control Plan 2014, the ANZECC and NHMRC Guidelines (1992) and applicable NSW Environment Protection Authority Guidelines.

On completion of the site remediation works, the following documentation is to be submitted for approval to the Principal Certifying Authority and Penrith City Council, if Council is not the Principal Certifying Authority:

- Written notification that the site remediation works have been completed is to be submitted within 30 days of the said works having been completed.
- Prior to the commencement of works, a Validation Report, prepared by an appropriately qualified person as defined in Penrith Development Control Plan 2014, is to be submitted before any building work can commence on the remediated site. The report shall certify that the remediation works have been carried out in accordance with the approved Remedial Action Plan, relevant NSW Environment Protection Authority requirements and Penrith Development Control Plan 2014.

25 **D Special BLANK**

No public address systems will be used in the gymnasium at this site.

26 **D Special BLANK**

Prior to commencement of remediation, a site plan is to be provided to Council for approval that shows key site locations during the remediation works, including the proposed locations of the truck entry/exit, the loading area, the decontamination zone and those areas that may be used for stockpiling of contaminated materials.

27 **D Special BLANK**

The recommended landscaping details to reduce intrusive light from neighbouring developments, as detailed in the Obtrusive Lighting Report prepared by Design by Bow, dated 8 June 2018 are to be undertaken **prior to the issue of any Occupation Certificate**.

28 **D Special BLANK**

The on-waste infrastructure provided within the development is to be built in accordance with configurations specified in the plan Drawing No. DA13 - Floor Plan-Ground Level, Revision E, dated 24 August, 2018 prepared by Morson Group. On-site waste infrastructure is permissible to change only in accordance with conditions stipulated by Council's Waste Service Department.

29 **D Special BLANK**

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

- All on-site waste collection infrastructure, doors and access points (Waste Chute Room, Waste Collection Room, Commercial Waste Room and Bulky Waste Room) are to be locked through an Abloy Key System to permit access to the respective Collection Contractor.
- All on-site waste collection infrastructure (Waste Chute Room, Waste Collection Room, Commercial Waste Room and Bulky Waste Room) are to provide wash facilities through the use of a centralised mixing valve and hose cock. Respective drainage and water proofing to be installed to support the use of hose facilities.
- The provision of regulatory signage labelled "No Parking - Waste Collection and Removalist Vehicles Excepted" (R5-445 or R5-447 modified) is required to be installed along the frontage of the building (Union Lane) to accommodate a 10.5m Heavy Rigid Waste Collection Vehicle (22.5m long loading bay). A sign plan is to be submitted identifying the location of the parking restrictions to be endorsed by Council's Local Traffic Committee and adopted by Council prior to implementation.
- All on-site waste collection infrastructure (Waste Chute Room, Waste Collection Room, Commercial Waste Room and Bulky Waste Room) is to have 1.8m outwards opening (180 degrees) dual doors to permit access of 1100L bins.

BCA Issues

30 **E009 - Annual fire safety-essential fire safety (Class 2-9 buildings)**

The owner of a building, to which an essential fire safety measure is applicable, shall provide Penrith City Council with an annual fire safety statement for the building. The annual fire safety statement for a building must:

(a) deal with each essential fire safety measure in the building premises, and

(b) be given:

- within 12 months after the last such statement was given, or
- if no such statement has previously been given, within 12 months after a final fire safety certificate was first issued for the building.

As soon as practicable after the annual fire safety statement is issued, the owner of the building to which the statement relates:

- must also provide a copy of the statement (together with a copy of the current fire safety schedule) to the Commissioner of New South Wales Fire Brigades, and
- prominently display a copy of the statement (together with a copy of the current fire safety schedule) in the building.

31 **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.

Utility Services

32 **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.

33 **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.

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

Construction

34 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.

35 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.

36 [H special BLANK](#)

The recommended construction details to meet indoor design sound levels, as detailed in the report prepared by Rodney Stevens Acoustics, dated 5 March 2021, Report Reference: 170016R1, Revision 5 are to be undertaken during construction. **Prior to issue of an Occupation Certificate**, a qualified acoustic consultant shall certify that the development has been constructed to meet the indoor design sound levels in accordance with the approved acoustic report.

As amended on 16 July 2021 under the provisions of Section 4.55(1A) of the Environmental Planning Assessment Act 1979.

37 [H special BLANK](#)

An alternate ventilation system is required, as windows and doors on all facades need to be closed to achieve internal noise level criteria. The alternate ventilation system details are to accompany the **Construction Certificate** application.

