

PENRITH CITY COUNCIL

MAJOR ASSESSMENT REPORT

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| Application number: | DA21/0217 |
| Proposed development: | Alterations & Additions to Existing Retail Tenancies of Penrith Westfield, Change of Use to Recreation Facility (Indoor), Reconfiguration of Existing Facades, Installation of Travelators, Changes to Car Parking Spaces & Fire Stairs, Landscaping Works & Other Minor Alterations |
| Property address: | 569 - 595 High Street, PENRITH NSW 2750 |
| Property description: | Lot 1 DP 1137699 |
| Date received: | 31 March 2021 |
| Assessing officer | Kathryn Saunders |
| Zoning: | Zone B3 Commercial Core - LEP 2010 |
| Class of building: | Class 6 |
| Recommendations: | Approve |

Executive Summary

Council is in receipt of a development application for change of use of part of an existing retail tenancy from retail premises to recreation facility (indoor) and alterations and additions related to an existing shopping centre known as Westfield Penrith at 569-595 High Street, Penrith. The proposal includes internal and external building, car park, travelators, fire stair alterations and additions, signage and facade additions, public domain works and proposes hours of operation for the recreation facility (indoor) as 9.00am to 12 midnight, seven days.

Under Penrith Local Environmental Plan 2010, the proposal is best defined as *retail premises* and *recreation facility (indoor)* and is permissible within the B3 Commercial Core zone under the LEP, with consent.

Key issues identified for the proposed development and site include:

- Design impacts related to pedestrian circulation,
- Treatment of the public domain, and
- Location and design of raised planters.

The above matters were detailed to the applicant and amended plans were received. Resubmitted plans include that the shop front glazing has been relocated to allow for a wider pedestrian zone, planting has been amended and a pedestrian colonnade had been continued through toward Jane Street. Issues in relation to the location of an existing light pole and in relation to a raised planter have been addressed either through the amended plans or through the recommended conditions of consent and draft conditions were provided to the applicant to review.

The application has been notified to adjoining properties and was exhibited and advertised between 19 April and 3 May 2021. No submissions were received.

The concurrence of Transport for NSW (TfNSW) is required under State Environmental Planning Policy (Infrastructure) 2007 as the proposal can be considered as traffic generating development. The development also has frontage to a Classified Road (Jane Street). The application was referred to TfNSW and subject to the amendments and their conditions, TfNSW has not raised any objections to the proposal.

An assessment under Section 4.15 of the Environmental Planning and Assessment Act 1979 has been undertaken and the application is recommended for Approval, subject to recommended conditions including those provided by TfNSW. This application is to be determined under delegated authority by Council.

Site & Surrounds

The subject allotment is an irregular shaped parcel of land which is legally described as Lot 1 in Deposited Plan 1137699 and has a site area of 90,325sqm's. The Site is currently occupied by Westfield Penrith and has frontage to Jane Street to the north, Riley Street to the east, High Street to the south and south-east and shares its most western boundary with a 6391sqm Council owned, public square and community space known as 'The Mondo'. The Site is zoned B3 Commercial Core zone under PLEP 2010.

The allotment is located in close proximity to the Penrith Railway Station and Council's Civic Centre and Library and is located within the Penrith City Centre. The site is located within the Commercial Core precinct as identified in Section E11 of the Penrith DCP.

The portion of the Site to which the development relates is the north-eastern corner tenancy of the Penrith Westfield building which has frontage to the south western intersection of Riley Street and Jane Street. Penrith Railway Station parking is located on the northern side of the intersection and the bus interchange and railway bicycle secure parking is located nearby to the north-east. The Barvarian bar and restaurant is located opposite the area of the proposed works, on the south-eastern side of Riley Street.

The Penrith Railway Station entry is 180m to the east. The Westfield multi deck carpark and delivery areas are located to the west along Jane Street. A shared pathway fronts the site and runs along the frontage of the site to Jane Street.

Works proposed as part of this development application are limited to the north-east corner retail tenancy, its façades and minor internal alterations including to travelators and parking.

Proposal

The proposed development involves the following:

- Alterations and additions to the east and north facing facades of the existing Westfield shopping centre at the south-western corner of Riley and Jane Streets,
- Internal alterations to areas of the existing Target retail tenancy,
- Change of use of a portion of the existing Target tenancy into a separate tenancy and its use as *recreation facility (indoor)* being an entertainment and amusement centre having a floor area of 1691sqm,
- Demolition of existing external masonry walls and the installation of additional shopfront glazing to Riley Street,
- Minor landscaping works related to the installation of a raised planter,
- Installation of 3 new travelators to improve access within the existing car park,
- Removal of 24 car spaces at Level 1 and Level 2 (including mezzanine levels),
- Addition of 6 car spaces within existing areas of the car park,
- Various works to fire stairs and trolley bays,
- Various alterations to car park areas to allow for upgrades to pedestrian access points, stairs, risers, guard rails, screens, planters and travelators,
- The installation of signage including 1 x Westfield business identification sign measuring 1.5m x 4.575m and two under awing hamper style signs. Two tenant sign 'zones' are identified to be located in areas of 0.8m x 6m along the frontage of the new glazing to Riley Street

The proposed hours of operation of the new entertainment and amusement centre are proposed to be 9.00am to 12 Midnight, seven days.

There is no proposal to increase the overall height of the development and the resultant floor space ratio remains below that which is identified for the site under Penrith Local Environmental Plan 2010, being 1.5:1.

Plans that apply

- Local Environmental Plan 2010
- Development Control Plan 2014
- State Environmental Planning Policy (Infrastructure) 2007
- State Environmental Planning Policy (Vegetation in non-rural areas) 2017
- State Environmental Planning Policy No 55—Remediation of Land
- State Environmental Planning Policy No 64—Advertising and Signage
- Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

Planning Assessment

• Section 4.15 - Evaluation

The proposal has been assessed in accordance with the matters for consideration under Section 4.15 of the *Environmental Planning and Assessment Act 1979*, and having regard to those matters, the following issues have been identified for further consideration.

