

PENRITH CITY COUNCIL

NOTICE OF DETERMINATION

DESCRIPTION OF DEVELOPMENT

Application number:	DA15/0335.03
Description of development:	Modification of Operating Hours - Construction of Three (3) Buildings Straddling Existing Coffee Club Building including Eleven (11) Tenancies for future Restaurant & Cafe Uses & Associated Outdoor Seating Piazza, Car Parking, Landscaping & Stormwater Drainage Works
Classification of development:	Class 6

DETAILS OF THE LAND TO BE DEVELOPED

Legal description:	Lot 3 DP 30354
Property address:	78 - 88 Tench Avenue, JAMISONTOWN NSW 2750

DETAILS OF THE APPLICANT

Name & Address:	Stimson & Baker Planning PO Box 1912 PENRITH NSW 2751
-----------------	---

DECISION OF CONSENT AUTHORITY

In accordance with Sections 4.18(1) (a) and 4.55 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	31 March 2016
Date the consent expires	31 March 2018
Date of this decision	17 March 2016 as amended on 21 March 2018 and 20 September 2018 and 26 June 2019 under Section 4.55 of the Environmental Planning and Assessment Act.

POINT OF CONTACT

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

Assessing Officer:	Sufyan Nguyen
Contact telephone number:	+612 4732 8568

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 28 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 28 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.

SCHEDULE 2: STAGING STRATEGY

Prior to the issue of a Construction Certificate, a staging strategy for the construction of the development shall be submitted to and approved by Council

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 any supporting information received with the application, except as may be amended in red on the stamped approved plans and by the following conditions.

Drawing Title	Prepared By	Reference No.	Dated	Revision
Site Plan	Morson Group	14066 - A002	23/03/2018	5
Ground Floor Plan	Morson Group	14066 - A101	13/03/2018	6
Building 1 Ground Floor Plan	Morson Group	14066 - A111	11/03/2018	8
Building 2 Ground Floor Plan	Morson Group	14066 - A112	11/03/2018	2
Building 3 Ground Floor Plan	Morson Group	14066 - A113	23/03/2018	9
Building 1 2 Ground Floor Plan	Morson Group	14066 - A114	13/03/2018	5
Level 1 Floor Plan	Morson Group	14066 A101.1	13/03/2018	6
Elevations	Morson Group	14066 - A211-A213 (Sheets 1 - 3)	13/03/2018	3
Elevation Plan	Morson Group	14066 - A214 (Sheet 4)	13/03/2018	4
Elevation Plan	Morson Group	14066 - A215 (Sheet 5)	19/07/2018	3
Sections	Morson Group	14066 - A221-A223	13/03/2018	2
Overall Roof Plan	Morson Group	14066	11/03/2018	2
Roof Plans	Morson Group	14066 - A115-A117	13/03/2018	3
Car Parking Layout	Morson Group	A103	13/03/2018	3
OSD/BIO-Retention Basin	Morson Group	A104	13/03/2018	3
Lift Details	Morson Group	14066 - A302	23/03/2018	2
Waste Room Details	Morson Group	14066 - A403	15/03/2018	3
Stormwater Drainage Plans	SGC Engineering	20160238 - Sheets SW02, SW04a, SW05, SW09	07/02/2018	10
Stormwater Drainage Plan	SGC Engineering	20160238 - Sheet SW06	15/02/2018	08
Stormwater Drainage Plans	SGC Engineering	20160238 - Sheets SW01, SW04, SW07, SW08, SW08a, SW10	22/02/2018	10
Stormwater Drainage Plan	SGC Engineering	20160238 - Sheet SW03	30/01/2018	08
Landscape Site Plan	Conzept Landscape Architects	-	18/9/2018	-
Landscape Plan - Front Building	Conzept Landscape Architects	LPS4.55 - 19/13 (Sheet 100)	18/9/2018	K
Landscape Plan - Building 1+ 2 (Level 1)	Conzept Landscape Architects	LPS4.55 - 19/13 (Sheet 101)	17/7/2018	I

Landscape Plan - Car Park	Conzept Landscape Architects	LPS4.55 - 19/13 (Sheet 102)	18/9/2018	K
Landscape Plan Bio-Retention	Conzept Landscape Architects	LPS4.55 - 19/13 (Sheet 103)	11/9/2018	E
Landscape Details	Conzept Landscape Architects	LPS4.55 - 19/13 (Sheet 301)	17/7/2018	F

As amended on 21 March 2018 and 20 September 2018 under Section 4.55(1A) of the Environmental Planning and Assessment Act 1979.

