

PENRITH CITY COUNCIL

NOTICE OF DETERMINATION

DESCRIPTION OF DEVELOPMENT

Application number:	DA20/0509
Description of development:	Construction of a Single Storey Building for a Pub and Associated Car Parking Spaces, Stormwater Management and Landscaping Works
Classification of development:	Class 6 , Class 9b

DETAILS OF THE LAND TO BE DEVELOPED

Legal description:	Lot 3989 DP 1190132
Property address:	3989 Lakeside Parade, JORDAN SPRINGS NSW 2747

DETAILS OF THE APPLICANT

Name & Address:	Stimson Urban & Regional Planning PO Box 1912 PENRITH NSW 2751
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DECISION OF CONSENT AUTHORITY

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

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

Date from which consent operates	3 August 2021
Date the consent expires	3 August 2025
Date of this decision	29 July 2021

POINT OF CONTACT

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

Assessing Officer:	Jane Hetherington
Contact telephone number:	+612 4732 8078

NOTES

Reasons

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

Conditions

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

Certification and advisory notes

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

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

Review of determination

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

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

Appeals in the Land and Environment Court

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

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

Designated development

If the application was for designated development and a written objection was made in respect to the application, the objector can appeal against this decision to the Land and Environment Court within 56 days after the date of this notice.

If the applicant appeals against this decision, objector(s) will be given a notice of the appeal and the objector(s) can apply to the Land and Environment Court within 56 days after the date of this appeal notice to attend the appeal and make submissions at that appeal.

Sydney Western City Planning Panels

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

OTHER APPROVALS

APPROVAL BODIES

APPROVAL BODY NAME	DATE OF GENERAL TERMS OF APPROVAL	REF. NO.	NO. OF PAGES	RELEVANT LEGISLATION
Natural Resources Access Regulator	11/11/2020	IDAS1129520	3	Water Management Act 2000

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

ATTACHMENT 1: CONDITIONS OF CONSENT

General

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

Drawing Title	Drawing No.	Prepared By	Dated
Site Plan	DA010 (Rev. 6)	Team2 Architects	14/04/21
Roof Plan	DA050 (Rev. 5)	Team2 Architects	14/04/21
Ground Floor Plan	DA100 (Rev. 6)	Team2 Architects	16/12/20
Elevations	DA200 (Rev. 5)	Team2 Architects	14/04/21
Sections	DA300 (Rev. 4)	Team2 Architects	14/04/21
External Finishes Schedule	DA700 (Rev. 2)	Team2 Architects	12/11/20
Signage Details	DA701 (Rev. 1)	Team2 Architects	29/10/20
Stormwater Drainage Plans	No. 21933-001 (Rev. 2)	EWFW Consulting Engineers	17/11/20
Landscape Plan	JS-000 - JS-601 (Rev F/G/J/B)	Site Image Landscape Architects	23/04/21 06/04/21 20/10/20

- 2 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.

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

A satisfactory inspection from an authorised officer of Council's Environmental Health Department is required prior to the issue of the Occupation Certificate. The occupier is to contact the Environmental Health Department to organise an appointment at least 72 hours prior to the requested inspection time.

- 4 The business is to be registered with Penrith City Council by completing the "Registration of Premises" form. This form is to be returned to Council prior to the issuing of the occupation certificate and operation of the business.

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

- 6 **Prior to the issue of a Construction Certificate**, the design recommendations of the Access Design Assessment Report, prepared by Design Confidence and dated 17 July 2020 shall be incorporated into the Construction Certificate plans. The works shall be certified accordingly by a suitably qualified access consultant **prior to the issue of an Occupational Certificate**.

- 7 **Prior to the issue of an Occupation Certificate**, the car park is to be sign posted with a message reminding patrons of the residential surroundings and to remain quiet.

- 8 The Plan of Management must be complied with at all times during the operation of the approved development.

- 9 The operator must ensure that the behaviour of patrons entering and leaving the premises does not detrimentally affect the amenity of the neighbourhood. In this regard, the operator/management team are

responsible for noise management and minimisation as well as litter generated by patrons of the premises and must ensure that patrons leave the vicinity of the premises in an orderly manner to the satisfaction of Council and the Licensing Authority.

