

PENRITH CITY COUNCIL

NOTICE OF DETERMINATION

DESCRIPTION OF DEVELOPMENT

Application number:	DA19/0655
Description of development:	Industrial Development including 17 Industrial Units & Cafe, Associated Basement & Ground Level Car Parking, Earthworks, Landscaping & Stormwater Drainage Works & Strata Title Subdivision x 18 Lots
Classification of development:	Class 8 , Class 7a

DETAILS OF THE LAND TO BE DEVELOPED

Legal description:	Lot 24 DP 1120114 Lot 55 DP 1170183 Lot 1 DP 1071114
Property address:	1 - 23 Lenore Drive, ERSKINE PARK NSW 2759 31 - 43 Tyrone Place, ERSKINE PARK NSW 2759 55 Lenore Drive, ERSKINE PARK NSW 2759

DETAILS OF THE APPLICANT

Name & Address:	ArkExpress Design Pty Ltd Level 1, Suite 3, 233 Canley Vale Road CANLEY HEIGHTS NSW 2166
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DECISION OF CONSENT AUTHORITY

In accordance with Section 2.17 and 4.18(1) (a) of the Environmental Planning and Assessment Act 1979 (as amended), consent is granted subject to the conditions implementation 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	1 September 2020
Date the consent expires	1 September 2025
Date of this decision	26 August 2020

POINT OF CONTACT

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

Assessing Officer:	Wendy Connell
Contact telephone number:	+612 4732 7908

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 twelve 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 twelve 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 56 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 56 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.

OTHER APPROVALS

APPROVAL BODIES

APPROVAL BODY NAME	DATE OF GENERAL TERMS OF APPROVAL	REF. NO.	NO. OF PAGES	RELEVANT LEGISLATION
Natural Resources Access Regulator	7/11/19	IDAS1120381	2	Water Management Act 2000

The approval bodies listed above have provided General Terms of Approval for this development in accordance with the relevant legislation. A copy of these General Terms of Approval is provided with this development consent notice. Compliance with the relevant State Government departments' General Terms of Approval are required in conjunction with the following conditions listed in Attachment 1: Conditions of Consent issued by Penrith City Council.

ATTACHMENT 1: CONDITIONS OF CONSENT

General

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

Plan Name	Plan Reference	Prepared By	Dated
Proposed Site and Roof Plan	A0002 Revision F	Ark Express	10.03.20
Waste Management Plan & Sediment Control Plan	A0003 Revision D	Ark Express	31.01.20
Concept Strata Plan	A0004 Revision E	Ark Express	10.03.20
Proposed Basement Plan	A1001 Revision H	Ark Express	31.01.20
Proposed Ground Master Plan	A1002 Revision L	Ark Express	10.03.20
Proposed Mezzanine Floor Plan	A1003 Revision F	Ark Express	10.03.20
Proposed Elevations 01	A2001 Revision G	Ark Express	31.01.20
Proposed Elevations 02	A2002 Revision G	Ark Express	31.01.20
Proposed Elevations 03	A2003 Revision F	Ark Express	31.01.20
Proposed Sections	A3001 Revision G	Ark Express	31.01.20
Typical Warehouse Unit Types – Ground Floor Plan 01	A4001 Revision H	Ark Express	10.03.20
Typical Warehouse Unit Types – Ground Floor Plan 02	A4002 Revision E	Ark Express	10.03.20
Café Ground Floor Plan & Landscape Strip Detail	A4003 Revision D	Ark Express	31.01.20
Ramp & Crossing Longitudinal Section	A4004 Revision A	Ark Express	31.01.20
Finishes Schedule	A7004 Revision E	Ark Express	31.01.20
Landscape Plan	LP: 180219 Revision D	Out There Landscapes and Design	27.01.20
Drawing Index & General Notes	TX13092.00 - C1.0 Issue C	Triaxial Consulting	29.07.19
Concept Stormwater Plan	TX13092.00 - C2.0 Issue E/H	Triaxial Consulting	12.03.19
OSD Catchment Plan	TX13092.00 - C2.1 issue D	Triaxial Consulting	31.01.20
Stormwater Details	TX13092.00 - C2.2 Issue E	Triaxial Consulting	31.01.20
Basement Stormwater Plan	TX13092.00 - C3.0 Issue F	Triaxial Consulting	31.01.20
Stormwater Discharge Details	TX13092.00 - C4.0 Issue B	Triaxial Consulting	30.08.19

- 2 The proprietor of the cafe 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.
- 3 Prior to occupation of a tenancy within the complex (with the exception of the approved cafe), a separate development approval is to be obtained to use the tenancy.
- 4 The development shall not be used or occupied until an Occupation Certificate has been issued.**

A satisfactory inspection of the cafe by an authorised officer of Council's Environmental Health Department is

required prior to the issue of an 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.