- 2 A **Construction Certificate** shall be obtained prior to commencement of any building works.
- 3 **Prior to the issue of a Construction Certificate**, a staging strategy for the construction of the development shall be submitted to and approved by Council
- 4 **The development shall not be used or occupied until an Occupation Certificate has been issued.**
- 5 A separate development application for the erection of a sign or advertising structure, other than an advertisement listed as exempt development, is to be submitted to Penrith City Council, complying with the requirements of Penrith Development Control Plan-Advertising Signs.
- 6 The approved operating hours for the site are limited to 7am to 1am, Monday to Sunday. Delivery and service vehicles generated by the development shall be limited to 7am to 5pm, Monday to Friday.

As amended on 26 June 2019 under Section 4.55(1A) of the Environmental Planning and Assessment Act 1979.

- 7 The finishes of all structures and buildings are to be maintained at all times and any graffiti or vandalism immediately removed/repaired.
- 8 The premises shall be serviced by a private waste refuse contractor. Suitable arrangements in this regard shall be made **prior to the occupation of the building**.
- 9 **Prior to the issue of a Construction Certificate**, the plans shall be amended to incorporate a 20m² parenting room and parent friendly accessible toilet. The parenting room must be designed to comply with the requirements of Section 2 and 4 of Chapter 5.5 Parent Friendly Amenities of *Penrith Development Control Plan 2014*.
- 10 **Prior to the issue of a Construction Certificate**, a lighting system shall be submitted and approved by Council to provide uniform lighting across common areas and driveways of the development. Exterior lighting shall be located and directed in such a manner so as not to create a nuisance to surrounding adjoining properties. The lighting shall be the minimum level of illumination necessary for safe operation and shall be designed in accordance with AS 4282 "Control of the obtrusive effects of outdoor lighting" (1997).
- 11 **Prior to the issue of a Construction Certificate**, a schedule of external materials and material sample board for the development, including pavement treatments (for pedestrian walkways, vehicular access, manoeuvring and parking) shall be submitted to and approved by Council.

To ensure the large expanse of roof and car parking area does not detract from the surrounding landscape setting when viewed from the M4 Motorway, an alternative roof colour shall be selected. In addition, the development shall not use plain finished concrete for the car parking area.

12 **Prior to the issue of an Occupation Certificate**, a security plan of management shall be submitted and approved addressing the following matters:

- The provision of security personnel, the hours security patrols are likely to be undertaken and the circumstances in which security personnel will be engaged.
- Management of loitering and anti-social behaviour. In this regard, specific strategies shall be detailed to manage loitering, particularly in the car parking area and outdoor terrace area, and also in the immediate vicinity of the site.
- All incidents of crime and anti-social behaviour shall be reported to the police. An on-site log book shall be established to document any occurrences of anti-social behaviour, to ensure that the relevant authority is informed and to record what action was taken to prevent reoccurrence of the incident.

The land owner and restaurant management shall 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 or security issues in conjunction with other local stakeholders in the area should the need arise. The security plan of management may consequently require future review as part of this process.

13 The **Construction Certificate** plans shall incorporate the recommendations and requirements of the Access Report prepared by iaccess Consultants, dated 12 March 2015 and all works shall be certified accordingly by a suitably qualified access consultant **prior to the issue of an Occupation Certificate**.

14 This consent does not endorse or approved the use of any unsealed portion of the site for overflow car parking. Should the need arise in the future for overflow car parking a separate approval shall be sought. Overflow car parking is to be limited to the areas defined on the stamped approved plans.

Environmental Matters

15 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.

16 All land that has been disturbed by earthworks is to be spray grassed or similarly treated to establish a grass cover.

17 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 Contaminated Land Development Control Plan) with consideration of all relevant guidelines (e.g. EPA, ANZECC, NH&MRC), standards, planning instruments and legislation,
- clearly indicate the legal property description of the fill material source site,
- provide details of the volume of fill material to be used in the filling operations,

- provide a classification of the fill material to be imported to the site in accordance with the Environment Protection Authority's "Environmental Guidelines: Assessment, Classification & Management of Non-Liquid Wastes" 1997, and
- (based on the fill classification) determine whether the fill material is suitable for its intended purpose and land use and whether the fill material will or will not pose an unacceptable risk to human health or the environment.