- 10 The maximum number of people (including staff and customers) in the premises shall be no more than 320 people at any one time. In accordance with the requirements of the approved acoustic report, no more than 24 patrons are permitted in the beer garden area and no more than 120 patrons are permitted in enclosed semi outdoor seating area at any one time. No patrons are permitted in the semi outdoor seating area if more than 20 square metres of windows are open.
- 11 At least two courtesy buses shall be available and on call whenever the premises is open for business. The availability of the buses is to be promoted to the local community (by way of development website and patron information), The buses are to be provided as a free service and the nature of their operation including frequency of collection and drop off, as well as catchment is to be outlined within the Plan of Management which is to be submitted to, and approved by the Development Services Manager prior to the issue of an Occupation Certificate.

The Plan of Management is to be amended to address the matters outlined within this determination by way of conditions of consent. The Plan of Management is to be periodically reviewed (at least annually) and revisions to the Plan are to be made to address and mitigate operational issues if they arise. A copy of the in force Plan of Management is to be provided to Council and the Plan of Management is to be reviewed and revised as outlined within the approved Plan.

- 12 **Prior to the issue of an Occupation Certificate**, a Bush Fire Emergency Management and Evacuation Plan must be prepared and be consistent with the NSW RFS document: A Guide to Developing a Bush Fire Emergency Management and Evacuation Plan and should include the planning for the early relocation of occupants. A copy of the Bush Fire Emergency Management and Evacuation Plan should be provided to the Local Emergency Management Committee for its information prior to occupation of the development.
- 13 The building and associated structures (i.e. fencing, outdoor seating etc.) shall be constructed in accordance with Section 3 and Section 7 (BAL 29) Australian Standard AS 3959-2018 Construction of buildings in bush fire-prone areas or NASH Standard (1.7.14 updated) National Standard Steel Framed Construction in Bushfire Areas - 2014 as appropriate and Section 7.5 of Planning Bush Fire Protection 2019.
- 14 From the start of building works, and in perpetuity to ensure ongoing protection from the impact of bush fires, the entire property must be managed as an inner protection area (IPA) in accordance with the requirements of Appendix 4 of Planning for Bush Fire Protection 2019. When establishing and maintaining an IPA the following requirements apply:
 - tree canopy cover should be less than 15% at maturity;
 - trees at maturity should not touch or overhang the building;
 - lower limbs should be removed up to a height of 2m above the ground;
 - tree canopies should be separated by 2-5m;
 - preference should be given to smooth barked and evergreen trees;
 - large discontinuities or gaps in vegetation should be provided to slow down or break the progress of fire towards buildings;
 - shrubs should not be located under trees;
 - shrubs should not form more than 10% ground cover;
 - clumps of shrubs should be separated from exposed windows and doors by a distance of at least twice the height of the vegetation;
 - grass should be kept mown (as a guide grass should be kept to no more than 100mm in height); and

- leaves and vegetation and debris should be removed.

15 Landscaping of the site must comply with Appendix 4 of Planning for Bush Fire Protection 2019 and the following:

- Suitable impervious areas are provided immediately surrounding the building such as courtyards, paths and driveways.
- Grassed areas, mowed lawns or ground cover plantings are provided in close proximity to the building.
- Planting is limited in the immediate vicinity of the building.
- Planting does not provide a continuous canopy to the building (i.e. trees or shrubs should be isolated or located in small clusters).
- Landscape species are chosen in consideration needs of the estimated size of the plant at maturity.
- Species are avoided that have rough fibrous bark, or which keep/shed bark in long strips or retain dead material in their canopies.
- Smooth bark species of trees are chosen which generally do not carry a fire up the bark into the crown.
- Planting of deciduous species is avoided which may increase fuel at surface/ground level (i.e. leaf litter).
- Climbing species are avoided to walls and pergolas.
- Combustible materials such as woodchips/mulch and flammable fuel are stored away from the building.
- Combustible structures such as garden sheds, pergolas and materials such as timber garden furniture are located away from the building.
- Low flammability vegetation species are used.

