

PENRITH CITY COUNCIL

NOTICE OF DETERMINATION

DEVELOPMENT APPLICATION DETAILS

Application number:	DA21/0842
Description of development:	Demolition of Existing Commercial Building, Reconfiguration of Building Facades and Public Domain at Glenmore Park Shopping Centre (East Side) and Construction of a Single Storey Food and Drink Building, a 3-4 Storey Commercial Building with Basement Parking, Signage, Landscaping and Outdoor Dining
Classification of development:	Class 5 , Class 6 , Class 7a
Name of Applicant:	Home Co Pty Ltd

DETAILS OF THE LAND TO BE DEVELOPED

Legal description:	Lot 9107 DP 1022720 Lot 9100 DP 1022720
Property address:	9100 Glenmore Parkway, GLENMORE PARK NSW 2745 19 - 31 Town Terrace, GLENMORE PARK NSW 2745 41 Town Terrace, GLENMORE PARK NSW 2745 33 Town Terrace, GLENMORE PARK NSW 2745

DECISION OF CONSENT AUTHORITY

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

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

Decision	Approve
Date from which consent operates	5 April 2022
Date the consent expires	5 April 2027
Date of this decision	1 April 2022

POINT OF CONTACT

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

Assessing Officer:	Sandra Fagan
Contact telephone number:	+61247327992

NOTES

Reasons

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

Conditions

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

Certification and advisory notes

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

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

Review of determination

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

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

Appeals in the Land and Environment Court

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

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

Designated development

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

ATTACHMENT 1: CONDITIONS OF CONSENT

General

1 The development must be implemented substantially in accordance with the following plans stamped approved by Council, the application form, and the following supporting documents submitted with the application (except as may be amended by the conditions of this consent):

- Noise Impact Assessment (Ref: 610.30579-R01), prepared by SLR Consulting Australia Pty Ltd, revision -v1.0, dated 20 October 2021;
- Transport Impact Assessment, prepared by OneMileGrid, dated 24 February 2022;
- Report on Preliminary Site Investigation (Contamination), project 208929.00, prepared by Douglas Partners, revision R.001.Rev), dated 20 September 2021;
- Waste Management Plan, prepared by OneMileGrid, dated 24 February 2022;
- Loading Management Plan, prepared by OneMileGrid, dated 24 February 2022;
- Access Review - DA Final v2, prepared by Morris Goding Access Consultants, dated 29 October 2021;
- Geotechnical Assessment prepared by JK Geotechnics, reference 34445Brpt, dated 30 September 2021;
- Regulatory Compliance Report prepared by McKenzie Group, Revision A, dated 22 September 2021; and
- Consulting Aboricultural Assessment Report for DA, prepared by elke Landscape Architect and Consulting Arborist, revision A, dated 17 October 2021.

Drawing Title	Drawing No.	Revision Number	Prepared By	Dated
<u>Architectural Drawings</u>				
Title Sheet	A-DA-0000	F	Buchan	02.03.2022
Location Plan	A-DA-0100	E	Buchan	28.10.2021
Overall Site Plan	A-DA-0100-1	F	Buchan	02.03.2022
Proposed Site Plan	A-DA-0101	K	Buchan	02.03.2022
Site Analysis	DA-A-0102	B	Buchan	02.03.2022
Existing/Demo Floor Plan	A-DA-0200	F	Buchan	02.03.2022
Existing/Demo East Elevation	A-DA-0300	A	Buchan	28.10.2021
Commercial Building - Basement Level Plan	A-DA-1010	K	Buchan	02.03.2022
Commercial Building 1 - Level 1	A-DA-1011	I	Buchan	04.02.2022

Commercial Building - Level 2	A-DA-1012	F	Buchan	28.10.2021
Commercial Building - Level 3	A-DA-1013	F	Buchan	28.10.2022
Commercial Building - Level 4 Roof	A-DA-1014	E	Buchan	28.10.2022
Overall Proposed Roof Plan	A-DA-1015	E	Buchan	28.10.2022
Dining Precinct Building 2 - Plans 1	A-DA-1020	G	Buchan	02.03.2022
Dining Precinct Building 2 - Plans 2	A-DA-1021	G	Buchan	02.03.2022
Section	A-DA-2000	F	Buchan	28.10.2022
Commercial Building Elevations 1	A-DA-3100	G	Buchan	02.03.2022
Commercial Building Elevations 2	A-DA-3101	G	Buchan	02.03.2022
Sun Study Diagrams	A-DA-3301	C	Buchan	02.03.2022
Dining Precinct Details	A-DA-4001	E	Buchan	02.03.2022
Dining Precinct Details	A-DA-4002	D	Buchan	28.10.2022
Dining Precinct Details	A-DA-4003	E	Buchan	02.03.2022
Dining Precinct Details	A-DA-4004	C	Buchan	02.03.2022
Dining Precinct Details	A-DA-4005	A	Buchan	28.10.2022
3D Views	A-DA-6000	F	Buchan	28.10.2022
3D Views 2	A-DA-6001	C	Buchan	02.03.2022
3D Views 3	A-DA-6002	F	Buchan	02.03.2022
Rendered Views	A-DA-6003	B	Buchan	02.03.2022
Rendered Views	A-DA-6004	B	Buchan	02.03.2022
Rendered Views	A-DA-6005	B	Buchan	02.03.2022