Prior to issue of an Occupation Certificate, a qualified acoustic consultant shall certify that the approved ventilation system has been installed with the acoustical attenuation measure.

38 [H Special BLANK](#)

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

Swimming Pools

39 [J002 - Fencing when water in pool](#)

When the swimming pool construction has reached a stage where the pool is capable of holding water, the pool area shall be restricted from access in accordance with AS 1926 "Swimming Pool Safety". Restriction of access to the pool area shall also comply with the Swimming Pools Act, 1992.

40 [J003 - Pool fence \(commercial\)](#)

The swimming pool is to be surrounded at all times by a child-resistant barrier that:

- separates the swimming pool from the serviced apartments and associated uses situated on the premises and from any place (whether public or private) adjoining the premises, and
- is located immediately around the swimming pool, and
- contains within its bounds no structure apart from the swimming pool and such other structures (such as diving boards and pool filtration plants) as are wholly ancillary to the swimming pool, and
- is designed, constructed, installed and maintained in accordance with the standards prescribed by AS 1926 "Swimming Pool Safety".

41 [J010 - Pool board/ sign \(add J009\)](#)

A sign must be erected in a prominent position in the immediate vicinity of the swimming pool and must:

- be erected in accordance with the provisions relating to instructional posters of the document entitled "Policy Statement No. 9.4.1: Guidelines for the Preparation of Posters on Resuscitation" published by the Resuscitation Council. (A copy may be purchased from Penrith City Council's Civic Centre, 601 High Street, Penrith), and
- bear a notice that contains the words "YOUNG CHILDREN SHOULD BE SUPERVISED WHEN USING THIS SWIMMING POOL", together with details of resuscitation techniques (for adults, children and infants) set out in the relevant provisions of the document entitled "CardioPulmonary Resuscitation" published by the Australian Resuscitation Council. (A copy may be purchased from Penrith City Council's Civic Centre, 601 High Street, Penrith).

42 [J011 - NSW Swimming Pool Register](#)

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

43 [J012 - Backwash and Overflow](#)

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

44 **J special condition - Registration and notification**

The occupier of any premises at which a public swimming pool or spa pool is situated must notify Council using the NSW Ministry of Health Notification Form available from www.health.nsw.gov.au prior to the pool or spa being used. The occupier of the premises must notify Council within 7 days of any change of details.

Engineering

45 **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.

46 **K201 - Infrastructure Bond**

An Infrastructure Restoration Bond is to be lodged with Penrith City Council for development involving works around Penrith City Council's Public Infrastructure Assets. The bond is to be lodged with Penrith City Council prior to the issue of any Construction Certificate. The bond and applicable fees are in accordance with Council's adopted Fees and Charges.

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

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

47 **K203 - S138 Roads Act – Works and structures - Roadworks requiring approval of civil drawings. CIVIL CONSTRUCTION IN THE ROAD RESERVE**

Prior to the issue of any Construction Certificate, the Certifying Authority shall ensure that a Section 138 Roads Act application, including payment of application and inspection fees, has been lodged with Penrith City Council (being the Roads Authority under the Roads Act 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
- g) The provision of road works, landscaping works, path paving works in Woodriff Street and Union Lane, the relocation / reconstruction of the existing raised threshold within the right of carriageway, road treatment to the pedestrian crossings in Union Lane to encourage the perception of the roadway as a shared vehicular and pedestrian zone and provision of pram ramps in Union Lane.

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

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

Note:

- a) Where Penrith City Council is the Certifying Authority for the development, the Roads Act approval for the above works may be issued concurrently with the Construction Certificate.
- b) All works associated with the Roads Act approval must be completed prior to the issue of any Occupation Certificate.

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

Prior to the issue of any Construction Certificate with the exception for early works as agreed to by Council, the Principal Certifying Authority and/ or Certifying Authority shall ensure that an application under Section 68 of the Local Government Act, including payment of application and inspection fees, has been lodged with Penrith City Council for provision of the temporary car park access to Judges Place car park, additional car parking spaces along with any associated works that are located on the adjoining Council owned land being Lot 104, DP 1031340.

An Early Works Construction Certificate may be granted for works which do not result in termination of the current access to Judges Carpark from Woodriff Street. The temporary access to Judges carpark must be approved, constructed and operational prior to any works commencing on site which terminate the current access to Judges Carpark from Woodriff Street.