16 The provision of water, electricity and gas must comply with the following in accordance with Table 7.4a of Planning for Bush Fire Protection 2019:

- reticulated water is to be provided to the development where available;
- all above-ground water service pipes external to the building are metal including and up to any taps;
- where practical, electrical transmission lines are underground;
- where overhead, electrical transmission lines are proposed as follows:
 - (a) lines are installed with short pole spacing (30m), unless crossing gullies, gorges or riparian areas; and
 - (b) no part of a tree is closer to a power line than the distance set out in accordance with the specifications in ISSC3 Guideline for Managing Vegetation Near Power Lines.
- reticulated or bottled gas is installed and maintained in accordance with AS/NZS 1596:2014 and the requirements of relevant authorities, and metal piping is used;
- all fixed gas cylinders are kept clear of all flammable materials to a distance of 10m and shielded on the hazard side;
- connections to and from gas cylinders are metal;
- polymer-sheathed flexible gas supply lines are not used; and
- above-ground gas service pipes are metal, including and up to any outlets.

17 Building identification signage on the northern building facade is approved by this consent. Any further signage is to be subject to a separate application.

The approved signage must only be illuminated during the approved business hours of operation and shall not flash or vary in luminosity. The illumination level shall not impact on the amenity of adjoining premises or vehicles travelling along Lakeside Parade.

18 Management will be available at a mutually convenient time, at the invitation of Penrith City Council and/or the NSW Police, to discuss and action agreed Community Safety, Security or other issues in conjunction with other local stakeholders in the area should the need arise.

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

(a) Lighting

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

(b) Car Parking

- All areas of the car park must be well-lit, with consistent lighting to prevent shadowing or glare.
- A security access control system (e.g. boom gate) shall be installed on the vehicle entry/exit point to the car park to minimise opportunities for unauthorised access and congregation after hours.

(c) Building Security & Access Control

- Intercom, code or card locks or similar must be installed for all restricted entries to the venue.
- Australian Standard 220 – door and window locks must be installed.
- 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.

(d) Graffiti/Vandalism

- Graffiti resistant coatings must be used to external surfaces where possible, including signage, furniture, retaining walls etc.
- Procedures must be in place to ensure the prompt removal and/or repair of graffiti or vandalism to the buildings, fencing, and common areas. This includes reporting incidents to police and/or relevant authorities.
- Outdoor furniture/equipment must be well secured or stored away after hours.

(e) Landscaping

- All vegetation must be regularly pruned to ensure that sight lines are maintained.

Heritage/Archaeological relics

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

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

Environmental Matters

- 21 Erosion and sediment control measures shall be installed **prior to the commencement of works on site** including approved clearing of site vegetation. The erosion and sediment control measures are to be maintained in accordance with the approved erosion and sediment control plan(s) for the development and the Department of Housing's "Managing Urban Stormwater: Soils and Construction" 2004.

(Note: To obtain a copy of the publication, you should contact Landcom on (02) 98418600).

Certification that the erosion and sediment control measures have been installed in accordance with the approved erosion and sediment control plan (s) for the development and "Managing Urban Stormwater: Soils and Construction 2004" shall be obtained and issued a minimum 2 days before any other site works are to commence, including earthworks and clearing of the site.

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

- 22 Dust suppression techniques are to be employed during construction to reduce any potential nuisances to surrounding properties.
- 23 Mud and soil from vehicular movements to and from the site must not be deposited on the road.
- 24 No fill material is to be imported to the site without the prior approval of Penrith City Council in accordance with Sydney Regional Environmental Plan No.20 (Hawkesbury- Nepean River) (No.2-1997). No recycling of material for use as fill material shall be carried out on the site without the prior approval of Council.
- 25 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 (as defined in Penrith Development Control Plan) with consideration of all relevant guidelines (e.g. EPA, ANZECC, NH&MRC), standards, planning instruments and legislation,
 - clearly indicate the legal property description of the fill material source site,
 - provide details of the volume of fill material to be used in the filling operations,
 - provide a classification of the fill material to be imported to the site in accordance with the Environment Protection Authority's "Environmental Guidelines: Assessment, Classification & Management of Non-Liquid Wastes" 1997, and
 - (based on the fill classification) determine whether the fill material is suitable for its intended purpose and land use and whether the fill material will or will not pose an unacceptable risk to human health or the environment.