- 5 **The development shall not be used or occupied until an Occupation Certificate has been issued.**
- 6 The cafe 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.
- 7 No approval is granted for the installation signage as part of this consent. All signage which requires development consent, is to be submitted as part of a separate development application to Council.
- 8 The approved operating hours are from 7am to 6pm, daily. Delivery and service vehicles generated by the development are to be limited to these hours.
- 9 All materials and goods associated with the use of individual tenancies shall be contained within the tenancies at all times.
- 10 **Prior to the issue of an Occupation Certificate**, a lighting system shall be installed for the development to provide uniform lighting across common areas and driveways. Exterior lighting shall be located and directed in such a manner so as not to create a nuisance to surrounding land uses. The lighting shall be the minimum level of illumination necessary for safe operation. The lighting shall be in accordance with AS 4282 "Control of the obtrusive effects of outdoor lighting" (1997).
- 11 The finishes of all structures and buildings are to be maintained at all times and any graffiti or vandalism immediately removed/repaired.
- 12 A **Construction Certificate** shall be obtained prior to commencement of any works.
- 13 The development shall be undertaken in accordance with the General Terms of Approval issued by the NSW Natural Resources Access Regulator (NRAR), dated 7 November 2019. In this regard, a Controlled Activity Approval shall be obtained from NRAR **prior to the issue of a Construction Certificate**.
- 14 The development shall be undertaken in accordance with the conditions outlined in the Roads & Maritime Services letter dated 31 October 2019. In this regard, relevant conditions shall be satisfied prior to the issue of a Construction Certificate and/or prior to the issue of an Occupation Certificate, as applicable.
- 15 **Prior to the issue of a Construction Certificate**, the location and position of any required hydrants, boosters and substations shall be submitted to and approved by the Development Services Manager of Penrith City Council.
- 16 **Prior to the issue of a Construction Certificate**, the Planning Agreement between the Minister for Planning and Public Spaces and Frank Nicholopoulos and Rose Nicholas for contributions to the provision of regional transport infrastructure and services for the Western Sydney Employment Area is to be registered on the land title of Lot 55 DP 1170183. Evidence that the Planning Agreement has been registered on the land title is to be submitted by way of a Certificate of Title to Penrith City Council and to the Minister for Planning and Public Spaces.
- 17 **Prior to the issue of a Construction Certificate**, Lot 1 DP 1071114 and Lot 55 DP 1170183 are to be consolidated as one lot. A copy of the registered plan of consolidation from NSW Land Registry Services is to be submitted to the Principal Certifying Authority (PCA) and Penrith City Council.
- 18 **Prior to the issue of a Construction Certificate**, a licence agreement for access and easements for

stormwater infrastructure and maintenance are to be registered over Lot 24 DP 1120114 in accordance with the requirements outlined in the Department of Planning, Industry and Environment's letter dated 2 December 2019.