Engineering plans are to be generally in accordance with the plan prepared by Morson Group, Drawing No. DA31, issue A, dated 13 October, 2016, and shall be prepared in accordance with the development consent, Penrith City Council's Design Guidelines for Engineering Works for Subdivisions and Developments, Engineering Construction Specification for Civil Works, Austroads Guidelines, and best engineering practice.

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

Note:

- a) All works associated with the Section 68 Local Government Act approval must be completed **prior to the issue of any Occupation Certificate.**

49 **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 Donovan Associates, Job Reference Number E286341, Drawing Numbers D1 to D10, all Issue B, all dated 2 March, 2018.

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.

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

Prior to the issue of any Construction Certificate, the Certifying Authority shall ensure that the stormwater drainage system for the basement car park has been designed in accordance with the requirements for pumped systems in AS 3500.3 (or as amended) (Plumbing and Drainage – Stormwater Drainage).

51 **K213 - Flooding - Flood Report Recommendations**

Prior to the issue of any Construction Certificate, the Certifying Authority shall ensure that the proposed development is compatible with the recommendations of the Overland Flow Assessment prepared by Donovan Associates, Reference Number E286341, Issue C, dated 2 March 2018.

52 **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 29.2m AHD (standard flood level + 0.5m freeboard). Basement entry levels shall be at a minimum of RL 29.0m AHD.

53 **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 and pedestrian and parking areas associated with the subject development are in accordance with AS 2890.1, AS 2890.2, AS 2890.6 and Penrith Development Control Plan 2014.

54 [K224 - Construction Traffic Management Plan](#)

Prior to the issue of a Construction Certificate, the Certifying Authority shall ensure that a Construction Traffic Management Plan (CTMP) has been submitted to and approved by Penrith City Council. Approval of the CTMP may require endorsement from the Local Traffic Committee. The CTMP shall include, but not limited to the following: vehicle routes, number of construction vehicles, hours of operation, access arrangements, pedestrian management, turning templates for narrow streets and intersections and parking management for workers. The CTMP shall be certified by an appropriately accredited person and/or RMS. The CTMP shall be certified by an appropriately accredited person and/or RMS Traffic Controller. The CTMP shall ensure that adequate parking is provided for the development and surrounding parking not severely impacted by the construction of this development.

The CTMP shall be supported by a traffic control plan, designed in accordance with the requirements of the Roads and Traffic Authority's Manual, Traffic Control at Work Sites Version 2, and the current Australian Standards, Manual of Uniform Traffic Control Devices Part 3, 'Traffic Control Devices for Works on Roads'.

The traffic control plan must be prepared by a suitably qualified and RMS accredited Work Site Traffic Controller.

55 [K225 - Performance Bond](#)

Prior to the issue of a Roads Act Approval, a Performance Bond is to be lodged with Penrith City Council for any road works and landscaping works within Woodriff Street and Union Lane.

The value of the bond shall be determined in accordance with Penrith City Council's adopted Fees and Charges.

Note:

Contact Penrith City Council's Development Engineering Department on (02) 4732 7777 for further information relating to bond requirements.

56 [K226 - Basement Geotechnical Testing/ Dilapidation Report](#)

Prior to the issue of a Construction Certificate, the Certifying Authority shall ensure that a Geotechnical investigation, report and strategy has been conducted to ensure stability of the Council infrastructure and surrounding developments. The geotechnical investigation, report and strategy shall comply with the recommendations contained in the technical direction GTD 2012/001 prepared by the Road and Maritime Services, as amended. The applicant shall undertake a dilapidation report for all surrounding buildings and Council owned infrastructure that confirms that no damage occurs due to the excavations associated with the development. If Council is not the Certifying Authority the dilapidation report shall be submitted to Council prior to Construction Certificate issue and then updated and submitted prior to any Occupation Certificate issue confirming no damage has occurred.

57 [K401 - Flooding – Surveyor Verification of floor levels](#)

A certificate prepared by a registered surveyor verifying that all habitable floor levels are at or above RL 29.2m AHD (standard flood level + 0.5m freeboard) 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.

58 [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 Section 138 Roads Act approval or Section 68 Local Government Act approval have been inspected and signed off by Penrith City Council.

59 [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 Policy.

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

60 **K503 - Stormwater Compliance**

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

- a) Stormwater management systems (including on-site detention and water sensitive urban design)
- Have been satisfactorily completed in accordance with the approved Construction Certificate and the requirements of this consent.
- Have met the design intent with regard to any construction variations to the approved design.
- Any remedial works required to be undertaken have been satisfactorily completed.