{Note: Penrith Development Control Plan defines an appropriately qualified person as "a person who, in the opinion of Council, has a demonstrated experience, or access to experience in hydrology, environmental chemistry, 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.

- 26 All waste materials stored on-site are to be contained within a designated area such as a waste bay or bin to ensure that no waste materials are allowed to enter the stormwater system or neighbouring properties. The designated waste storage areas shall provide at least two waste bays / bins so as to allow for the separation of wastes, and are to be fully enclosed when the site is unattended.
- 27 All excavated material and other wastes generated as a result of the development are to be re-used, recycled or disposed of in accordance with the approved waste management plan.

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

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

- 28 Noise levels from the premises shall not exceed the relevant noise criteria detailed in the DA Acoustic Assessment prepared by Acoustic Logic (dated 5 February 2021, ref 20200387.1/0502A/R6/LL). The recommendations provided in the above-mentioned acoustic report shall be implemented and incorporated into the design and construction of the development, and shall be shown on plans **accompanying the Construction Certificate application**.

A certificate is to be obtained from a qualified acoustic consultant certifying that the building has been constructed to meet the noise criteria in accordance with the approved acoustic report. This certificate is to be submitted to the Principal Certifying Authority **prior to the issue of an Occupation Certificate**.

Note: This condition does not override the limitations imposed on hours of operation as otherwise conditioned in this consent.

The provisions of the Protection of the Environment Operations Act 1997 apply to the development, in terms of regulating offensive noise.

- 29 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.

- 30 The approved operating hours are restricted as follows:
- Monday to Wednesday, 10am to 10pm;
 - Thursday to Saturday, 10am to 12 (midnight);
 - Sunday, 10am to 10pm.

These approved operating hours do not apply to the following areas of the development where the operating hours are:

- Children's Play Area: 10.00am - 8.00pm
- Beer Garden: 10.00am - 8.00pm

Delivery and service vehicles, including waste collection vehicles generated by the development are limited to between 7:00am and 6:00pm.

In addition, the development must comply with the management measures in the Hotel Plan of Management by GJ Consulting, dated 22 July 2020.

31 The development shall be carried out in accordance with the procedures set out in the *Western Precinct Contamination Management Plan (URS 2008 Contamination Management Plan, Western Precinct Development Phase dated 7 July 2008, ref 4321 7287)* and the conditions and procedures set out in the Site Audit Statement relating to the Western Precinct.

32 An Unexpected Finds Protocol (the Protocol) is to be developed by an appropriately qualified environmental consultant. **Prior to the issue of the Construction Certificate**, the Protocol is to be submitted to Council and approved. If Council is not the certifying authority for this development, the report is required to be provided to Penrith City Council for approval.

The Protocol is to address, at minimum, the management of any contamination found on the site during the excavation/construction phase of the development, including at minimum, contaminated soils, groundwater, buried building materials, asbestos, odour and staining.

The above Protocol is to be complied with at all times during the excavation and construction phase of the development.

33 Amplified music and public address systems associated with the development are not to be audible at the boundaries of the property. Amplified music is not to exceed a sound pressure level of 75dBA within the main bar, dining and gaming areas.

The provisions of the Protection and Environment Operations Act 1997 apply to the development, in terms of regulating offensive noise.

34 All mechanical plant and equipment is to comply with the noise criteria outlined in the DA Acoustic Assessment prepared by Acoustic Logic (dated 5 February 2021, ref 20200387.1/0502A/R6/LL).

Prior to the issue of the Construction Certificate, further details on the type and location of all mechanical plant and equipment associated with the development is to be provided to Council for consideration and approval. Suitable data and information on the noise impacts associated with this plant and equipment is also to be supplied to demonstrate compliance with the established noise criteria.