• Section 7.12 - Developer Contributions

Section 7.12 development contributions are payable for the proposed development as the development is for non-residential development. Council's City Wide Section 7.12 Development Contributions plan provides that Council may levy contributions for development exceeding \$200,000 at a rate of 1% of the total cost of works.

The applicant submits that the cost of works are \$9,080,416.00 and therefore a condition of consent requiring the payment of \$90,804.00 is recommended.

It is noted that Council has a Section 7.11 Contributions Plan which applies to the site, being the Penrith City Centre Civic Improvements Plan. The plan is not imposed in accordance with Section 7.13 of the *Environmental Planning and Assessment Act 1979* which permits Council to impose a condition under section 7.11 or 7.12 only if it is of a kind allowed by, and is determined in accordance with, a contributions plan (subject to any direction of the Minister under this Division).

Council's City-wide 7.12 Development Contributions Plan states that the plan applies to any non-residential development with a proposed cost of more than \$100,000 that is not otherwise subject to a s7.11 contribution, authorised by a s7.11 contributions plan adopted by Council. The Civic Improvements plan applies to all development within the City Centre that increases gross floor area (GFA). It is confirmed in the applicant's Statement of Environmental Effects that an incremental GFA reduction across the site will result.

The application of 7.12 contributions was discussed with Council's contributions planner, with no objections raised. It was confirmed that s7.12 plan applies in this instance.

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

State Environmental Planning Policy (Infrastructure) 2007

The development proposal has been assessed having regard to the Policy and is considered to be satisfactory as follows:

The site has frontage to a classified road being Jane Street and in this respect section 101 of the Policy applies. The objectives of section 101 include to ensure that new development does not compromise the effective and ongoing operation and function of classified roads, and to prevent or reduce the potential impact of traffic emissions on development adjacent to classified roads.

The proposed development includes alterations to an existing shopping centre. The alterations and additions are largely related to the creation of a separate retail tenancy (utilising existing floor area) fronting Riley and Jane Streets. Pedestrian access to the new tenancy will be via Riley Street and no changes are proposed to vehicle entry points. No residential development is included. The proposed development is not in opposition to the objectives.

A review has also been undertaken of the matters for consideration under section 101(2)(a) through (c) and it is assessed that the development complies. The proposal will not impact practical, safe and efficient access or operation of the nearby State road.

The application was referred to TfNSW under section 104 of the Policy as the tenancy has the capacity to involve 300sqm of floor area as food and drink premises and is greater than 500sqm if defined as 'shop'. Shop is defined in the Standard Instrument as a type of retail premises. TfNSW has not raised any objection to the proposal subject to conditions. The conditions of TfNSW are recommended to be included as a condition of consent.

State Environmental Planning Policy (Vegetation in non-rural areas) 2017

An assessment has been undertaken of the application against the applicable provisions of State Environmental Planning Policy (Vegetation in non-rural areas) 2017 and the application is satisfactory, subject to the recommended conditions of consent.

State Environmental Planning Policy No 55—Remediation of Land

The development proposal has been reviewed having regard to the provisions of the Policy and has also been referred to Council's internal Environmental Health team for review, with no objections raised. The proposal is considered to be satisfactory and is supported subject to the recommended conditions of consent.

State Environmental Planning Policy No 64—Advertising and Signage

The development application includes the following signs and signage areas:

- 1 x 'Westfield' wall mounted business identification sign measuring 1.5m x 4.575m, and
- 2 x under awing hamper style signs.

The submitted signage strategy also identified two tenant sign zones with areas of 0.8m x 6m located above the glazing of each new tenancy with frontage to Riley Street. It is noted that future signage in these zones may be regulated either through the submission of future development applications or other compliance certification.

The proposal has been assessed having regard to the applicable sections of the Policy and is found to be supportable as follows:

3 Aims, objectives etc

The proposed signage is consistent with the Policy aims, which include to ensure that signage is compatible with the desired amenity and visual character of the area, provides effective communication and will be of a high quality design and finish.

8 Granting of consent to signage

The section states that a consent authority must not grant development consent to an application to display signage unless the consent authority is satisfied that the signage is consistent with the objectives set out under 3 (above), and that the signage satisfies the assessment criteria specified in Schedule 1. An assessment of the proposed signage is included below and it is determined that the proposal is acceptable.

Schedule 1 Assessment Criteria

1 Character of the area

The signage is compatible with the character of the area. The location is within a shopping centre precinct and signage is limited to tenant and business identification.

2 Special areas

The site is located with the Commercial Core area of the Penrith City Centre and signage will not detract from the amenity or streetscape quality of the area.

3 Views and Vistas

The proposed signage will not obscure views and is fixed flush to walls. Under awning signage will match existing within a colonnade.

4 Streetscape, setting or landscape

The proposed signage is considered to be appropriate in scale and design quality, will not detract from the streetscape and will not result in visual clutter.

5 Site and building

Signage is compatible with the scale and design of the building. The design of the signage is acceptable having regard to the architecture of the building and the location and setting.

6 Associated devices and logos with advertisements and advertising structures

The wall mounted 'Westfield' sign is internally illuminated and lighting is provided behind the cladding of the facade. There are no other lighting devices or platforms associated with the signage.

7 Illumination

As detailed above the 'Westfield' signage is internally illuminated and as such, will not create glare. The location of the signage will not impact on residential amenity of road or pedestrian safety.

8 Safety

No safety impacts are anticipated.

In addition to the above, as the wall mounted 'Westfield' signage will extend beyond the site boundary and will be above the road reserve of a Classified Road, the application was referred to TfNSW and no objections are raised, subject to conditions. The installation of the signage will be also reviewed as part of the requirement for an application under the Roads Act and relevant conditions of consent are recommended.

Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

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

Local Environmental Plan 2010

| Provision | Compliance |
|----------------------------------------------------------------|---------------------------|
| Clause 1.2 Aims of the plan | Complies |
| Clause 2.3 Permissibility | Complies |
| Clause 2.3 Zone objectives | Complies |
| Clause 2.7 Demolition requires development consent | Complies |
| Clause 4.3 Height of buildings | Complies |
| Clause 4.4 Floor Space Ratio | Complies |
| Clause 5.21 Flood planning | Complies - See discussion |
| Clause 7.1 Earthworks | Complies |
| Clause 7.4 Sustainable development | Complies |
| Clause 7.5 Protection of scenic character and landscape values | N/A |
| Clause 7.6 Salinity | Complies |
| Clause 7.7 Servicing | Complies |
| Clause 7.8 Active street frontages | Complies |
| Clause 7.12 Maximum gross floor area of commercial premises | N/A |
| Clause 8.1 Application of Part | Complies |
| Clause 8.2 Sun access | N/A |
| Clause 8.3 Minimum building street frontage | Complies |
| Clause 8.4 Design excellence | Complies - See discussion |
| Clause 8.5 Building separation | N/A |
| Clause 8.7 Community infrastructure on certain key sites | N/A |
| Clause 5.10 Heritage conservation | Complies - See discussion |

Clause 5.21 - Flood planning

The proposed development does not add floor space and largely maintains the existing retail footprint. The development proposal has been considered against the provisions of this section of the LEP and is acceptable having regard to the matters for consideration.

Clause 8.4 Design excellence

Clause 8.4 Design Excellence, sub clause (1) states that development consent must not be granted for development involving the construction of a new building, or external alterations to an existing building, on land to which this part applies unless, in the opinion of the consent authority, the proposed development exhibits design excellence.

Clause 8.4(2) provides that *in deciding whether development to which this clause applies exhibits design excellence, the consent authority must have regard to the following matters:*

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

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

In relation to matters at (a), (b) and (e) the application was reviewed by Council's internal urban design consultant and by Council's landscape architect. Issues raised by the landscape architect include:

- circulation area and paving width,
- the location of an existing light pole,
- the location of a raised planter fronting the corner of Riley and Jane street, and
- selected pavement material.

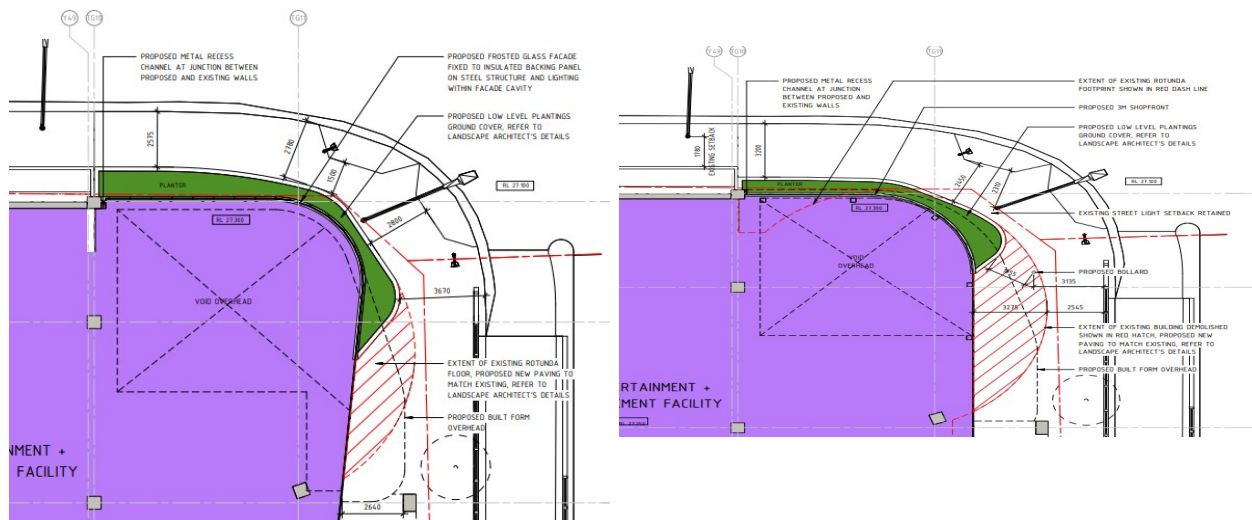
Details of the assessment of these matters is included below.

Circulation area, paving width and light pole

Issues in relation to the circulation space at the Jane Street intersection were raised. Concerns were also raised in relation to the narrow pedestrian way coupled with the activation of the street, the added planter and location of an existing light pole.

It was raised in discussions with the applicant, TfNSW and Council's landscape architect that the existing colonnade should be continued through to the intersection to the north, to allow for a continuous path of travel and to avoid a pedestrian pinch point at the Station end of Riley Street.

The applicant submitted amended plans. The amended design resolves the above mentioned issues as demonstrated in the figures below, with the exception of the raised planter and existing light pole locations. The revised design was reviewed in consultation with Council's landscape architect and conditions of consent are recommended to require the relocation of the existing light pole and the submission of a lighting plan which will ensure adequate and compliant lighting retained to the pedestrian zones and intersection. The raised planter is discussed further below.



Raised planter and pavement material

The raised planter is proposed to be located along the glazing frontage and is partially located outside of the boundary of the site. The applicant informs that part of the reason for the location of the planter is to protect the glazing from shopping trolleys and from general damage. Council's concerns are that the planter is not adequately integrated into the design of the shopping centre and will in its location, become utilised as a seat and will accumulate litter and the potential for the planter being used for the placement of rubbish is high.

The raised planter design was further discussed with the applicant who has agreed to amend the design to locate the planter to be fully within the boundaries of the site and to raise the edge of the planter so that it will not be utilised as a seat, resulting in impacts to pedestrian circulation.

Plans note that existing paving is to be replaced like for like. Council's landscape architect informs that the pavements are to comply with Council's adopted Technical Design Manual which requires a different paver. Whilst it is agreed the technical manual requires a differing paver, like for like replacement is recommended in this instance and replacement paving can be undertaken as part of any future or broader significant upgrade of the shopping centre.

With regard to the design excellence provisions at clause 8.4(a), (b) and (e) above, it is considered that the proposal subject to the recommended conditions including the planter redesign adequately demonstrates design excellence.

Overall the design, signage and materials and finishes, and the extent of glazing are acceptable, particularly having regard to the impacts of design quality on streetscape and in the context of the locally heritage listed Railway Station precinct to the north and north-east. The final design, subject to the conditions will demonstrate design excellence and is acceptable.