Details of the approved and constructed system/s shall be provided as part of the works-as-executed drawings.

61 **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:

- a) Stormwater management systems (including on-site detention and water sensitive urban design)

shall be registered on the title of the property. The restriction as to user and positive covenant shall be in Penrith City Council's standard wording as detailed in Penrith City Council's Stormwater Drainage for Building Development's Policy.

62 **K511 - Directional signage**

Prior to the issue of any Occupation Certificate, directional signage and linemarking shall be installed indicating required directional movements for vehicles and the location of customer parking to the satisfaction of the Principal Certifying Authority.

63 **K515 - Maintenance Bond**

Prior to the issue of any Occupation Certificate, a Maintenance Bond is to be lodged with Penrith City Council for road works and landscaping works in Woodriff Street and Union Lane.

The value of the bond shall be determined in accordance with Penrith City Council's adopted Fees and Charges.

Note:

- a) Contact Penrith City Council's Engineering Services Department on (02) 4732 7777 for further information relating to bond requirements.

64 **K601 - Stormwater Management system operation and maintenance**

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

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

65 **K Special (BLANK)**

All car spaces are to be dedicated for the parking of vehicles only and are not be used for storage of materials/products/waste materials, etc.

66 **K Special (BLANK)**

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

67 **K Special (BLANK)**

All vehicles are to enter/exit the site in a forward direction.

68 **K Special (BLANK)**

Prior to the issue of an Occupation Certificate, secure bicycle parking is to be provided at a convenient location(s) in accordance with *AS 2890.3:2015 Bicycle Parking Facilities*.

Prior to the issue of any Occupation Certificate, the following shall be provided as civil works in **Union Lane, Penrith** as follows:

- An indented on-street bay for waste/removalist vehicles, minimum 22.5m length, 2.5m width at the Union Lane frontage;
- Regulatory signage at the bay indicating "No Parking - Waste Collection and Removalist Vehicles Excepted" (R5-445 or R5-447 modified);
- The location of the bay is to be determined by complying sight distances from the driveway in accordance with AS 2890.1: 2004;
- Pedestrian access **of 1.5m** is to be available on the southern side of Union Lane;
- The concrete pedestrian blisters on the north side of Union Lane directly opposite the proposed indented bay are to be infilled/reconstructed as an island. RMS approved pedestrian fencing is to be installed on the island to restrict pedestrian access at this location, **generally as shown amended in red on the attached plan**.
- All works, including relocation of necessary services, **are to be undertaken by the applicant and at no cost to Council**.

The engineering plans and associated parking restrictions are to be endorsed by Council's Local Traffic Committee and adopted by Council prior to construction. (The Local Traffic Committee sits once per month which may delay finalization of the plans.)

Landscaping

70 [L001 - General](#)

All landscape works are to be constructed in accordance with the stamped approved plans as amended by the applicable conditions of this Development Consent and Sections C2 'Vegetation Management' and C6 'Landscape Design' of Penrith Development Control Plan 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.

71 [L002 - Landscape construction](#)

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

72 [L003 - Report requirement](#)

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

i. Implementation Report

Upon completion of the landscape works associated with the development and prior to the issue of an Occupation Certificate for the development, an Implementation Report must be submitted to the Principal Certifying Authority attesting to the satisfactory completion of the landscaping works for the development.

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.

73 [L005 - Planting of plant](#)

All plant material associated with the construction of approved landscaping is to be planted in accordance with the Tree Planting Specifications prescribed in Penrith Development Control Plan 2014.

74 [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.

75 [L008 - Tree Preservation Order](#)

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

76 [L Special \(Arborist Report\)](#)

An arborist's report/Tree Protection Plan must be submitted. The Plan must be included as part of the construction plans to be used on site and must include specifications for the implementation of tree protection measures for all trees on site.

77 [L Special \(BLANK\)](#)

All trees and landscaping must be maintained in perpetuity to enable maturity to their full potential in healthy growing conditions. This includes mature height, spread and form, consistent with the tree species. Pruning must not alter the natural form and height of trees.