Rendered Views	A-DA-6006	A	Buchan	28.10.2022
Rendered Views	A-DA-6007	A	Buchan	02.03.2022
Rendered Views	A-DA-6008	A	Buchan	02.03.2022
Rendered Views	A-DA-6009	A	Buchan	02.03.2022
<u>Landscape Drawings*</u>				
Coversheet and Site Plan - 2109_b*	L_100	B	elke	1 November 2021
Southern Zone - 2109_b*	L_101	B	elke	1 November 2021
Middle Terraces Zone - 2109_b*	L_102	B	elke	1 November 2021
Northern Lawn Zone - 2109_b*	L_103	B	elke	1 November 2021
DA Details and Planting Schedule - 2109_b*	L_501	A	elke	14 October 2021
Consulting Arboricultural Tree Retention Rating Plan	Arb_601	B	elke	15 October 2021
Consulting Arboricultural Tree Impact Plan	Arb_602	B	elke	15 October 2021
<u>Civil Drawings</u>				
Cover Sheet, Drawing Schedule, Notes and Locality Sketch	21Q16_DA_C000	02	Buchan	04 February 2022
General Arrangement Plan	21Q16_DA_C100	04	Buchan	18 March 2022
Basement Arrangement Plan	21Q16_DA_C101	02	Buchan	02 November 2021

Stormwater Miscellaneous Details and Pit Lid Schedule	21Q16_DA_C200	04	Buchan	18 March 2022
Pump Out Pit Details	21Q16_DA_C201	01	Buchan	29 September 2021
OSD Tank Plan, Section and Details	21Q16_DA_C202	02	Buchan	18 March 2022
Stormwater Catchment Plan	21Q16_DA_C250	02	Buchan	01 November 2021
Stormwater Detail Catchment Plan	21Q16_DA_C251	01	Buchan	04 February 2022
Sediment and Erosion Control Plan	21Q16_DA_SE01	01	Buchan	20 October 2021
Sediment and Erosion Control Typical Sections and Details	21Q16_DA_SE02	01	Buchan	20 October 2021
Bulk Earthworks Cut and Fill Plan	21Q16_DA_BE00	02	Buchan	02 November 2021

* The approved Landscape Drawings referenced in the table above are required to be amended to reflect the amended Architectural Drawings approved by this Development Consent

- 2 **Prior to the issue of any Occupation Certificate**, evidence of lot consolidation and plan registration with NSW Land Registry Services is to be provided to the Certifying Authority and Penrith City Council.
- 3 Prior to the issuing of the Occupation Certificate and commencement of trade, the occupier must register their food business with Penrith City Council by completing Council's "Registration of Premises - Food" Form.
- 4 To assist persons with disabilities, the following changes are required to be submitted with the Construction Certificate application, to the satisfaction of the Principal Certifier and the Access Consultant:
 - The main stair located at the northern end of the site which provides access to and from the single storey pavilion building, is to include two handrails positioned in the middle of those stairs. The purpose of the double hand rail is to assist people in the situation when you have the stairs being used by two persons at the same time, ascending and descending;
 - The lifts required to provide equitable access to the building/s and publicly accessible areas are to be designed to provide the relevant and suitable equitable access; and
 - The plinths (bleachers / bench seating) is to include nosing strips to assist persons using that area.
- 5 The use of the indoor and outdoor dining areas are to be managed and operated in accordance with the

approved Acoustic Report referenced at Condition 1, including the following:

- Operating hours for patrons are between 7am and 10pm, every day;
- The maximum internal capacity of the single storey pavilion building is limited to 80 patrons;
- The maximum internal capacity of the reconfigured multiple occupancies is limited to 120 patrons; and
- The maximum capacity of the outdoor dining areas is limited to 160 patrons.