Clause 5.10 Heritage conservation

The subject site is located in close proximity to locally listed heritage items numbers 187 and 188, Schedule 5 of PLEP identifies these items as follows:

Item 187 - Station Master's House (former), and
Item 188 - Penrith Railway Station group.

The proposed alterations and additions to the Westfield shopping centre will not impact the integrity or significance of the two listed items or their curtilage. The proposed envelope, materials and finishes are contemporary in style and will not detract from the Railway Station precinct.

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

Draft Environment State Environmental Planning Policy

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

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

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

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

Draft Remediation of Land SEPP

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

The proposed new land remediation SEPP will:

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

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

Public Exhibition of the Explanation of Intended Effect (EIE) - Design & Place SEPP

The proposal is not impacted by the EIE and exhibited SEPP.

Public Exhibition of the Explanation of Intended Effect (EIE) - Housing SEPP

The subject application is not impacted by the EIE for the Housing SEPP.

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

Development Control Plan 2014

| Provision | Compliance |
|------------------------------------------------|---------------------------------------------------------------|
| DCP Principles | Complies |
| C1 Site Planning and Design Principles | Complies |
| C2 Vegetation Management | N/A |
| C3 Water Management | Complies |
| C4 Land Management | Complies |
| C5 Waste Management | Complies |
| C6 Landscape Design | Complies |
| C7 Culture and Heritage | Complies |
| C8 Public Domain | Complies - see Appendix - Development Control Plan Compliance |
| C9 Advertising and Signage | Complies - see Appendix - Development Control Plan Compliance |
| C10 Transport, Access and Parking | Complies |
| C11 Subdivision | N/A |
| C12 Noise and Vibration | Complies |
| C13 Infrastructure and Services | Complies - see Appendix - Development Control Plan Compliance |
| D3.1. Bulky Good Retailing | N/A |
| D3.2. Sex Services Premises | N/A |
| D3.3. Restricted Premises | N/A |
| D5.1. Application of Certification System | Complies |
| D5.2. Child Care Centres | N/A |
| D5.3. Health Consulting Rooms | N/A |
| D5.4. Educational Establishments | N/A |
| D5.5 Parent Friendly Amenities | Complies - see Appendix - Development Control Plan Compliance |
| D5.6. Places of Public Worship | N/A |
| D5.7. Vehicle Repair Stations | N/A |
| D5.8. Cemeteries, Crematoria and Funeral Homes | N/A |
| D5.9. Extractive Industries | N/A |
| D5.10 Telecommunication Facilities | N/A |
| D5.11 Boarding Houses | N/A |
| E11 Penrith | Complies - see Appendix - Development Control Plan Compliance |

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

There are no planning agreements in place, or that have been the subject of public exhibition that apply to this application.

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

The proposal is considered to respond to the requirements of the Environmental Planning and Assessment Regulation 2000, including those that relate to fire safety, public notification and participation. The proposal has been referred to Council's building surveyors with no objections made and is acceptable having regard to fire safety matters and demolition, subject to the recommended conditions of consent.

The application has been lodged as is required, through the NSW ePlanning Portal and the provisions relating to persons who can make development applications are satisfied.

Conditions of consent are recommended in satisfaction of section 98(1)(a) which requires that all work to be carried out, comply with the Building Code of Australia and that if the development involves an excavation that extends below the level of the base of the footings of a building, structure or work on adjacent land, the person having the benefit of the consent must, at the persons own expense protect and support the building, structure or work from damage and where necessary, underpin the building, structure or work.

The development is capable of compliance with the Regulations subject to conditions.

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

Likely impacts of the proposed development, as identified throughout the assessment are discussed below.

Impacts of the development on the community, public domain and on pedestrian circulation

Conditions of consent are recommended in relation to the relocation of an existing light pole and in relation to the public domain works. Amended plans were received which addressed initial concerns surrounding the location of a landscaped planter and glazing which were likely to impact pedestrian circulation at the intersection of Jane and Riley Streets.

Noise and acoustic impacts - Hours of operations

The application seeks approval for operating hours of 9.00am through to 12 Midnight, seven days. The detailed fit-out of the reconfigured and new tenancy is not known at this stage although conditions of consent are recommended to require that this detail be provided to Council prior to the issue of the Construction Certificate.

It is not expected that noise which may emanate from the recreation facility (indoor), will impact on surrounding land uses noting that there are no nearby residential uses and the precinct envisages night time economy and active street frontages.

Further to the above, the site is identified as being within the Eat Street Precinct within the Penrith Night Time Economy Study and Strategy Final Report. The report identifies opportunities to activate the precinct at night, through maximising use of the public realm and improvements to activate the precinct at night. Priority linked actions include to improve lighting in the area, to attract evening outdoor dining and to review options to activate the plaza at night. Conditions of consent are included in relation to the provision of lighting and CCTV.

The proposal for 9.00am to 12 midnight hours of operation is supported. This will allow the area to be sufficiently activated after hours although in line with the Penrith City Council Night Time Economy Study. Conditions are recommended to allow for 8.00am opening in line with retail operators in the vicinity of the site.

Construction impacts

Relevant conditions of consent are recommended. Disruptions to normal conditions will be limited to the period of construction works. Noise and other amenity impacts expected during the construction period are able to be appropriately managed through the conditions of consent.

On balance, the proposed development will activate the frontage of the site to the surrounding streets, will encourage night time economy and will have a positive impact in the locality.

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

The site is assessed to be suitable for the proposed development, subject to the recommended conditions.

Section 4.15(1)(d) Any Submissions

Community Consultation

The development application was notified, exhibited and advertised in accordance with the requirements of the Environmental Planning and Assessment Regulations and Council's Community Participation plan between 19 April and 3 May 2021. No submissions were received.

Referrals

The application was referred to the following stakeholders and their comments have formed part of the assessment:

| Referral Body | Comments Received |
|------------------------------------------|---------------------------------------|
| Building Surveyor | No objections - subject to conditions |
| Development Engineer | No objections - subject to conditions |
| Environmental - Environmental management | No objections - subject to conditions |
| Environmental - Waterways | No objections - subject to conditions |
| Environmental - Public Health | No objections - subject to conditions |
| Traffic Engineer | No objection subject to conditions |
| Community Safety Officer | No objections - subject to conditions |
| Social Planning | No objections |

Section 4.15(1)(e)The public interest

The proposed development will not generate any significant issues of public interest. Issues related to public safety, noise generation, hours of operation, lighting and hoarding and construction are addressed through the recommended conditions of consent.