- 19 No materials, equipment or waste bins are to be stored in the landscaping areas along Lenore Drive and Erskine Park Drive.
- 20 **Prior to the issue of a Construction Certificate**, a signage strategy for the complex shall be submitted to Council for approval. The strategy is to:
 - (a) identify the preferred locations and quantum of all building identification and business identification signage;
 - (b) include a palette of preferred materials, signage types and graphic style;
 - (c) outline any illumination requirements and/or restrictions so as to consider its impact on adjacent properties and uses;
 - (d) promote a high quality, coordinated approach to signage and minimise visual clutter; and
 - (e) include details of any way-finding signage.
- 21 **Prior to the issue of any Occupation Certificate**, the Principal Certifying Authority is to ensure that:
 - (a) User/sensor electronic security gates are installed at the basement car park entrance/exits, lifts, stairwells and other entry points.
 - (b) All areas of the car parks are well-lit, with consistent lighting.
 - (c) Basement car park surfaces, including walls and ceilings, are light coloured to assist in safety and visibility.
- 22 **Prior to the issue of a Construction Certificate**, the approved plans shall be amended to ensure no boundary or site fencing encroaches on vehicle paths of travel or designated circulation areas.
- 23 **Prior to the issue of a Construction Certificate**, details of all proposed retaining walls, including height, materials and colours, are to be submitted to, and approved by, Council.
- 24 **Prior to the issue of an Occupation Certificate**, the E2 zoned land which is the subject of works as part of this consent, is to be reinstated to its original condition after the approved works have been completed.
- 25 The development shall be provided with a rooftop photovoltaic electricity generating system that will provide augmented electricity to every unit and to off-set the electricity demands of the development. Plans and details in this regard shall be submitted to, and approved by, Council **prior to the issue of a Construction Certificate**.
- 26 **Prior to the issue of a Construction Certificate**, the layout and positioning of Unit 11's design shall be amended so that it is a minimum of 5 metres from the southern boundary to enable retention of as many existing trees as possible and augmented landscaping is to be detailed in the revised landscape plan submitted with the Construction Certificate. This shall also ensure that turning circles continue to comply with Australian Standards and landscaping to the north of Erskine Park Road shall not be diminished.
- 27 **Prior to the issue of an Occupation Certificate**, an Operational Waste Management Plan shall be prepared (to minimise conflicts between waste collection vehicles and other vehicles accessing the site) and be approved by Council.

Heritage/Archaeological relics

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

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

Environmental Matters

- 29 Dust suppression techniques are to be employed during construction activities to reduce any potential nuisances to surrounding properties.
- 30 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.

The approved sediment and erosion control measures are to be installed prior to and maintained throughout the construction phase of the development until the landscaping, driveway and on-site parking areas have been completed for the development. These measures shall ensure that mud and soil from vehicular movements to and from the site does not occur during the construction of the development.

- 31 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.
- 32 All excavated material and other waste materials are to be disposed of at a lawful waste management facility. 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.

The crushing and re-use on site of construction waste plasterboard, MDF and particle board for filling and landscaping purposes IS NOT PERMITTED. All waste plasterboard, MDF and particle board is to be disposed of off-site at a lawful waste management facility.

- 33 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.
- 34 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.

35 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 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 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 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."}

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

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 be required, development consent is to be sought from Penrith City Council before the remediation works commence.

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

- 37 **Prior to the issue of a Construction Certificate**, a revised floor plan for the cafe, incorporating a waste collection room wholly within the building in accordance with the provisions of Penrith Development Control Plan 2014, Section C5 - Waste Management, is to be submitted to, and approved by, Council.

BCA Issues

- 38 Access and sanitary facilities for persons with disabilities are to be provided and maintained in accordance with the requirements of the Building Code of Australia and AS 1428 “Design for Access and Mobility”. Details of compliance are to be provided in the relevant plans and specifications accompanying the Construction Certificate application.
- 39 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

- 40 The construction, fit-out and finishes of the cafe 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*.

- 41 Cooking appliances which exceed a total maximum power input of 8kw for electrical, or a total gas input of 29MJ/h for a gas appliance, are required to have a kitchen exhaust system installed in accordance with Clause F4.12 of the Building Code of Australia and Australian Standard 1668, Parts 1 & 2.

Detailed plans together with calculations for the system must be provided 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 Occupational Certificate, and operation of the cafe, the exhaust system shall be certified by an appropriately qualified person to comply with the Building Code of Australia and Australian Standard, 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.