The landowner / operator of the premises must adopt a Plan of Management, prior to the issue of an Occupation Certificate, relating to the use, management, and operation of the indoor and outdoor dining areas in accordance with this Condition and the approved Acoustic Report. The Plan of Management can be amended / updated periodically and when required so as to address or improve management practices.

- 6 The indoor and outdoor food and drink spaces approved by this Development Consent permit restaurant and cafe type food and drink uses. Any future liquor licence must be relevant to a restaurant or cafe use. Consent is not granted for a pub or small bar use.
- 7 The multi-storey commercial building approved by this Development Consent has been approved for commercial uses, including a retail shop at ground floor, and offices on upper floors, as well as a medical centre on one floor. Should the use relate to a medical centre or professional health consulting rooms, the applicant is to ensure that the future fit-out complies with all of the relevant building and health regulations. The floors to be used as a medical centre also have development consent to be used as offices.
- 8 The signage shown on the approved architectural drawings referenced at Condition 1 are to be flush wall signs that only display occupiers of the host building/s. No part of the signage shall protrude beyond the facade elements of the host building on which the sign is installed. Any illumination is to be incorporated into the signage (internally illuminated) and the lighting of any signage located above the first floor level is to be designed to be able to be dimmed at night time.

The works are to also include relevant and suitable wayfinding signage, that must only be located on the privately owned portions of the subject site, and must only relate to directional and wayfinding (not advertising of users). All wayfinding signage is to be designed with a consistent appearance and detailing and is to be constructed of high quality and durable material.

- 9 Details of lighting is to be submitted with, and form part of, the Construction Certificate application, for approval. Lighting is to be included in and around all publicly accessible spaces and building entries. The Private Certifier shall ensure that all lighting has been installed and is operational prior to the release of any Occupation Certificate.
- 10 Prior to the issue of any Occupation Certificate, the Private Certifier is to ensure that a Loading Management Plan is in place for both approved buildings.

During the use of the buildings, the Loading Management Plan is to be adhered to. It is the responsibility of each tenant and the building manager to ensure that all deliveries, servicing and waste collection from Building 1 is carried out in accordance with the Loading Management Plan, particularly in relation to using 'spotters' prior and while any vehicles over 6.4m in length are carrying out a reverse movement.

It is the responsibility of the building manager and Town Centre operator (applicant) to ensure that the Loading Management Plan is reviewed periodically (minimum of annually) and updated to reflect any required improvements to the operation of the loading area. The Loading Management Plan is not permitted to be amended in a manner that dilutes or removes the need for a 'spotter' as referred to in the current Loading Management Plan, referenced at Condition 1.

- 11 The future fit-out of the retail tenancies for a food and drink use will require a Complying Development Certificate. Such an application should be accompanied by detailed plans showing compliance with the Food Act 2003, Food Regulation 2015, the Australian New Zealand Food Standards Code, Food Safety Standard 3.2.3 “Food Premises and Equipment” and the AS 4674 – 2004 “Design, Construction and Fit Out of Food Premises”. The Private Certifier is to ensure that such relevant standards are met for the future fit-out of the food and drink related premises.

Demolition

- 12 All demolition works are to be conducted in accordance with *AS 2601-2001 - The Demolition of Structures*.

SafeWork NSW requirements apply to demolition work and compliance with those requirements, including the *SafeWork NSW Code of Practice Demolition Work August 2019*, is required.

Prior to demolition, all services shall be suitably disconnected and capped off or sealed to the satisfaction of the relevant service authority requirements.

- 13 Regulatory obligations (including licensing and notification requirements) for the management, control and removal of asbestos are prescribed in the following:

- Work Health and Safety Act 2011,
- Work Health and Safety Regulation 2017,
- SafeWork NSW Code of Practice How to Manage and Control Asbestos in the Workplace August 2019,
- SafeWork NSW Code of Practice How to Safely Remove Asbestos August 2019, and
- Australian Standard AS2601-2001 - The Demolition of Structures.

Compliance with the above legislation is required and reference should be made to SafeWork NSW and to the Asbestos Policy, Penrith City Council, 2014.

All asbestos laden waste must be disposed of at a waste management facility licensed by the NSW Environment Protection Authority to receive asbestos waste.