35 **Prior to the issue of the Construction Certificate**, a Construction Noise and Impact Management Plan is to be prepared and submitted to Council for approval. This assessment is to consider (at minimum) the details of the construction program, construction methods, equipment and vehicles in association with the NSW Department of Environment and Change's Interim Construction Noise Guideline 2009.

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

36 Noise levels from the premises shall not exceed the relevant noise criteria detailed in the DA Acoustic Assessment prepared by Acoustic Logic (dated 5 February 2021, ref 20200387.1/0502A/R6/LL). The recommendations listed in Section 7.1 of the Acoustic Assessment shall be implemented and incorporated into the design and construction of the development. The recommendations listed in Section 7.2 of the Acoustic Assessment shall be implemented and incorporated into the operational phase of the development.

BCA Issues

- 37 All aspects of the building design shall comply with the applicable performance requirements of the Building Code of Australia so as to achieve and maintain acceptable standards of structural sufficiency, safety (including fire safety), health and amenity for the on-going benefit of the community. Compliance with the performance requirements can only be achieved by:
- (a) complying with the deemed to satisfy provisions, or
 - (b) formulating an alternative solution which:
 - complies with the performance requirements, or
 - is shown to be at least equivalent to the deemed to satisfy provision, or
 - (c) a combination of (a) and (b).

It is the owner's responsibility to place on display, in a prominent position within the building at all times, a copy of the latest fire safety schedule and fire safety certificate/ statement for the building.

Health Matters and OSSM installations

38 The construction, fit out and finishes of the food premises must comply with Standard 3.2.3 of the Australian and New Zealand Food Standards Code, and AS4674-2004 *Design, Construction and Fitout of Food Premises*.

39 The rainwater tank must be maintained so as not to create a nuisance and it must be protected against mosquito infestation.

40 Cooking appliances which exceed a total maximum power input of 8kw for electrical, or a total gas input of 29MJ/h for a gas appliance are required to have a kitchen exhaust system installed in accordance with Clause F4.12 of the Building Code of Australia and Australian Standard AS1668 Parts 1 & 2.

Detailed plans together with calculations for the system must be provided as part of the development application or as part of the Construction Certificate application.

The exhaust hood must completely cover the equipment to be ventilation and extended at least 200mm beyond the perimeter of the equipment. The exhaust hood must be provided with a condensation gutter around its base. The gutter must be at least 50mm wide by 25mm deep. Where abutting walls are located the hood must be constructed so as to finish flat against the wall surface.

The low edge of a canopy type exhaust hood must be at least 2000 mm above floor level.

Prior to the issuing of an Occupational Certificate, and operation of the business, the exhaust system shall be certified by an appropriately qualified person to comply with the Building Code of Australia and Australian Standard AS1668 Parts 1 & 2. A copy of the certification and supporting documentation must be provided to Council's Environmental Health Department if Council is not the Principal Certifying Authority

- 41 A Food Safety Supervisor, with a current Food Safety Supervisor Certificate recognised by the NSW Food Authority, must be appointed by the business prior to commencement of the business.
- 42 Toilets facilities in the premises shall be maintained in a clean and hygienic condition free from a build up of waste at all times
- 43 The construction and operation of the premises shall comply with the NSW Smoke-free Environment Act 2000 and Smoke-free Environment Regulation 2000.
- 44 A detailed plan showing the details below of the kitchen and bar areas associated with the development must be submitted to an approved by Council prior to the issue of a Construction Certificate:
- Details of the finish of the walls, floor and ceiling (note: no drop in ceiling panels are permitted in food preparation/storage areas);
 - Details and location of coving to all floor wall joins;
 - Details and location of shelving to the storage area for food and packaging;
 - Construction material of shelving indicating lowest shelf at least 150mm above ground level;
 - Details of materials used on benches in kitchen;
 - Reference to the construction of the premises being in accordance with the Australian New Zealand Food Standard "Food Premises and Equipment " and the AS 4674 – 2004 "Design, Construction and Fit Out of Food Premises";
 - Hand wash facilities fitted with a handsfree operation warm water through a common spout (hand washing facilities are for the sole purpose of hand washing in the kitchen;
 - Location of separate sink for (a) washing of vegetables and fruit (b) hand washing (c) washing (required) and sanitizing sinks (if no dishwasher);
 - Location of any floor wastes (if being installed) and cleaners sink;
 - Details and location of all equipment in the kitchen including, but not limited to ovens, fridges, freezers, dishwasher etc.;
 - Location of personal staff storage area;
 - Any fluorescent light fittings being fitted with a smooth faced diffuser and identified on the plan;
 - Location and information of mechanical ventilation for oven/stove in accordance with Section 2.5.2 of AS 4674 – 2004 "Design, Construction and Fit Out of Food Premises";
 - Details of the dishwashing/glass washing machines. All utensils and equipment must undergo a washing, sanitising and rinsing cycle. The sanitising rinse cycle must achieve a water temperature of 80°C for 2 minutes or 75°C for 10 minutes.