Note: *Penrith Development Control Plan 2014* defines an appropriately qualified person as "a person who, in the opinion of Council, has a demonstrated experience, or access to experience in hydrology, environmental chemistry, 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.

- 18 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.
- 19 All excavated material and other wastes generated as a result of the development are to be re-used, recycled or disposed of in accordance with the approved waste management plan.

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

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

- 20 Noise levels from the premises shall not exceed the relevant noise criteria detailed in the S96 Noise Impact Assessment prepared by Rodney Stevens Acoustics, dated 15 May, 2019, Reference: 170518R2, Revision 2. The recommendations provided in the above-mentioned acoustic report shall be implemented and incorporated into the development, and shall be shown on plans accompanying the Acoustic Compliance Report. 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 along with the Acoustic Compliance Report **prior to the issue of any Occupation Certificate.**

The provisions of the apply to the development, in terms of regulating offensive noise.

As amended on 26 June, 2019 under Section 4.55(1A) of the Environmental Planning and Assessment Act 1979.

- 21 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.

BCA Issues

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

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

(b) be given:

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

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

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

23 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

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

Utility Services

- 25 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.

- 26 **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.

- 27 All servicing and/or infrastructure requirements shall be discreetly located and integrated with the building design. Penrith Council should be consulted **prior to the issue of a Construction Certificate**, over the location and position of any services that may impact on the driveway, landscaping or building design.

Construction

- 28 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-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.

29 Prior to the commencement of construction works:

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

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

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

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

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

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

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

30 A completed waste management plan shall be submitted to Penrith City Council for consideration and approval. Council must approve the plan before a Construction Certificate can be issued for the development.

The waste management plan shall be prepared in accordance with *Penrith Development Control Plan 2014* and shall address all waste materials likely to result from the proposed development, with details of the estimated waste volumes, onsite storage and management, proposed re-use of materials, designated waste contractors, recycling outlet and / or landfill site. The waste management plan shall also detail the nature of the underground tank located along the north eastern property boundary to ensure that its demolition/disposal is appropriately addressed.

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.

31 The development shall be set out by a registered surveyor. A Survey Certificate shall be undertaken and submitted to the Principal Certifying Authority when the building is constructed to ground floor slab level and at completion of the building works.

32 **Prior to the issue of a Construction Certificate**, the following garbage room details shall be shown on the architectural plans:

- the garbage rooms within buildings shall have masonry walls with smooth face cement rendering to the full height internally and be provided with a smooth concrete floor;
- the floor shall be graded and drained to a floor waste connected to the sewer that shall be charged with a suitably located cold water hose cock; and
- access doors to the garbage store shall be tight fitting solid core or of non-combustible construction.

33 Construction works or subdivision 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

34 All roadwork, stormwater, associated civil works and dedications, required to effect the consented development shall be undertaken at no cost to Penrith City Council.

- 35 **Prior to the issue of any Construction Certificate**, a Section 138 Roads Act application, including payment of fees shall be lodged with Penrith City Council. Penrith City Council is the Roads Authority for any works required in a public road.

These works may include but are not limited to the following:

- Vehicular crossings (including kerb reinstatement of redundant vehicular crossings)
- Concrete footpath or cycleways
- Road opening for utilities and stormwater (including stormwater connection to Penrith City Council roads and other Penrith City Council owned drainage)
- Road occupancy or road closures
- The placement of hoardings, structures, containers, waste skips, signs etc. on the road reserve

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

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

Note: Where Penrith City Council is the Certifying Authority for the development the Roads Act approval for the above works may be issued concurrently with the Construction Certificate. Separate Approvals may also be required from the Roads and Maritime Service for classified roads. All works associated with the Roads Act approval must be completed prior to the issue of an Occupation Certificate or Subdivision Certificate as applicable. On completion of any awning over the road reserve a certificate from a practising structural engineer certifying to 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

- 36 An Infrastructure Restoration Bond is to be lodged with Penrith City Council for development involving works around Council's Public Infrastructure Assets. The bond is to be lodged with Council **prior to the issue of a Construction Certificate**. The bond shall be determined accordance with Council's adopted Fees and Charges.

The bond is refundable once a final inspection has been carried out by Council's City Works Department and the works have been completed to Council's satisfaction. The bond may be used to repair or reinstate any damage that occurs to Council's Public Infrastructure Assets as a result of the development works.