Environmental Matters

14 No fill material shall be imported to the site until such time as a certificate demonstrating that the material is suitable has been submitted to, considered and approved by Council. This certificate may be in the form of a validation certificate, waste classification, or appropriate resource recovery order/exemption. A copy of a report forming the basis for the validation is also to be provided. The certification shall:

- be prepared by an appropriately qualified person with consideration of all relevant guidelines, standards, planning instruments and legislation (e.g. EPA, NEPM, ANZECC, NH&MRC),
- clearly state the legal property description of the fill material source site and the total amount of fill tested,
- provide details of the volume of fill material to be used in the filling operations,
- provide a classification of the fill material to be imported to the site in accordance with the NSW Environment Protection Authority's "Waste Classification Guidelines" 2014, and
- (based on the fill classification) determine whether the fill material is suitable for its intended purpose and land use and whether the fill material will or will not pose an unacceptable risk to human health or the environment

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

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

15 All demolition and construction 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 are to be fully enclosed when the site is unattended.

16 Waste materials associated with the demolition and construction phase of the development are to be classified and disposed of at a lawful waste facility, or, if suitable, re-used or recycled in accordance with the approved Waste Management Plan. Where the disposal location or waste materials have not been identified in the waste management plan, details shall be provided to the Certifying Authority as part of the waste management documentation accompanying the Construction Certificate application.

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

17 The design and construction recommendations provided in the Noise Impact Assessment prepared by SLR dated October 2021 shall be implemented and incorporated into the design and construction of the development, and shall be shown on plans accompanying the Construction Certificate application.

18 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.

- 19 Construction works shall be carried out in accordance with the NSW Department of Environment and Climate Change's "Interim Construction Noise Guideline" 2009.
- 20 **Prior to the issue of the Construction Certificate**, a Construction Environmental Management Plan (CEMP) is to be prepared by a suitably experienced / qualified person and submitted to Penrith City Council for approval. If Council is not the certifying authority, a copy of Council's approval is to be provided to the Principal Certifying Authority. The CEMP is to address the environmental aspects of the construction phase of the development and is to include details on the environmental management practices and controls to be implemented on the site.

The CEMP is to address, but is not limited to the following:

- Water quality management,
- Noise control and hours of operation, Dust suppression,
- Waste management (including solid and liquid waste),
- Erosion and sediment control,
- Air quality including odour and dust control.

All construction activities on the site are to be implemented and carried out in accordance with the Council approved CEMP.

- 21 **Prior to the issue of the Construction Certificate**, a Construction Waste Management Plan is to be submitted to Council for approval. This Plan is to address all waste materials generated during the construction phase of the development, including details of the proposed waste volumes, on site storage and management, designated waste contractors and waste facilities.

The Council approved Waste Management Plan must be implemented and adhered to on site, with supporting documentation / receipts retained in order to verify the disposal of materials in accordance with the approved Plan.

- 22 **Prior to the issue of the Construction Certificate**, a Construction Noise Impact Assessment and Management Plan, prepared by a suitably qualified acoustic consultant, is to be prepared and submitted to Penrith City Council for approval. This assessment is to consider (at minimum) the noise impacts associated with the construction phase, as well as details of the construction program, construction methods, equipment and vehicles in association with the NSW Department of Environment and Climate Change's "Interim Construction Noise Guideline" 2009.

The recommendations of the Council approved Management Plan are to be implemented and adhered to during the construction phase of the development.

- 23 Amplified music from the development is not to be audible at the boundaries of the property. No amplified music is to be used externally, including in the car park. The provisions of the Protection of the Environment Operations Act 1997 apply to the development, in terms of regulating offensive noise.
- 24 **Prior to the issue of the Occupation Certificate**, a Compliance Certificate, prepared by a suitably qualified acoustic consultant, is to be submitted to the Principal Certifying Authority and be approved by Penrith City Council. The Certificate is to demonstrate that all plant and equipment has been installed to comply with the established noise criteria.
- 25 Offensive odours are not to be emitted from the site. Vapours, fumes, gases, particles or any other substance that are considered to be harmful to human health or the environment or impact unreasonably on a person outside of the premises are not to be emitted from the site.

- 26 Wastewater from the washing of garbage bins and vehicles is not to enter the stormwater system.
- 27 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 (Resilience and Hazards) 2021. 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.

- 28 **Following demolition works and prior to the commencement of any other works**, a further assessment of contamination by an appropriately qualified person is to be undertaken. This assessment is to supplement the Report on Preliminary Site Investigation (Contamination) prepared by Douglas Partners dated September 2021 and is to be undertaken in accordance with relevant NSW Environment Protection Authority Guidelines, the National Environment Protection (Assessment of Site Contamination) Measure 1999 [NEPC2013] and Penrith Development Control Plan.