- 42 A Food Safety Supervisor, with a current Food Safety Supervisor Certificate recognised by the NSW Food Authority, must be appointed by the business prior to commencement of the cafe use.
- 43 Hand basins in the cafe and staff toilets must be serviced with hot and cold water through a single outlet, able to be mixed at a temperature of at least 40°C and fitted with a hands free operation. Where sensor taps are installed, the basin must not be more than 6 metres from the hot water system. Disposable paper hand towels and soap must be provided and serviced from a dispenser adjacent to each hand basin.
- 44 Hot water services must be positioned at least 75mm clear of the adjacent wall surfaces, and mounted at a minimum 150mm above the floor level on a non-corrosive metal stand. The hot water system must be sized to meet the demands of the cafe during peak operating and cleaning periods and be able to provide sufficient hot water throughout the working day. Discharge from the hot water system must enter the sewer through a tongue dish in accordance with Sydney Water's requirements.
- 45 The floor of the cafe must be finished in an approved non-absorbent material, evenly laid, or graded and drained to a trapped floor waste. All floor wastes in the food preparation, service and scullery areas must be fitted with a sump removable basket and grate, a minimum 200mm in diameter, and finished in all stainless steel.
- 46 Approved, recessed coving must be provided at all intersections of the floor with the walls within all food preparation, service, storage and scullery areas. All coving must have a minimum concave radius of 25mm and be installed so as to be integral to the surface finish of both floor and wall in such a manner as to form a continuous, uninterrupted surface.
- 47 The walls of the food preparation area must be of solid construction and finished with glazed ceramic tiles or other approved material to a height of 2 metres. The intersection of tiles and render must have a flush finish, or be splayed at a 45 degree angle to eliminate a ledge that would allow dust and grease to accumulate.
- 48 The walls at the rear of cooking appliances must be surfaced with an impervious material, such as stainless steel, which extends from the canopy to the floor. Where a cooking appliance is sealed to the wall, the material must be lapped over the top edge of the appliance to provide a grease and vermin proof seal. Cooking appliances must only be sealed to walls made of a non-combustible material.

- 49 The ceiling in the preparation, service and scullery areas must be constructed with a rigid, non-absorbent, smooth faced material free from open joints, cracks and crevices and be painted with a light coloured washable paint. The intersection of the walls and ceiling must be tight jointed, sealed and dust proofed. Drop-in panel style ceilings are not permitted.
- 50 Service pipes, electrical conduits and refrigeration condensate pipes shall be enclosed or chased into walls, floors or plinths. Where it can be demonstrated that this is not feasible, pipes and conduits fixed on brackets, providing a minimum of 25mm clearance from the adjacent wall and 100mm from the floor or adjacent horizontal surface, can be used. All openings in walls, floors and ceilings, through which service pipes and conduits pass, must be vermin proof.
- 51 Appliances used to store potentially hazardous food must have a capacity to keep foods hotter than 60°C, refrigerated foods less than 5°C, and frozen foods less than -18°C and be provided with a digital thermometer, accurate to 1°C that can be easily observed from outside the appliance.
- 52 Details of the dishwashing/glass washing machines must be submitted to Council and approved prior to installation. All utensils and equipment must undergo a washing, sanitising and rinsing cycle. The sanitising rinse cycle must achieve a water temperature of 80°C for 2 minutes or 75°C for 10 minutes.
- 53 All wash sinks and food preparation sinks must be serviced with hot and cold water through a single outlet. Wash sinks must be supplied with water at a temperature of not less than 54°C for washing.
- 54 The food preparation sink must be separated from all other sinks by a minimum distance of 2 metres or have an approved form of physical barrier that separates the sink.
- 55 The cleaner's sink must be serviced with hot and cold water through taps fitted with hose connectors. Cleaner's sinks must be located outside of areas where open food is handled.
- 56 All fixtures, fittings and equipment must be provided with smooth and impervious surfaces, free from cracks and crevices to enable easy cleaning.

All fittings and fixtures must be built into the wall and floor so as to be free from joint, gaps and cavities to enable easy cleaning or alternatively, supported on one of the following:

- (a). Plinths – plinths must be an integral part of the floor, constructed of solid materials similar to the floor at least 75mm in height and coved at the intersection with the floor. All plinths must have a smooth and impervious finish. All fittings and fixtures must be properly sealed to the plinth so to be free from gaps, cracks and cavities.
- (b). Wheels or castors – fittings and fixtures can be supported on wheels or castors. The wheels and castors must be capable of supporting and easily moving a full loaded fitting. All wheels and castors must be provided with a restraining device.
- (c). Legs – fittings and fixtures can be supported on legs but must be constructed of a non-corrosive, smooth metal or moulded plastic. All legs must be free from cracks and crevices. All legs must have a clearance space between the floor and the underside of the fitting of at least 200mm.

NOTE: False bottoms under fittings are not permitted (AS 4674-2004 – Sections 4.2 and 4.3).

- 57 All food preparation benches must be constructed in stainless steel or finished in a smooth and non-absorbent approved material that is free of joints.
- 58 All storage cabinets (internal and external surfaces) must be finished in a smooth and non-absorbent approved material that is free of joints.