Contact Council's City Works Department on 4732 7777 or visit Council's website to obtain the form and request for final inspection.

- 37 **Prior to the issue of a Construction Certificate**, for building or subdivision works the Certifying Authority shall ensure that a Section 138 Roads Act application, including the payment of application and inspection fees, has been lodged with, and approved by Penrith City Council (being the Roads Authority under the Roads Act), for provision of landscaping works within the road reserve area of Tench Avenue.

Note: Where Penrith City Council is the Certifying Authority for the development the Roads Act approval for the above works may be issued concurrently with the Construction Certificate. Contact Penrith City Council's **Engineering Services Department** on (02) 4732 7777 to ascertain applicable fees.

- 38 **Prior to the issue of a Construction Certificate**, a detailed Water Sensitive Urban Design (WSUD) Strategy including detailed construction drawings and supporting MUSIC stormwater quality modelling shall be submitted to Council for consideration and approval. The WSUD Strategy shall demonstrate compliance with Council's Water Sensitive Urban (WSUD) Policy 2013.

The WSUD Strategy must be prepared by a suitably qualified engineer in accordance with Council's Water Sensitive Urban Design (WSUD) Policy 2013 and associated WSUD Technical Guidelines (Version 3) and shall be supported by MUSIC modelling and include detailed stormwater treatment designs.

A Draft Operation and Maintenance Manual for the proposed stormwater treatment measures must also be submitted to Council for consideration and approval. The manual shall include details on the cleaning / maintenance requirements as well as provide details on the estimated annual and lifecycle costs associated with the proposed treatment measures.

The manual shall include details on the following:

- i. Site description (area, imperviousness, land use, annual rainfall, topography etc)
- ii. Site access description
- iii. Likely pollutant types, sources and estimated loads
- iv. Locations, types and descriptions of measures proposed
- v. Operation and maintenance responsibility
- vi. Inspection methods (including inspection checklists)
- vii. Maintenance methods (frequency, equipment and personnel requirements);
- viii. Landscape and weed control requirements
- ix. Operation and maintenance costs;
- x. Waste management and disposal options; and
- xi. Reporting.

- 39 The stormwater management system shall be provided generally in accordance with the concept plans lodged for development approval, prepared by SGC Engineers, reference No. 20160238, revision 12, dated 22/02/2018. In this regard, however, the slotted PVC pipe is not to be installed with a sock and the hydraulic conductivity of the filter media must be a minimum of 100mm/hr. The filter media used during construction must meet the requirements of the soil specification outlined in the Adoption Guidelines for Stormwater Biofiltration Systems (CRC for Water Sensitive Cities, 2015).

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

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

The Principal Certifying Authority shall ensure that no filling is to occur outside the footprint of the car parking area and the footprint of the drainage basin as shown in plans by SGC Engineers, reference no. 20160238, revision 12, dated 22/02/2018.

As amended on 21 March 2018 under Section 4.55(1A) of the Environmental Planning and Assessment Act 1979.

- 40 **Prior to the issue of any Construction Certificate**, the Certifying Authority shall ensure that all habitable floor levels are in accordance with the stamped approved plans with a minimum floor level of RL 28.8m AHD

(standard flood level +0.5m).

- 41 **Prior to the issue of a Construction Certificate**, the Principal Certifying Authority shall ensure that vehicular access, circulation, manoeuvring, pedestrian and parking areas associated with the subject development are in accordance with AS 2890.1, AS 2890.2, AS 2890.6 and *Penrith Development Control Plan 2014*.
- 42 **Prior to the issue of a Construction Certificate** the Certifying Authority shall ensure that a Construction Traffic Management Plan (CTMP) has been submitted and approved by Penrith City Council. Approval of the CTMP may require endorsement from the Local Traffic Committee.

The CTMP shall include but not limited to the following, vehicle routes, number of construction vehicles, hours of operation, access arrangements, pedestrian management, parking management for patrons. The CTMP shall be certified by an appropriately accredited person and/or Roads and Traffic Authority Traffic Controller. The CTMP shall ensure that adequate parking is provided for the development and not severely impacted by the construction of this development.

The plan shall be prepared in accordance with AS 1742.3 "Traffic Control Devices for Works on Roads" and the Roads and Maritime Service's publication "Traffic Control at Worksites" and certified by an appropriately accredited Roads and Maritime Services Traffic Controller.

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

Note: A copy of the Traffic Control Plan shall accompany the Notice of Commencement to Penrith City Council.