Conclusion

The development is found to be satisfactory having regard the the matters for consideration under section 4.15 of the Environmental Planning and Assessment Act 1979. In assessing this application against the applicable environmental planning instruments including Penrith Local Environmental Plan 2010 and the Penrith Development Control Plan 2014, the proposed development is found to satisfy the aims, objectives and provisions of these policies, subject to the recommended conditions of consent.

Subject to conditions, the proposal will have a positive impact on the surrounding character of the area and assist in the activation and design quality of development adjoining the public domain. Further, Transport for NSW have given their concurrence to the application.

The proposal complies with key development standards, planning guidelines and policies for the Precinct, will deliver design excellence and is thus is not contrary to the public interest.

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

Recommendation

1. That DA21/0217 for alterations and additions to the Westfield shopping complex at 569 - 595 High Street, Penrith, be Approved subject to the attached conditions, and
2. That those making submissions, and relevant State agencies are notified of the determination.

CONDITIONS

General

1 A001 - Approved plans table

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

| Plan or Report | Plan no. | Prepared by | Revision | Date |
|---------------------------------------------------------------------------------|-----------------------------|------------------------------|----------|---------------|
| Architectural Plans | | | | |
| Cover Page | 01.0001 | Scentre Group | 2 | 27/07/2021 |
| Existing & Demo Plan Basement | SDC-01.0551 | Scentre Group | 2 | 27/07/2021 |
| Existing & Demo Plan Level 1 | SDC-01.0552 | Scentre Group | 2 | 27/07/2021 |
| Existing & Demo Plan Level 1M | SDC-01.0553 | Scentre Group | 2 | 27/07/2021 |
| Existing & Demo Plan Level 2 | SDC-01.0554 | Scentre Group | 2 | 27/07/2021 |
| Existing & Demo Plan Level 2M | SDC-01.0555 | Scentre Group | 2 | 27/07/2021 |
| Existing & Demo Plan Level 3 | SDC-01.0556 | Scentre Group | 1 | 30/03/2021 |
| Existing & Demo Plan Roof (Level 4) | SDC-01.0557 | Scentre Group | 1 | 30/03/2021 |
| Proposed Basement Plan | SDC-01.0851 | Scentre Group | 2 | |
| Proposed Plan Level 1 | SDC-01.0852 | Scentre Group | 2 | 27/07/2021 |
| Proposed Plan Level 1M | SDC-01.0853 | Scentre Group | 2 | 27/07/2021 |
| Proposed Plan Level 2 | SDC-01.0854 | Scentre Group | 2 | |
| Proposed Plan Level 2M | SDC-01.0855 | Scentre Group | 2 | 27/07/2021 |
| Proposed Plan Level 3 | SDC-01.0856 | Scentre Group | 2 | 27/07/2021 |
| Proposed Roof (Level 4) | SDC-01.0857 | Scentre Group | 2 | 27/07/2021 |
| Facade Corner Detail | SDC-01.1000 | Scentre Group | 2 | 27/07/2021 |
| North Elevation Jane Street | SDC-01.2001 | Scentre Group | 2 | 27/07/2021 |
| East Elevation Riley Street | SDC-01.2002 | Scentre Group | 2 | 27/07/2021 |
| Proposed Sections Vertical Transport | SDC-01.2501 | Scentre Group | 2 | 27/07/2021 |
| Proposed Sections Facade Corner Riley & Jane Street | SDC-01.2502 | Scentre Group | 2 | 27/07/2021 |
| Facade Corner Detail Sections | SDC-01.2600 | Scentre Group | 2 | 27/07/2021 |
| Signage Strategy | SDC-01.2700 | Scentre Group | 2 | 27/07/2021 |
| Proposed Materiality | SDC-01.3001 | Scentre Group | 1 | 30/03/2021 |
| Perspective View View 01 | SDC-01.3002 | Scentre Group | 2 | 27/07/2021 |
| Perspective View View 02 | SDC-01.3003 | Scentre Group | 2 | 27/07/2021 |
| Other Plans and Reports | | | | |
| Survey Plan | SDC-01.0003 | Scentre Group | 1 | 30/03/2021 |
| Site Plan | SDC-01.0004 | Scentre Group | 2 | 27/07/2021 |
| Westfield Panrith Alterations + Additions Landscape Maintenance Plan | LMS-01 | Urbis | A | 5 March 2021 |
| Westfield Penrith Alterations & Additions Public Domain Development Application | | | | 30 July 2021 |
| Westfield Penrith DA Access Report | - | Access Australia | - | 29 July 2021 |
| Revised Traffic Engineering Assessment | 620.30199-L02-v1.1-20210730 | SLR | - | 30 July 2021 |
| Stormwater Management Statement | - | Arcadis Design & Consultancy | - | 26/03/2021 |
| BCA Assessment | 2020/1737 | Steve Watson & Partners | - | 25 March 2021 |
| Fire Engineering Statement | Report 2020/1662-R3.0 | FEP | Rev 3.0 | 30 March 2021 |
| SEPP 55 Advice | JBS&G 60282-136335 | JBS&G | Rev 0 | 25 March 2021 |
| Waste Management Plan | - | Scentre Group | 1.0 | 30 March 2021 |

2 A001a - A TfNSW

Those acting on the consent are to ensure the development remains compliant with the advice provided by Transport for New South Wales in letter reference number SYD21/00628/02, dated 23 August 2021 under CNR-22496.

3 **A001a - Approved Hours of Operation**

The approved hours of operation for the tenancy to be used as a Recreation Facility (Indoor) are 8.00am to 12 Midnight, seven days.