- 59 Light bulbs or tubes are to be shatterproof or fitted with approved light diffusers (covers or shields) to prevent contamination of food by glass from a broken light globe or tube. Light fittings must be free from any feature that would collect dirt or dust, harbour insects or make the fitting difficult to clean. Light fittings must be recessed into ceilings or equipment where possible. Heat lamps must be protected against breakage by a shield extending beyond the bulb.
- 60 Shelves must be smooth and impervious; free from joints, cracks and crevices; and able to be easily cleaned. The lowest shelf must be at least 200mm off the floor to allow easy cleaning underneath. Approved materials must be used, such as galvanised piping, stainless steel or laminated plastic. Shelves are to be sealed to the wall or kept clear of walls to allow easy access for cleaning (>40 mm).
- 61 All garbage must be stored in accordance with the requirements of the Food Safety Standards of the Australian and New Zealand Food Standards Code and the *Protection of the Environment Operations Act 1997* to prevent the harbourage of vermin or generation of odours.
- 62 Prior to any fit-out works for the cafe, the cafe floor plan is to be amended to show the details below. The amended plan must be submitted to, and approved by, Council **prior to the issue of a Construction Certificate for the fit-out of the cafe unit.**
- Details of the finish of the walls and ceiling (note acoustic panels not permitted in food preparation areas);
 - Details and location of coving 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 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 (hand washing facilities are for the sole purpose of hand washing in the kitchen);
 - Location of separate sink for: (a) washing of vegetables and fruit; (b) hand washing; and (c) washing (required) and sanitizing sinks (if no dishwasher);
 - Location of any floor wastes (if being installed) and cleaner's sink;
 - 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";
 - Details of the dishwashing/glass washing machines. All utensils and equipment must undergo a washing, sanitising and rinsing cycle. The sanitising rinse cycle must achieve a water temperature of 80°C for 2 minutes or 75°C for 10 minutes; and
 - Location of dry goods storage (bulk food storage) and cool rooms and/or fridges and freezers.

No fit-out works for the cafe shall commence until Council has provided approval of the amended floor plan. The applicant is to provide documentation of the approval to the Certifying Authority.

Utility Services

63 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.**

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

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

65 **Prior to the issue of a Construction Certificate**, the Principal Certifying Authority shall be satisfied that telecommunications infrastructure may be installed to service the premises which complies with the following:

- The requirements of the Telecommunications Act 1997;
- For a fibre ready facility, the NBN Co’s standard specifications current at the time of installation; and
- For a line that is to connect a lot to telecommunications infrastructure external to the premises, the line shall be located underground.

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

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

Construction

66 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 on-site, 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.

67 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 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.

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

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

Other construction works carried out inside a building/tenancy that 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

- 69 **Prior to the issue of a Construction Certificate**, an easement for drainage and overland flow a minimum of 2.5m wide over the 450mm diameter pipeline and variable width with 1.0m clearance around the headwall and outlet protection shall be provided over Lot 24 DP 1120114, and evidence of registration of the easement with Land Registry Services (LRS) shall be submitted to Penrith City Council. Easement widths shall be in accordance with Penrith City Council's adopted Design Guidelines.
- 70 Prior to the issue of any Construction Certificate or Subdivision Works Certificate, a Section 138 Roads Act application, including payment of application and inspection fees, shall be lodged with 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) Road opening for utilities
 - b) Road occupancy or road closures
 - c) The placement of hoardings, structures, containers, waster skips, signs, etc in the road reserve
 - d) Temporary construction access

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

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

Note:

- a) Where Penrith City Council is the Certifier for the development, the Roads Act approval for the above works may be issued concurrently with the Construction Certificate or Subdivision Works 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.
- 71 Prior to the issue of any Construction Certificate or Subdivision Works Certificate, the Certifier shall ensure that any applicable application, including the payment of application and inspection fees, has been lodged with and approved by the Roads and Maritime Services for works within the Erksine Park Road and Lenore Drive road reserves.

A copy of the Roads and Maritime Services approval shall be submitted to Penrith City Council prior to Penrith City Council issuing any Roads Act approval.

- 72 Prior to the issue of any Construction Certificate or Subdivision Works Certificate, the Certifier shall ensure

that an application under Section 68 of the Local Government Act, including payment of application and inspection fees, has been lodged with, and approved by, Penrith City Council for provision of a stormwater discharge point and associated drainage infrastructure on Lot 24 DP 1120114.