- 43 A certificate by a registered surveyor verifying that all habitable floor levels are at or above RL 28.8m AHD (standard flood level +0.5m) shall be submitted upon completion of the building to that level. No further construction of the building is to be carried out until approval to proceed is issued by the Principal Certifying Authority.
- 44 All earthworks shall be undertaken in accordance with AS 3798 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 Certifying Authority.

- 45 **Upon completion of all works in the road reserve**, all verge areas fronting the development site are to be turfed. The turf shall extend from 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.
- 46 **Prior to the issue of an Occupation Certificate**, the Principal Certifying Authority shall ensure that all works associated with a Section 138 Roads Act approval or Section 68 Local Government Act approval have been inspected and signed off by Penrith City Council.
- 47 **Prior to the issue of an Occupation Certificate**, works-as-executed drawings, final operation and maintenance management plans and any other compliance documentation shall be submitted to the Principal Certifying Authority in accordance with Penrith City Council's Engineering Construction Specification for Civil Works, WSUD Technical Guidelines and Stormwater Drainage for Building

Developments.

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

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

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

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

49 Prior to the issue of an Occupation Certificate, a restriction as to user and positive covenant relating to the:

- a) Stormwater management systems (including on-site detention and water sensitive urban design)
- b) Overland flowpath works
- c) Flood control works

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

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

51 The stormwater management systems shall continue to be operated and maintained in perpetuity to the satisfaction of Council in accordance with the final operation and maintenance management plan. Regular inspection records are required to be maintained and made available to Council upon request. All necessary improvements are required to be made immediately upon awareness of any deficiencies in the treatment measure/s

52 Prior to the issue of any Construction Certificate, the Certifying Authority shall ensure that a Section 138 Roads Act application, including the payment of application and inspection fees, has been lodged with, and approved by Penrith City Council (being the Roads Authority under the Roads Act), for the provision of civil works in Tench Avenue, Jamisontown as follows:

- A single lane roundabout, minimum 8m diameter, at southern driveway entrance/exit aligning with the Tench Reserve driveway, providing for minimum turning paths of service vehicles to the development, buses, cars/boats, including splitter islands for pedestrian movement.
- Pedestrian refuge at the northern driveway entrance aligning with pedestrian desire lines to/from the development, as informed by the amended landscape plan.

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

The engineering plans are to be endorsed by Council's Local Traffic Committee and adopted by Council prior to construction. Contact Penrith City Council's Development Engineering Department on 4732 7777 or visit Penrith City Council's website for more information.

Note: Council's Local Traffic Committee convenes once per month which may delay finalization of engineering plans. Submissions to the Local Traffic Committee are required 2 weeks prior to the meeting to allow report preparation. Where Penrith City Council is the Certifying Authority for the development, the Roads Act approval for the above works may be issued concurrently with the Construction Certificate. Separate Approvals may also be required from the Roads and Maritime Service 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.

- 53 **Prior to the issue of an Occupation Certificate**, the internal aisles are to be signposted as a 10km/hr pedestrian shared zone, and incorporate physical features to differentiate it as such. The shared zone is to be reinforced with raised pedestrian platforms/thresholds in a distinctive surface/ wavy profile speed humps to address the pedestrian and vehicle interaction. Appropriate signage and arrows are to be displayed to reinforce designated vehicle circulation and parking arrangements.
- 54 **Prior to the issue of an Occupation Certificate**, all car spaces are to be sealed and line marked and dedicated for the parking of vehicles only and not be used for storage of materials, products and waste materials, etc.
- 55 **Prior to the issue of an Occupation Certificate**, secure bicycle parking is to be provided at convenient location(s) in accordance with AS 2890.3:2015 Bicycle Parking Facilities.
- 56 **Prior to the issue of an Occupation Certificate**, the following warning signs are to be installed to indicate the presence of bikes crossing the driveways.
 - two warning signs (W8-200 bike path turn warning) are to be installed north facing in Tench Avenue, on approach to the driveway entrances.
 - one warning sign (W6-9 shared path warning and W8-23 double arrow) is to be installed in the exit driveway, on approach to Tench Avenue.
- 57 **Prior to the issue of an Occupation Certificate**, the entry and exit driveways to the car park are to be linemarked in such a way to highlight the right-of-way for pedestrians and cyclists on the shared-use path in Tench Avenue.
- 58 **Prior to the release of the Construction Certificate**, a flood evacuation and flood management plan is to be submitted to and approved by Council.
- 59 **Prior to the issue of a Construction Certificate**, the Certifying Authority shall ensure that the nominated overflow car parking area towards the rear of the development is to be constructed so that scouring and dust is minimized by the use of surface materials that will not deteriorate due to weathering and use. Full details are to be submitted to and approved by prior to the issue of a Construction Certificate.