4 **A001b - Special - Design Alterations**

Prior to the commencement of works approved by this consent and prior to the issue of a Construction Certificate, plans are to be amended and re-submitted to the Manager of Development Services at Penrith City Council for review and approval, which address the following:

(a). The raised planter must be:

- relocated to be within the boundaries of the subject property,
- to have a minimum internal planter width of 300mm,
- of an increased height such that the planter wall cannot be used as a seat, and
- it is to be design to include irrigation to ensure planting is sustainable.

(b). Plans are to be amended to indicate that the existing light pole located on the corner of Jane and Riley Streets is relocated and replaced as follows:

- the new location of the light pole is to be outside the boundaries of the property,
- is to be located so as not to be in the pedestrian way,
- is to be informed by a lighting study or technical advice from a suitably qualified and experience lighting engineer or designer so as to achieve suitable levels of illumination compliant with applicable Australian Standards, and
- is to be upgraded to match Council's street light pole typology ('Eden') as is detailed in the Penrith Public Domain Technical Manual or as agreed by Council's Landscape Coordinator.

The applicant is to liaise with Endeavour Energy and any other impacted utility provider, prior to the finalisation of the pole location to ensure no objections are raised.

5 **A001d - Hoarding - Special**

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

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

6 **A003 - Public Domain, CCTV and Lighting Plan**

Prior to the issue of a Construction Certificate, a final public domain and lighting plan is to be submitted for review and approval, to the Manager of Development Services at Penrith City Council. The final plans are to be fully detailed and are to be elevated to For Tender or For Construction quality and are to include:

- Details of Tactile Ground Surface Indicators (TGSi) which are to be installed at kerb ramps compliant with AS 1428.4.1 and in compliance with the applicable provisions of the Penrith Public Domain Technical Manual,
- All nominated paving materials, falls and any installation notation, and
- The location and type of the relocated street light pole.

Those acting on the consent are to ensure that all new or replacement paving is laid and constructed in compliance with the requirements of Penrith City Council and adequate detail to ensure that this occurs is provided on the For Construction set of plans.

Plans and/or reports are to confirm that CCTV is to be installed and is to cover the frontage and public entrances of the tenancies forming the subject of this consent.

The Principal Certifying Authority is to be provided with a copy of the Council approved final public domain and lighting plan(s) **prior to the issue of a Construction Certificate**.

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

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

8 **A006 - Construction access and safety**

If the development involves an excavation that extends below the level of the base of the footings of a building, structure or work (including any structure or work within a road corridor) on adjoining land, the person having the benefit of this development consent must, at the person's own expense -

- (a) protect and support the building, structure or work from possible damage from the excavation, and
- (b) where necessary, underpin the building, structure or work to prevent any such damage.

9 **A008 - No ATMs**

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

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

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

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

11 **A011 - Engineering Works DCP**

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

12 **A012 - Food Act**

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.

13 **A019 - OC**

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

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

Prior to the issue of a Construction Certification, plans are to be amended to provide the following and are to be reviewed and approved by the Manager of Development Service at Penrith City Council:

- Detailed internal tenancy layout plans indicating all food fit out, preparation and storage areas. Materials, dimensions and surfaces are to be nominated.
- All floor wastes, sinks, basins, cleaning sinks and staff areas are to be detailed.

Plans are to be amended to indicate that the tenancy approved for use as a recreation facility (indoor) is provided with its own male, female and accessible amenities and a parent/carer room which contains the following:

- A minimum of one sink with hot and cold water provided (hot water to be thermostat regulated not to exceed 50 degrees C),
- Hand drying facilities adjacent to hand basin,
- A minimum of one nappy disposal unit,
- Bench space for food preparation area minimum 950mm wide by 1.8m long,
- A microwave for use in the parent/carer room and an additional power point to the food preparation area,
- Cleansing wipes or similar to the change table areas,
- A baby change table which must have either a protective side of 100mm or a belt, to prevent a baby from rolling off,
- A door entry of a minimum of 1m width to allow for double prams,
- Hand dryers to all hand washing areas,
- A minimum of one low height child hand wash basins and soap dispensers within the male and female toilet hand wash areas.

In the design of the above, consideration is to be given to Section 5.5, Chapter D5 of the Penrith Development Control Plan 2014.

15 **A030 - Food business**

Prior to the issue of a Construction Certificate for the relevant stage of works, detailed tenancy fit-out information and floor plans are to be provided to the Penrith City Council for review and approval for any business/tenancy where there will be food for sale, as defined under the Food Act 2010.

The information and plans must demonstrate compliance with the Food Standards Code 3.2.3 and Australian Standard 4674-2004 *Design, construction and fit-out of food premises* for all food preparation and storage areas and toilets used by food handlers. All surfaces, including wall and floor are to comply with the relevant standards. Where mechanical ventilation and/or grease arrestors are required, details of the system(s) and location(s) are to be details on the plans and the design is to comply with the applicable Australian Standards.

16 **A032 - Goods in buildings**

All materials and goods associated with the uses shall be contained within the building at all times.

17 **A039 - Graffiti**

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

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

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

19 **A050 Special CPTED Requirements**

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

(a) Lighting

- All outdoor/public spaces fronting the approved development must be lit to the minimum Australian Standard of AS 1158. Lighting must be consistent in order to reduce the contrast between shadows and illuminated areas and must be designed in accordance with AS 4282 - Control of the obtrusive effects of outdoor lighting.

(b) Car Parking

- All areas of the car park must be well-lit, with consistent lighting to prevent shadowing or glare. This includes lighting of the new travelators and landing areas within the car park.

(c) Building Security & Access Control

- CCTV is to be provided to cover communal public space areas. Cameras must be of sufficient standard to be useful for police in the event of criminal investigations. Lighting must be provided to support cameras at night (alternatively infra-red cameras are recommended). Signage must be displayed to indicate that CCTV cameras are in use.

Advisory notes:

- Graffiti resistant coatings are to be used to external surfaces where possible, including signage, furniture, retaining walls etc and procedures are to be in place to ensure the prompt removal and/or repair of graffiti or vandalism to the building and nearby public common areas. This includes reporting incidents to police and/or relevant authorities.
- Any approved external vegetation is to be regularly pruned to ensure that sight lines are maintained.