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

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

Note:

- a) All works associated with the Section 68 Local Government Act Approval must be completed prior to the issue of any Occupation Certificate or Subdivision Certificate, as applicable.

- 73 The stormwater management system shall be provided generally in accordance with the concept plan/s lodged for development approval and the commitments made in the Water Sensitive Urban Design Strategy prepared by Triaxial Consulting, reference number TX13092.02.RPT.JD, Issue 1, dated 11/12/2019.

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 Policies.

- 74 The stormwater management system shall be provided generally in accordance with the concept plans lodged for development approval, prepared by Triaxial Consulting, as listed in the following table:

Drawing No.	Revision	Date	Description
TX13092.00 - C1.0	C	29/07/2019	Drawing Index & General Notes
TX13092.00 - C2.0	H	31/01/2020	Concept Stormwater Plan
TX13092.00 - C2.1	D	31/01/2020	Developed Site Catchment Plan
TX13092.00 - C2.2	E	31/01/2020	Stormwater Details
TX13092.00 - C3.0	F	31/01/2020	Basement Stormwater Plan
TX13092.00 - C4.0	B	30/08/2019	Stormwater Plan - Outlet Treatment

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 or Subdivision Works Certificate.

Prior to the issue of any Construction Certificate or Subdivision Works Certificate, the Certifier shall ensure that the stormwater management system has been designed in accordance with Penrith City Council's Stormwater Drainage Specification for Building Developments and Water Sensitive Urban Design (WSUD) Policy.

- 75 Prior to the issue of any Construction Certificate or Subdivision Works Certificate, the Certifier 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).
- 76 Prior to the issue of a Roads Act Approval, a Performance Bond is to be lodged with Penrith City Council for public domain works in Erskine Park Road and Lenore Drive.

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.

- 77 **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.

- 78 Upon completion of all works in the road reserve, all verge areas fronting and within the development are to be turfed. The turf shall extend from the back of kerb to the property boundary, with the exception of concrete footpaths, service lids or other infrastructure which is not to be turfed over. Turf laid up to concrete footpaths, service lids or other infrastructure shall finish flush with the edge.

- 79 **Prior to the issue of any Occupation Certificate**, the Principal Certifier shall ensure that all works associated with any Section 138 Roads Act approval or Section 68 Local Government Act approval have been inspected and signed-off by Penrith City Council.

- 80 **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 Specification.

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.

- 81 **Prior to the issue of any Occupation Certificate**, the Principal Certifier shall ensure that the:

- a) Stormwater management systems (including on-site detention and water sensitive urban design)
 - b) Basement pump out system
- Have been satisfactorily completed in accordance with the approved Construction Certificate or Subdivision Works 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.

82 **Prior to the issue of any 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)
- b) Basement pump out system

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.

83 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.

84 **Prior to the issue of an Occupation Certificate**, the Principal Certifying Authority shall ensure that the land title includes a Restriction as to User such that the lot is not to be serviced or accessed by any vehicle greater than 10.5m in length. Semi-trailer and B-Double vehicles are strictly not permitted for the life of the development.

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

86 **Prior to the issue of any Construction Certificate**, the Certifying Authority shall ensure that the plans include dimensions of driveways, ramps, aisles, parking spaces, accessible parking, bicycle parking, internal and external footpaths and service vehicle manoeuvring and loading areas compliant with AS 2890, AS 1428, Penrith Development Control Plan 2014 (Section C10) and Council's requirements.

87 **Prior to the issue of any Construction Certificate**, the Certifying Authority shall ensure that the plans include provision for a 1.5 metre wide concrete footpath in Lenore Drive along the verge fronting the site and connecting to the existing footpath at the corner of Lenore Drive and Erskine Park Road.

88 **Prior to the issue of any Occupation Certificate**, appropriate signage, visible from the public road and on-site, shall to be installed to reinforce designated vehicle circulation and to direct staff / delivery vehicle drivers / service vehicle drivers / bicyclists / accessible parking / visitors to on-site parking, delivery and service areas to the satisfaction of the Certifying Authority.

89 The required sight lines around the driveway entrances and exits are not to be compromised by street trees, landscaping or fencing.