The assessment is to include (but not be limited to) further sampling to be undertaken as recommended in the Report on Preliminary Site Investigation (Contamination) prepared by Douglas Partners, dated September 2021, and is to be such that the assessment provides confidence that it can determine the state of the land.

The assessment is to be provided to Penrith City Council for approval. If Penrith City Council is not the certifying authority, a copy of Council's approval is to be submitted to the Private Certifying Authority. No works are to commence until the assessment has been submitted and approved by Penrith City Council.

Should it be identified in the assessment that remediation works are required to be undertaken on the site, a separate development application is to be submitted to Council for this work. No work on the current development is to proceed until such time as this new application has been approved by Council, and Council has approved the Validation Report associated with the remediation works.

- 29 Noise levels from the premises shall not exceed the relevant noise criteria detailed in Noise Impact Assessment prepared by SLR dated October 2021. The provisions of the Protection of the Environment Operations Act 1997 apply to the development, in terms of regulating offensive noise.

BCA Issues

30 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.

31 The Construction Certificate application is to include details demonstrating compliance with the recommendations and requirements of the Access Review Report, prepared by Morris Goding, referenced at Condition 1. The Private Certifier is to be satisfied that access and facilities for persons with a disability is provided. This is to include all tenancies of the buildings approved and the outdoor dining areas, with adequate connections to public streets and the car park area on Town Terrace.

Utility Services

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

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

33 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. This includes any easement for access that is required by Endeavour Energy in relation to the substation or utility infrastructure. The Private Certifier is to ensure that any required easement is registered on title prior to the release of any Occupation Certificate for the 3-4 storey commercial building, known as Building 1.

34 The applicant is to take into account the advice provided by Endeavour Energy in their referral response by letter dated 7 December 2021.

35 The substation is only approved in the position shown on the architectural drawings referenced at Condition 1. Any relocation of the substation to any area of the site which is either visible to the public or on a property boundary facing a public space (including a street or road) is not approved and shall require a modification of this development consent, or written approval by Council staff for the relocated position.

36 **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

37 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.

38 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 back filling 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.

39 Dust suppression techniques are to be employed during all works to reduce any potential nuisances to surrounding properties.

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

41 All works that involve the use of heavy vehicles, heavy machinery and other equipment likely to cause offence to adjoining properties, are restricted to the following hours in accordance with the NSW Department of Environment and Climate Change's "Interim Construction Noise Guideline" 2009:

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

In the event that the work relates to activities inside the building and does not involve external walls or the roof, and does not involve the use of equipment that emits offensive noise, then the works are not restricted to the hours stated above. The provisions of the Protection of the Environment Operations Act 1997 in regulating offensive noise also apply to all works.

Engineering

- 42 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.
- 43 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.

- 44 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) Vehicular crossings (including kerb reinstatement of redundant vehicular crossings)
 - b) Road opening for utilities and stormwater (including stormwater connection to Penrith City Council roads and other Penrith City Council owned drainage)
 - c) Road occupancy or road closures (including temporary construction work zones and tower crane operation)
 - d) The placement of hoardings, structures, containers, waste skips, signs, etc in the road reserve
 - e) Temporary construction access
 - f) Temporary ground anchors (for basement construction)
 - g) Relocation of existing accessible parking spaces within Town Terrace

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.

Note:

- 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.
- Separate approval may be required from Transport for NSW 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.
- 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.

- 45 The stormwater management system shall be consistent with the plan/s lodged for development approval, prepared by Henry & Hymas, reference number 21Q16_DA_C100, revision 04, dated 18/03/2022 and 21Q16_DA_C101, revision 02, dated 02/11/2021.

Prior to the issue of any Construction Certificate, the Certifier shall ensure that the proposed swale and drainage line P-3 to P-1 is relocated out of the Town Terrace road reserve and wholly contained within the development site.

Prior to the issue of any Construction 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.

Engineering plans and supporting calculations for the stormwater management system are to be prepared by a suitably qualified person and shall accompany the application for a Construction Certificate.

- 46 Prior to the issue of any Construction 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 Plumbing and Drainage - Stormwater Drainage.
- 47 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.
- 48 Prior to the commencement of any works on-site (including demolition works) or prior to the issue of any Construction Certificate, whichever occurs first, a Construction Traffic Management Plan (CTMP) shall be submitted to Penrith City Council's Asset Management Department for endorsement. The CTMP shall be prepared by a suitably qualified consultant with appropriate training and certification from Transport for NSW. 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 Asset Management Department on 4732 7777 and refer to Council's website for a copy of the Temporary Road Reserve Occupancy Application Form.
- 49 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.
- 50 Prior to commencement of any works associated with the development, a Traffic Guidance Scheme, 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 Technical Manual, 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 Guidance Scheme 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 or Subdivision Works Certificate.