Demolition

20 **B002 - AS FOR DEMOLITION AND DISPOSAL TO APPROVED LANDFILL SITE**

All demolition works are to be conducted in accordance with the provisions of AS 2601-2001 "The Demolition of Structures". **Prior to demolition**, all services shall be suitably disconnected and capped off or sealed to the satisfaction of the relevant service authority requirements.

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

21 **B004 - Dust**

Dust suppression techniques are to be employed during demolition and construction works to reduce any potential nuisance and public health impact.

Environmental Matters

22 D001 - Implement approved sediment& erosion control measures

Erosion and sediment control measures shall be installed prior to the commencement of works on site.

The erosion and sediment control measures are to be maintained in accordance with the Department of Housing's "Managing Urban Stormwater: Soils and Construction" 2004, until works are completed.

23 D006 - No filling without prior approval (Use always, except for bulk earthworks/ major fill 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, considered and approved by Council.

The Validation Certificate shall:

- state the legal property description of the fill material source site,
- be prepared by an appropriately qualified person 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.

Advisory note: For the purpose of this condition, 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.

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.

24 D026 - Liquid wastes

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

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

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

25 D Special - Unexpected Finds

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

Advisory note: For the purpose of this condition, an appropriately qualified person is defined as "a person who, in the opinion of Council, has a demonstrated experience or access to experience in relevant areas". In addition, the person will be required to have appropriate professional indemnity and public risk insurance.

BCA Issues

26 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 performance 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

27 F - Registration

All retail food businesses in the Penrith City Council area must be registered with Council and are subject to routine health and hygiene inspections. Prior to the commencement of any food business the food business must be registered with Penrith City Council. Registration of Food Premises forms are available on Council's website.

Advisory note: Please ensure that Council has up-to-date information about the owner and contact details of any food business.

Utility Services

28 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.

29 G004 - Integral Energy

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

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

Construction

30 **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 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.

31 **H041 - Hours of work (other devt)**

Demolition and 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, 7.00am to 6.00pm
- Saturdays, 7.00am to 1.00pm if inaudible on neighbouring residential premises, otherwise 8.00am to 1.00pm
- No work is permitted on Sundays and Public Holidays.

Other demolition or construction works carried out inside a building/tenancy and that do not involve the use of equipment that emits noise 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 demolition and construction works.

32 **H Special - BCA1**

Prior to the issue of an Occupation Certificate, a handrail complying with Part D2.17 of the Building Code of Australia is to be installed to the existing stairs leading to the fire exit located at the most south western part of the proposed works of the basement level car park.

33 **H Special BCA2**

Prior to the issue of an Occupation Certificate, the bottom step of the existing staircase located at the most south western part of the proposed works of the basement level car park that leads to the fire exit are to be made good and comply with Part D2.13 of the Building Code of Australia.

Engineering

34 **K101 - Works at No Cost to Council**

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

35 **K201 - Infrastructure Bond**

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

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

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

36 **K202 - S138 Roads Act - Minor Works in the Public Road**

Prior to the issue of any Construction Certificate, a Section 138 Roads Act application, including payment of application and inspection fees together with any applicable bonds, 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) Any signage which overhangs the road reserve, inclusive of 'Westfield' building identification signage along the Jane Street facade,
- b) Vehicular crossings (including kerb reinstatement of redundant vehicular crossings)
- c) Concrete footpaths and or cycleways
- d) Road opening for utilities and stormwater (including stormwater connection to Penrith City Council roads and other Penrith City Council owned drainage)
- e) Road occupancy or road closures (including temporary construction work zones and tower crane operation)
- f) The placement of hoardings, structures, containers, waste skips, signs, etc in the road reserve
- g) Temporary construction access
- h) Temporary ground anchors (for basement construction)

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

Advisory notes:

- 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.
- Separate approval may be required from Transport for NSW for classified roads and in particular if signage overhangs a Classified Road, further approvals may be necessary.
- All works associated with the Roads Act approval must be completed prior to the issue of any Occupation Certificate.
- On completion of any awning or signage over the road reserve, a certificate from a practising structural engineer certifying the structural adequacy of the awning or signage is to be submitted to Council before Council will inspect the works and issue its final approval under the Roads Act.

37 **K209 - Stormwater Discharge - Minor Development**

Stormwater drainage from the site shall be discharged to the existing site drainage system.

The stormwater drainage system shall be designed in accordance with Penrith City Council's Stormwater Drainage Specification for Building Developments. The design shall ensure that the development has no adverse impact on adjoining properties by the diversion, damming or concentration of stormwater flows.

The proposed method of stormwater discharge shall be detailed in the Construction Certificate issued by the Certifier.

38 **K222 - Access, Car Parking and Manoeuvring - General**

Prior to the issue of any Construction Certificate, the Certifier shall ensure that vehicular access, circulation, manoeuvring, pedestrian and parking areas associated with the subject development are in accordance with Penrith City Council's Development Control Plan, AS 2890.1, AS 2890.2 and AS 2890.6.

39 **K301 - Sediment & Erosion Control**

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

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

40 **K302 - Traffic Control Plan**

Prior to commencement of any works associated with the development, a Traffic Control Plan, including details for pedestrian management, shall be prepared in accordance with AS 1742.3 Traffic Control Devices for Works on Roads and the Transport for NSW (TfNSW) publication Traffic Control at Worksites, and certified by an appropriately accredited TfNSW Traffic Controller.

Traffic control measures shall be implemented during the construction phase of the development in accordance with the certified plan. A copy of the plan shall be available on site at all times.

Note:

- A copy of the Traffic Control Plan shall accompany the Notice of Commencement to Penrith City Council.
- Traffic control measures may require road occupancy / road closure approvals issued under Section 138 of the Roads Act by Penrith City Council prior to the issue of any Construction Certificate.

Landscaping

41 **L002 - Landscape construction**

Approved landscaping for the development must be constructed by an appropriately experienced and qualified landscape professional and any raised planters are to be provided with integrated irrigation.

42 **L003 - Report requirement**

Should the landscaped raised planter be retained, the following report relating to this landscaping element is to be submitted to the nominated consent authority at the appropriate time period as listed below. The report shall be prepared by a landscape professional.

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.