90 **Prior to the issue of any Construction Certificate**, the Certifying Authority shall ensure that the plans include compliant sight lines and sight distances at the driveways in accordance with AS 2890.1, Figure 3.2 and Figure 3.3 and AS 2890.2, Figure 3.3 and Figure 3.4.

91 Sub-leasing of car parking spaces is not permitted by this consent.

92 **Prior to the issue of an Occupation Certificate**, the site access driveway on Lenore Drive and all vehicle parking and manoeuvring areas must be in accordance with AS-NZS 2890.1, AS 2890.2, AS 2890.3, AS

2890.5, AS 2890.6, Penrith Development Control Plan 2014 (Section C.10) and Council's requirements, to the satisfaction of the Certifying Authority.

- 93 All car spaces, manoeuvring areas and loading areas are to be sealed, line marked and dedicated for the parking, manoeuvring and loading of vehicles only and are not be used for storage of products, waste materials, etc.
- 94 **Prior to the issue of an Occupation Certificate**, accessible parking is to be provided with accessible paths of travel to the facility in accordance with AS 2890.6, to the satisfaction of the Certifying Authority.
- 95 **Prior to the issue of any Construction Certificate**, the Certifying Authority shall ensure that the plans include complying numbers of secure, all weather bicycle parking spaces, any required end of journey facilities, change rooms, showers and lockers provided at convenient locations in accordance with Penrith Development Control Plan 2014 (Section C10.7), AS 2890.3 Bicycle Parking Facilities and the Planning Guidelines for Walking and Cycling (NSW Government, 2004).
- 96 **Prior to the issue of an Occupation Certificate**, the redundant driveway crossing along Lenore Drive is to be reinstated as kerb and guttering as per Council's specifications.
- 97 All roadworks, stormwater drainage works, signage, linemarking, associated civil works and dedications, required to effect the consented development shall be undertaken by the applicant at no cost to Penrith City Council.
- 98 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 and/or Subdivision Works Certificate, whichever occurs first. The bond and applicable fees are in accordance with Council's adopted Fees and Charges.

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

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

- 99 Prior to the issue of any Construction Certificate or Subdivision Works Certificate, the Certifier shall ensure that a Section 138 Roads Act application, including payment of application and inspection fees, has been lodged with, and approved by, Penrith City Council (being the Roads Authority under the Roads Act), for provision of public domain works in the verges of Erskine Park Road and Lenore Drive that are excluded from the Roads and Maritime Services' Section 138 Roads Act approval.

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 4732 7777 to obtain a formal fee proposal prior to lodgement and visit Penrith City Council's website for more information.

Note:

- 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 or Subdivision Works Certificate.

- Separate approvals may also be required from the Roads and Maritime Services for classified roads.
- All works associated with the Roads Act approval must be completed prior to the issue of any Occupation Certificate or Subdivision Certificate, as applicable.

- 100 Prior to the commencement of any works on-site (including demolition works) or prior to the issue of any Construction Certificate or Subdivision Works Certificate, whichever occurs first, a Construction Traffic Management Plan (CTMP) shall be submitted to Council's City Assets Department for endorsement. The CTMP shall be prepared by a suitably qualified consultant with appropriate training and certification from the Roads & Maritime Services (RMS). The CTMP shall include details of any required road closures, work zones, loading zones and the like. Approval of the CTMP may require approval of the Local Traffic Committee. Please contact Council's City Assets Department on 4732 7777 and refer to Council's website for a copy of the Temporary Road Reserve Occupancy Application Form.
- 101 Prior to the commencement of any works at the site, the developer shall undertake a dilapidation report for all surrounding buildings and Council owned infrastructure to verify that no damage occurs due to the excavations associated with the development. If Council is not the Certifier for the development, then the dilapidation report shall be submitted to Council **prior to the issue of any Construction Certificate** and then updated and submitted **prior to the issue of any Occupation Certificate**, and is to outline and identify if any damage or changes have occurred.
- 102 **Prior to the issue of a Construction Certificate**, an updated Stormwater Management Strategy which includes revised details of water conservation measures and demonstrates compliance with Section 3.1 of Council's WSUD Policy for the amended unit sizes must be provided to Penrith City Council's Development Services Manager for approval. The revised information must also demonstrate how the rainwater tanks will be utilised for toilet flushing and the irrigation of landscaping across the site. Along the southern boundary all rainwater tanks are to be located within the building footprint, such as below the fire corridor above.