Landscaping

- 60 **Prior to the issue of an interim Occupation Certificate**, the site's front setback area as shaded in grey on the stamped approved landscape plans shall be turfed or suitably cordoned off to the satisfaction of the Principal Certifying Authority.

As amended on 20 September 2018 under Section 4.55(1A) of the Environmental Planning and Assessment Act 1979.

- 61 The approved landscaping for the site must be constructed by an appropriately qualified landscape professional. 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

- 62 All landscape works are to be constructed in accordance with the plans approved by Council and Section C6 Landscape Design of Penrith Development Control Plan 2014.

Landscaping shall be maintained:

- in accordance with the approved plans, and
- in a healthy state, and in perpetuity by the existing or future owners and occupiers of the property.

If any of the vegetation comprising that landscaping dies or is removed, it is to be replaced with vegetation of the same species and, to the greatest extent practicable, the same maturity as the vegetation which died or was removed.

As amended on 20 September 2018 under Section 4.55(1A) of the Environmental Planning and Assessment Act 1979.

- 63 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.

Payment of Fees

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

Certification

- 65 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 6.6 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 6.6 of the *Environmental Planning and Assessment Act 1979*.

- 66 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.

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

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

- 67 All waste collection and refuse vehicle operations on the property are limited to operation between 7:00am - 5:00pm, Monday to Friday.

As inserted on 21 March 2018 under Section 4.55(1A) of the Environmental Planning and Assessment Act 1979.

- 68 All waste room operations can only occur during the period of 7:00am - 10:00pm daily.

As inserted on 21 March 2018 under Section 4.55(1A) of the Environmental Planning and Assessment Act 1979.

- 69 The waste room is to be constructed of solid masonry walls with no openings on the western and south-western facades of the structure.

As inserted on 21 March 2018 under Section 4.55(1A) of the Environmental Planning and Assessment Act 1979.

- 70 A solid 2 metre high masonry wall integrated with the overall finishes of the structure must be constructed along the south-western facade of the waste room in accordance with the Acoustic Impact Assessment Report prepared by Rodney Stevens Acoustics, reference No. R170518R1, dated 22 February 2018. This requirement shall be detailed on the Construction Certificate Plans and written certification of its installation submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

As inserted on 21 March 2018 under Section 4.55(1A) of the Environmental Planning and Assessment Act 1979.

Act 1979.

- 71 **Prior to the issue of the final Occupation Certificate**, an amended Landscape Plan detailing the landscape treatment provided within the site's front setback area as shaded in grey on the stamped approved landscape plans shall be submitted to and approved by Council. All landscape works in this regard shall be satisfactorily completed **prior to the issue of the final Occupation Certificate**.

As inserted on 20 September 2018 under Section 4.55(1A) of the Environmental Planning and Assessment Act 1979.

- 72 Amplified music and public address systems associated with the development are not to be audible at the boundaries of the property. No amplified music or public address systems are to be used externally, including in the carpark.

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

As inserted on 26 June 2019 under Section 4.55(1A) of the Environmental Planning and Assessment Act 1979.

- 73 Sixty (60) days after the issue of this Development Consent, an Acoustic Compliance Report is to be submitted to and approved by Council. The Report is to be prepared by a suitably qualified acoustic consultant and is to address, but is not limited to, all noise generating activities on the site and the level of compliance with the noise criteria set within the S96 Noise Impact Assessment prepared by Rodney Stevens Acoustics, dated 15 May 2019, Ref 170518R2, Revision 2. It is also to consider the requirements of the NSW Environment Protection Authority's Noise Policy for Industry, other relevant guideline documents and the conditions of this development consent.

Should the Compliance Report identify any non-compliance issues, the Report is to provide suitable recommendations for the mitigation of those issues. Any mitigation works are to be undertaken within thirty (30) days from the date of notice from Council, unless otherwise specified.

As inserted on 26 June 2019 under Section 4.55(1A) of the Environmental Planning and Assessment Act 1979.

SIGNATURE

Name:	Sufyan Nguyen
Signature:	

For the Development Services Manager