No fit out works shall commence on the site until Council has provided approval of the plans. The applicant is to give documentation of the approval to the Certifying Authority.

Utility Services

- 45 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.

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

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

Construction

47 Stamped plans, specifications, a copy of the development consent, the Construction Certificate and any other Certificates to be relied upon shall be available on site at all times during construction.

The following details are to be displayed in a maximum of 2 signs to be erected on the site:

- the name of the Principal Certifying Authority, their address and telephone number,
- the name of the person in charge of the work site and telephone number at which that person may be contacted during work hours,
- that unauthorised entry to the work site is prohibited,
- the designated waste storage area must be covered when the site is unattended, and
- all sediment and erosion control measures shall be fully maintained until completion of the construction phase.

Signage but no more than 2 signs stating the above details are to be erected:

- at the commencement of, and for the full length of the, construction works onsite, and
- in a prominent position on the work site and in a manner that can be easily read by pedestrian traffic.

All construction signage is to be removed when the Occupation Certificate has been issued for the development.

48 Prior to the commencement of construction works:

(a) Toilet facilities at or in the vicinity of the work site shall be provided at the rate of one toilet for every 20 persons or part of 20 persons employed at the site. Each toilet provided must be:

- a standard flushing toilet connected to a public sewer, or
- if that is not practicable, an accredited sewage management facility approved by the council, or
- alternatively, any other sewage management facility approved by council.

(b) All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with the appropriate professional standards. All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.

(c) If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made:

- must preserve and protect the building from damage, and
- if necessary, must underpin and support the building in an approved manner, and
- must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished. The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this condition, whether carried out on the allotment of land being excavated or on the adjoining allotment of land, (includes a public road and any other public place).

(d) If the work involved in the erection or demolition of a building is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or involves the enclosure of a public place, a hoarding or fence must be erected between the work site and the public place:

- if necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place,
- the work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place, and
- any such hoarding, fence or awning is to be removed when the work has been completed.

49 The approved waste management plan must be implemented on-site and adhered to throughout all stages of the development including demolition, with supporting documentation / receipts retained in order to verify the recycling and disposal of materials in accordance with the approved plan.

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

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

Other construction works carried out inside a building/tenancy and do not involve the use of equipment that emits noise are not restricted to the construction hours stated above.

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

Engineering

51 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.

52 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.

53 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) Concrete footpaths and or cycleways
- c) Road occupancy or road closures
- d) The placement of hoardings, structures, containers, waster skips, signs etc. in the road reserve
- e) Temporary construction access

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

Contact Penrith City Council's 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.
- All works associated with the Roads Act approval must be completed prior to the issue of any Occupation Certificate as applicable.

54 Prior to the issue of any Construction Certificate, the Certifier shall ensure that an application under Section 68 of the Local Government Act, including payment of application and inspection fees, has been lodged with and approved by Penrith City Council for provision of the stormwater drainage connection to the existing channel (via headwall) as proposed on the engineering plans prepared by EFWF Consulting Engineers, job

number 21933-001, revision 2, dated 17/11/2020.