43 **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, and
- AS 4454 Composts, Soil Conditioners and Mulches.

Development Contributions

44 **N001a - Section 7.11 contribution (apply separate condition for each Contribution Plan)**

This condition is imposed in accordance with Penrith City Council's City Wide Section 7.12 Development Contributions Plan for Non-Residential Development.

Based on the current rates detailed in the accompanying schedule attached to this Notice, **\$90,804.00** is to be paid to Penrith City Council prior to the issue of 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 Contributions Plan. The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule.

Council should be contacted prior to payment to ascertain the rate for the current quarterly period. The section 7.12 invoice accompanying this consent should accompany the contribution payment. Council's Section 7.12 Contributions Plan may be inspected at Council's Civic Centre, 601 High Street, Penrith or may be viewed on Council's website.

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.

Payment of Fees

45 **P001 - Costs**

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

46 **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

47 **Q01F - Notice of Commencement & Appointment of PCA2**

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

- (a) employ a Principal Certifier 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 Certifier shall submit to Council an "Appointment of Principal Certifier" 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.

48 **Q05F - Occupation Certificate for Class10**

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

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

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

Appendix - Development Control Plan Compliance

Development Control Plan 2014

Part C - City-wide Controls

Section C8 Public Domain

The proposed development complies with the Design Principles of the Section including that public access to the public domain is maximised by provision of building entrances, provision of natural surveillance, avoidance of blank walls or barriers, provision of views to and from the public domain from the building and ensuring that accessibility and adaptability is addressed.

Clause 8.1 Pedestrian Amenity

Objectives of the clause include to: Improve the permeability of large sites when they are redeveloped for more intensive uses; to ensure that active street frontages address the street and that pedestrian activity, safety and passive surveillance is promoted; to ensure that awnings and street furniture facilitates pedestrian movement; and to ensure that landscaping, public art and place-making principles are incorporated into the public domain.

Related controls include:

- Provision of 'street address' and active frontages and secondary frontages, i.e. continuing glazing around the corner,
- Level access from public domain through to private domain,
- Design having regard to Crime Prevention Through Environmental Design,
- Awnings design to be set back from kerb, 2.8m minimum width with a soffit height of 3.2m to 4m maximum and are to wrap around corners by 6m and be provided with lighting,
- Adequate landscape considerations and public domain integration.

The proposal is considered to comply with the above, specific areas of the design are detailed further below:

- Awnings

In relation to awnings, the existing colonnade heights will be continued and the previously provided awning has been deleted as per the amended plans. There is no proposal to include an awning to the corner or that wraps around the site's corner. On this aspect, the proposal is acceptable in that entry is limited from the north eastern corner and protection from the weather is provided by the colonnade further to the south and is provided at the new tenancy entry point. Conditions of consent are also recommended in relation to the provision of lighting within the colonnade area to assist in night time way finding and security and safety.

- Landscaping

The proposal includes construction of a raised planter which is part within the site boundary and in majority within the road reserve (pavement). As this is impractical from a maintenance and ownership point of view, a condition of consent is recommended to require that this planter be relocated to within the site or be deleted. Refer also to discussion under section 8.4 of PLEP.

- Signage

A condition of consent is recommended to ensure that any signage that is fixed to the buildings facade and which overhangs the road reserve gains the necessary approvals via a Roads Act application. Refer to discussion also under SEPP 64.

Clause 8.5 Public Art

The proposal does not include any public art. Public art will be best contemplated as part of a broader upgrade of the premises.

Section C9 Advertising and Signage

The proposal includes the following signage:

- 1 x Westfield building identification sign, 4.575m x 1.5m located on the upper level north (Jane Street) facade of the shopping centre and,
- 2 x 600mm high projecting wall or blade signs mounted perpendicular to the glazing of the

ground floor shop fronts, fixed a minimum of 2.8m above the pavement.

The signage strategy plans also include two areas for tenant signage located on the ground floor shop facades each measuring 6m x 0.8m.

The signage is considered to be satisfactory when assessed against the DCP provisions, noting that the 'Westfield' signage will be above the road reserve and will require via a Roads Act application and relevant conditions are recommended.

Section C13 Infrastructure and Services

Objectives of the section include to ensure that development will not place unreasonable pressure on servicing authorities in terms of timing and extent of supply and to ensure that consultation has been had with the relevant service provider where necessary. Conditions of consent are recommended in relation to the relocation or installation of services (a light pole).

D5 Other Land Uses

Clause 5.5 of Section D5 Other Land Uses applies to the subject application. The submitted plans do not detail the internal layout of the 1691sqm tenancy and indicate that the tenancy will not have direct internal access to the existing centre's amenities.

A condition of consent is recommended in relation to compliance with Council's DCP controls for parent/carer rooms including clause 5.5 *Parent Friendly Amenities*, D Controls, (2) *Common Requirements for All Sizes of Parenting Rooms* and (4) *Additional requirements for 20sqm parenting rooms*. The condition will require the provision of amenities and also parent/carer facilities being 20sqm or greater containing a accessible parent toilet with toddler toilet, breast feeding area with two seats, nappy disposal facilities, sink, food prep area and bench space with power points and a baby change area.

E11 Penrith

The subject site is located within the Penrith City Centre and as such, Part E11 of the DCP applies. The development proposal is considered to comply with the aims, development controls and objectives and is supportable.

The development is consistent with the aim to encourage development within the City Centre which gives primacy to the public domain and will contribute to an attractive, vibrant and active centre.

The site is located within the Commercial Core precinct and is satisfactory when assessed against the aims and objectives of this precinct, including the requirement for a high quality design and presentation and provision of ground level retail.

The development proposal is built to the street alignment and height in compliance with Figures E11.3 and E11.5, noting that the eastern elevation proposes a colonnade and awning arrangement and the proposal is considered acceptable having regard to the pedestrian amenity and permeability objectives under section 11.3 and 11.3.1. The development will provide an active frontage, increase pedestrian circulation and will provide a covered colonnade connection.

The site and frontages are accessible and provide barrier free access to retail frontages. Conditions are recommended in relation to parent and carer friendly amenities for the recreation facility indoor tenancy.