- 51 Upon completion of all works in the road reserve, all verge areas fronting 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.
- 52 Prior to the issue of any Occupation Certificate, the Principal Certifier shall ensure that all works associated with a Section 138 Roads Act approval have been inspected and signed off by Penrith City Council.
- 53 Prior to the issue of any Occupation Certificate, works-as-executed drawings, final operation and maintenance management plans and any other compliance documentation for the stormwater management system shall be submitted to the Principal Certifier in accordance with Penrith City Council's Engineering Construction Specification for Civil Works, Stormwater Drainage Specification for Building Developments and WSUD Technical Guidelines.

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 Penrith City Council is not the Principal Certifier.

- 54 Prior to the issue of any Occupation Certificate, the Principal Certifier shall ensure that the:
- a) Stormwater management systems (water quality device)
 - have been satisfactorily completed in accordance with the approved Construction Certificate and the requirements of this consent;
 - have met the design intent with regard to any construction variations to the approved design, and;
 - 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.

- 55 Prior to the issue of any Occupation Certificate, a restriction on the use of land and positive covenant relating to the:
- a) Stormwater management systems (water quality device)

shall be registered on the title of the property. The restriction on the use of land and positive covenant shall be in Penrith City Council's standard wording as detailed in Council's Stormwater Specification for Building Developments - Appendix F.

56 The stormwater management system 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.

57 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.

58 Prior to the issue of any Construction Certificate, the Certifier shall ensure that the required sightlines around the basement entrance are not compromised by landscaping, fencing, signage or other obstructions.

59 All parking spaces are to be sealed and line marked and dedicated for the parking of vehicles only and not to be used for the storage of materials/products/waste materials etc.

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

Landscaping

61 All landscape works are to be constructed in accordance with the stamped approved plans and the Arborist Report referenced at Condition 1 and Penrith Council's Development Control Plan.

Landscaping shall be maintained:

- in accordance with the approved plan, 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.

62 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.

63 The trees identified for retention in the Arborist Report, Landscape Plans, and Architectural Drawings, all referenced at Condition 1 shall be retained and duly protected during the construction of the development.

Should the tree marked on the Architectural Drawings as being "*retain existing trees if possible*" be removed, replacement tree/s shall be planted in its place and in approximately a similar position, or a suitable position to provide shade to the grassed area.

Tree protection measures shall:

- include information relating to the proposed hardstand structures to be placed near the central Ficus Tree with regard to ensuring that the structures are robust enough to withstand growth of the tree roots of this tree, with an emphasis on protecting the tree, and its future normal growth, and
- be installed before any works can commence on site including the clearing of site vegetation, and
- comply with the standards prescribed by the Tree Management Plan, and
- be certified by the author of the Arborst Report before any works can commence on site. The certification is to be a Compliance Certificate or other written document certifying that the tree protection measures have been installed in accordance with the recommendations in the approved Arborst Report and/or Tree Management Plan. The Compliance Certificate or other suitable documentation shall be submitted to the Principal Certifier a minimum 2 days prior to the commencement of site works. A copy of the Compliance Certificate or written documentation is to be submitted to Council with the "Notice of Commencement".

64 Any sandstone removed during the works is to be retained, cleaned, and reused in the proposed new works, as far as reasonably practical.

Section 94

65 This condition is imposed in accordance with Penrith City Council's Section 7.12 Contributions Plan for Non-Residential Development. Based on the current rates detailed in the accompanying schedule attached to this Notice, **\$117,442.00 is to be paid to Council prior to a Construction Certificate being issued for this development** (the rates are subject to quarterly reviews). If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted Section 7.12 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.

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

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

67 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 Certifier 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.

68 An Occupation Certificate is to be obtained from the Principal Certifier on completion of all works and prior to the occupation of any of the buildings approved by this Development Consent.

The Occupation Certificate shall not be issued if any conditions of this consent, but not the conditions relating to the operation of the development, are outstanding. This includes all works shown on publicly accessible areas, such as landscaping, parking, bench seating, stairs, lighting, and the like.

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 Certifier.

SIGNATURE

Name:	Sandra Fagan
Signature:	

For the Development Services Manager