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

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

Note:

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

55 The stormwater management system shall be consistent with plans lodged for development approval, prepared by EFWW Consulting Engineers, job number 21933-001, revision 2, dated 17/11/2020.

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.

56 Prior to the issue of any Construction Certificate, the Certifier shall ensure that the foundations of proposed structures adjoining the drainage easements on-site have been designed clear of the zone of influence of the drainage pipelines within these easements.

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

58 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.

59 Prior to the issue of any Local Government Act Approval, a Performance Bond is to be lodged with Penrith City Council for the stormwater drainage connection to the existing channel (via headwall).

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

Note:

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

60 The developer shall undertake a dilapidation report for all surrounding buildings and Council owned infrastructure that confirms that no damage occurs due to any excavations/piering associated with the development. If Council is not the Certifier for the development then the dilapidation report shall be submitted to Council prior to the issue of any Construction Certificate and then updated and submitted prior to the issue of any Occupation Certificate confirming no damage has occurred.

61 Prior to commencement of any works associated with the development, sediment and erosion control measures shall be installed in accordance with the approved Construction Certificate and ensure compliance with the Protection of the Environment Operations Act 1997 and Managing Urban Stormwater series from the Office of Environment and Heritage.

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

62 All earthworks shall be undertaken in accordance with AS3798 and Penrith City Council's Design Guidelines for Engineering Works for Subdivisions and Developments and Engineering Construction Specification for Civil Works.

The level of testing shall be determined by the Geotechnical Testing Authority / Superintendent in consultation with the Principal Certifier.

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

64 Prior to the issue of any Occupation Certificate, the Principal Certifier shall ensure that all works associated with a S138 Roads Act approval or S68 Local Government Act approval have been inspected and signed off by Penrith City Council.

65 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.

66 Prior to the issue of any Occupation Certificate, the Principal Certifier shall ensure that the stormwater management systems (including on-site detention and water sensitive urban design):

- have been satisfactorily completed in accordance with the approved Construction Certificate and the requirements of this consent;
- have met the design intent with regard to any construction variations to the approved design, 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.

67 Prior to the issue of any Occupation Certificate, a restriction on the use of land and positive covenant relating to the stormwater management systems (including on-site detention and water sensitive urban design) 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.

68 Prior to the issue of any Occupation Certificate, a Maintenance Bond is to be lodged with Penrith City Council for the stormwater drainage connection to the existing channel (via headwall).

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

Note:

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

69 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.

70 Prior to the issue of any Construction Certificate the Principal Certifying Authority shall ensure that a Waste Collection / Service / Delivery Vehicle Operational Management Plan is provided to the satisfaction of Council's Waste Management Section. This shall include an operational management plan that shall apply to all waste and service / delivery vehicles access the site heavy vehicle loading area and include:

- Coordinating all development site businesses and operators agreements and management of all waste collection / service/ delivery vehicles to the site out of peak car park and pedestrian activity times.
- Limiting and controlling waste collection / service / delivery vehicle arrivals to only to only one vehicle arriving and at only times when the site heavy vehicle loading area is clear.
- Limiting access to vehicles no larger than medium rigid vehicles not greater than 8.8m metres long.

71 Access to the site is not permitted for vehicles larger than a medium rigid vehicle or longer than 8.8m.

72 Prior to the issue of any Construction Certificate the Principal Certifying Authority shall ensure that the plans include dimensions of driveways, aisles, parking spaces, obstructions, accessible parking, bicycle parking and accessible pedestrian paths of travel complying with AS 2890, AS 1428, Council Development Control Plan (DCP) C10 and Council 'Industrial, Commercial and Mixed-use Waste Management Guideline'. These details shall include but not limited to:

- Driveway, aisle, loading bay and car space width and lengths in accordance with DCP C10, AS2890.1, AS2890.2 and AS2890.6
- Swept turn path clearances at driveways (including accordance with AS 2890.1 Table 2.2 and Figure 2.9). External driveway access turning paths are to be provided and be at least 0.3 metres clear of driveway edges, parking and road centrelines and at least 0.3m clear of kerbs and medians. Internal aisle and car park manoeuvring area light vehicle turning paths are to be at least 0.3 metres and median rigid vehicle (MRV) / Waste Collection / Service / Delivery Vehicle at least 0.5m clear of obstructions including to walls, bollards and other obstructions.
- Car park aisle widths, waste and service vehicle areas, car park column locations and clearances (including accordance with AS 2890.1 Figure 5.1 and 5.2).
- Additional car space clearances from obstructions (including accordance with AS 2890.1 B4.1 minimum additional clearance of 0.3 metres).
- Replacement of the proposed western car space on the southern parking row adjacent to the loading area with a kerbed, tapered and landscaped median to ensure that the loading area reversing area is defined and clear of the parking spaces.
- Sight distance requirements in accordance with AS 2890.1 and / or AS 2890.2 Figure 3.2 at access driveways and Figure 3.3 Minimum sight lines for pedestrian safety.
- Accessible pedestrian paths of travel from all car parking spaces to the building points of entry.
- Separate accessible pedestrian paths of travel from the fronting roadway footpath to access the building points of entry.
- Complying numbers of secure and all weather bicycle parking, end of journey facilities, change rooms, showers, and lockers are provided at convenient locations in accordance with DCP C10, AS 2890.3 Bicycle Parking Facilities and Planning Guidelines of Walking and Cycling (NSW Government 2004).

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

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

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

76 The required sight lines around the driveway entrances are not to be compromised by landscaping, fencing or signage.

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

Landscaping

78 All landscape works are to be constructed in accordance with the approved landscape plan 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.

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

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

i. Implementation Report

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

An Occupation Certificate should not be issued until such time as a satisfactory Implementation Report has been received. If Penrith City Council is not the Principal Certifying Authority, a copy of the satisfactory Implementation Report is to be submitted to Council together with the Occupation Certificate for the development.

ii. Maintenance Report

On the first anniversary of the date of the Occupation Certificate issued for the development, a Landscape Maintenance Report is to be submitted to Penrith City Council certifying that the landscape works are still in accordance with the development consent and the plant material is alive and thriving.

81 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.

82 **Prior to the issue of a Construction Certificate**, an amended landscape plan is to be submitted to and approved by Council. The amended landscape plan is to incorporate the following:

a) Details of the proposed children's playground equipment and shade sail. The colours of the playground equipment and shade sail shall complement the tavern and natural materials should be used where possible.

b) Details (location, materials, colours, dimensions) of proposed fencing. Fencing along the southern boundary is to be at least 1.8m high and of open style design, to prevent access to the Regional Park and the diversion of any floodwater coming from the adjoining channel. Fencing is to be consistent with the approved colour palette of the tavern.

Section 94

83 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, \$84,655.00 is to be paid to Council **prior to the issue of a Construction Certificate** 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 S7.12 invoice accompanying this consent should accompany the contribution payment. The Section 7.12 Contributions Plan may be inspected at Council's Civic Centre, 601 High Street, Penrith.

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

Certification

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

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

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

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

- (a) employ a Principal Certifying Authority to oversee that the said works carried out on the site are in accordance with the development consent and related Construction Certificate issued for the approved development, and with the relevant provisions of the Environmental Planning and Assessment Act and accompanying Regulation, and
- (b) submit a Notice of Commencement to Penrith City Council.

The Principal Certifying Authority shall submit to Council an "Appointment of Principal Certifying Authority" in accordance with Section 81A of the Environmental Planning and Assessment Act 1979.

Information to accompany the Notice of Commencement

Two (2) days before any earthworks or construction/demolition works are to commence on site (including the clearing site vegetation), the proponent shall submit a "Notice of Commencement" to Council in accordance with Section 81A of the Environmental Planning and Assessment Act 1979.

86 No glazing is to be incorporated into the walls of the Gaming Area.

87 The driveway width at the entrance to the site must be 8 metres to increase traffic safety.

SIGNATURE

Name:	Kate Smith Principal Planner
Signature:	

For the Development Services Manager