78 [L Special \(BLANK\)](#)

Prior to the issue of a Construction Certificate, a revised landscape and public domain plan with details and sections in accordance with the Penrith CBD Public Domain Technical Manual is to be provided to the satisfaction of Penrith City Council addressing the following;

- Tree species along Woodriff Street are to be provided as *Lophostemon confertus*. The number and location of these trees are to be provided to the satisfaction of Penrith City Council's Design and Projects Section;
- An alternate feature tree species is to be provided for the corner of Union Lane and Woodriff Street. The identified tree is to take into consideration the available vertical space (volume adjacent to the proposed building facade) to allow for a mature canopy and urban (paved) ground conditions;
- Details of furniture paving including pattern and transition between paving types;
- Details of how Tree No. 29 as indicated on the approved landscape plan is to be retained and maintained during the construction period;
- The location of all Tactile Ground Surface Indicators;
- Details of how landscaping will not obstruct proposed signage to Judges Car Park; and
- Plans are to be amended so as to remove all steps within the road reserve area.

79 [L Special \(Protection of trees to remain on site\)](#)

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

80 **L Special (Trees of public property)**

All precautions shall be taken to adequately protect trees on public property (i.e, footpaths, roads, reserves, etc) against damage during construction. No trees on public property shall be removed, pruned or damaged during construction. This includes the erection of any fences, hoardings or other temporary works. The placement of construction materials beneath the canopy of street trees is prohibited.

Development Contributions

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

This condition is imposed in accordance with Penrith City Council's Section 7.11 Contributions Plan for Penrith City - Civic Improvement Plan. Based on the current rates detailed in the accompanying schedule attached to this Notice, \$166,268.00 is to be paid to Council prior to a Construction Certificate being issued for this development (the rates are subject to quarterly reviews). If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted Section 7.11 plan. The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule.

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

Payment of Fees

82 **P001 - Costs**

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

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

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

Certification

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

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

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

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

85 **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.

86 **Q Special (BLANK)**

Prior to the issue of a Construction Certificate (excluding early works), a restriction/positive covenant is to be endorsed by Council that provides for the following:

"The development is to be managed by a single entity as a 'serviced apartment' development in accordance with the applicable definition contained within Penrith Local Environmental Plan 2010 being self-contained accommodation to tourists and visitors on a commercial basis."

Prior to the issue of an Occupation Certificate, the above restriction/positive covenant must be registered with Land Registry Services and evidence of registration provided to the Certifying Authority and Penrith City Council.

Added on 12 February 2019 under the provisions of Section 4.55(1A) of the Environmental Planning and Assessment Act 1979.

87 **Q Special (BLANK)**

The recommended operational details to meet indoor design sound levels as detailed in the Noise Impact Assessment (prepared by Rodney Stevens Acoustics, dated 5 March 2021, report reference 170076R1, Revision 5) are to be complied with during the operation of the outdoor bar and conference area. These are as follows:

- A noise limiter is to be installed to ensure background music in all areas does not exceed 80 dB(A) at 1m from the speakers; 32Hz and 63Hz shall be limited to no more than 65 dB(A) at 1m from the speakers;
- All speakers are to face the centre of the bar area;
- The glazing of the function/conference room shall achieve a rating of Rw 38.

Added on 30 October 2020 and amended on 16 July 2021 under the provisions of Section 4.55(1A) of the Environmental Planning and Assessment Act 1979.

88 **Q Special (BLANK)**

No live music is to be conducted on-site.

Added on 30 October 2020 under the provisions of Section 4.55(1A) of the Environmental Planning and Assessment Act 1979.

89 **Q Special (BLANK)**

All free weights and plates to be rubber coated.

Added on 30 October 2020 under the provisions of Section 4.55(1A) of the Environmental Planning and Assessment Act 1979.

90 **Q Special (BLANK)**

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

Added on 30 October 2020 under the provisions of Section 4.55(1A) of the Environmental Planning and Assessment Act 1979.

91 **Q Special (BLANK)**

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

Added on 30 October 2020 under the provisions of Section 4.55(1A) of the Environmental Planning and Assessment Act 1979.

92 **Q Special (BLANK)**

The business is to be registered with Penrith City Council by completing the "Registration of Premises" form. This form is to be returned to Council prior to the issue of the Occupation Certificate and operation of the business.

Added on 30 October 2020 under the provisions of Section 4.55(1A) of the Environmental Planning and Assessment Act 1979.

93 **Q Special (BLANK)**

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.

Added on 30 October 2020 under the provisions of Section 4.55(1A) of the Environmental Planning and Assessment Act 1979.

Appendix - Development Control Plan Compliance

Development Control Plan 2014

Part B - DCP Principles

The proposed modifications do not alter the original assessment of the proposal against this section.

E11 Penrith

The proposed modifications do not alter the original assessment of the proposal against this section.