Landscaping

- 103 All landscape works are to be constructed in accordance with the stamped approved plans and Penrith Development Control Plan 2014 (Section C6 - Landscape Design).

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.

- 104 The approved landscaping for the site must be constructed by a suitability qualified and experienced landscape professional.
- 105 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 suitability 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. The report is to be prepared by a suitability qualified and experienced landscape professional.

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.

This report is to be prepared by a suitability qualified and experienced landscape professional.

- 106 All plant material associated with the construction of approved landscaping is to be planted in accordance with Penrith Development Control Plan 2014 (Section C6 - Landscape Design).
- 107 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.
- 108 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 Penrith Development Control Plan 2014 (Section C6 - Landscape Design).
- 109 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.
- 110 Street tree planting at 10m centres is to be provided to all street frontages to the satisfaction of Penrith City Council. In this regard, concurrence must be obtained from Council's Landscape Architect prior to the planting of the trees, including the selection of species and pot size. Evidence of concurrence is to be provided to the Principal Certifying Authority. Where street trees need replacing or are to be re-located, the works are to be undertaken in consultation with Penrith City Council to confirm species, pot size (minimum 75L) and final locations.

The Principal Certifying Authority is to ensure that the street trees surrounding the development adjacent to the subject site, have been installed and are thriving **prior to the issue of an Occupation Certificate**.

Note: Works in the road reserve may require approval under the Roads Act and from the Roads and Maritime Services.

- 111 Prior to the commencement of any works on the site, the relocation of the habitat box attached to tree number 4 as identified in the Arboricultural Impact Report prepared by TREECAS dated 28 February 2020 is to be relocated by a suitability qualified and experienced professional at a similar height to a semi-mature tree within the vicinity if not able to be retained on site. Note: Landowner's consent is required in relation to the relocation site.
- 112 **Prior to the issue of a Construction Certificate**, the approved landscape plan is to be amended to replace 12 of the proposed 20 scribbly gums with grey box species, to be included within the Construction

Certificate approval documentation.

- 113 The area between the southern boundary and the building footprint, after relocation of rainwater tanks within the building footprint, shall be landscaped appropriately and detailed in the revised landscape plan submitted with the Construction Certificate.

Subdivision

- 114 **Prior to the issue of a Strata Subdivision Certificate**, an original final plan of subdivision and two (2) copies of the plan are to be submitted to the PCA. The plan of subdivision must indicate, where relevant:
- All drainage easements, rights of way, restrictions and covenants.
 - All proposed dedications of roads/drainage/public reserve, which are to be undertaken at no cost to Penrith City Council.

The following information is to be shown on one (1) copy of the plan.

- The location of all buildings and/or other permanent improvements shall comply with any statutory boundary clearances or setbacks as defined by the Building Code of Australia and Council's resolutions.
- All existing services are wholly contained within the lot served and/or covered by an appropriate easement.

Prior to lodgement of the Subdivision Certificate application, street address numbering must be obtained/approved by Penrith City Council's Rates Team. Proposed street addresses can be forwarded to council@penrith.city for approval.

- 115 **Prior to the issue of a Strata Subdivision Certificate**, the approved strata plan of subdivision is to be amended to incorporate the proposed basement level and all car spaces shall be delineated as common property and/or proportionately allocated to respective units in the complex.

Section 94

- 116 This condition is imposed in accordance with Penrith City Council's Development Contributions Plan for Non-Residential Development. Based on the current rates detailed in the accompanying schedule attached to this Notice, \$90,000.00 is to be paid to Penrith City 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 7.12 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 Section 7.12 invoice accompanying this consent should accompany the contribution payment. The Section 7.12 Contributions Plan for Non-Residential Development may be inspected at Council's Civic Centre, 601 High Street, Penrith.

Note: The timing of contributions payable may be otherwise affected in accordance with Planning Circular PS20-003 dated 3 July 2020 and the associated NSW Government Ministerial Direction - Infrastructure Contributions.

Certification

117 A Strata Subdivision Certificate shall be obtained from the Principal Certifier prior to lodgement of the strata plan with NSW Land Registry Services. The Strata Certificate will not be issued if:

- (a) any of the conditions in this consent are outstanding, and/or
- (b) if the Final Occupation Certificate for the buildings, the subject of the strata plan, has not been issued.

118 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.

119 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 development.

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:	Wendy Connell
Signature:	

For the Development Services Manager