

# PENRITH CITY COUNCIL

## NOTICE OF DETERMINATION

### DEVELOPMENT APPLICATION DETAILS

Application number:	DA21/0417
Description of development:	Demolition of Existing Structures and Construction of a Centre-Based Child Care Facility catering for 78 Children, 12 Staff, 20 Car Parking Spaces and Associated Works
Classification of development:	Class 9b
Name of Applicant:	Artmade Architects

### DETAILS OF THE LAND TO BE DEVELOPED

Legal description:	Lot 16 DP 32158 Lot 17 DP 32158
Property address:	97 Victoria Street, WERRINGTON NSW 2747 99 Victoria Street, WERRINGTON NSW 2747

### DECISION OF CONSENT AUTHORITY

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

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

Decision	Approve
Date from which consent operates	6 April 2022
Date the consent expires	6 April 2027
Date of this decision	30 March 2022

### POINT OF CONTACT

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

Assessing Officer:	Lucy Goldstein
Contact telephone number:	+61247328136

## NOTES

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### **Reasons**

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

### **Conditions**

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

### **Certification and advisory notes**

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

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

### **Review of determination**

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

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

### **Appeals in the Land and Environment Court**

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

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

### **Designated development**

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

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

### **Sydney Western City Planning Panels**

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

## ATTACHMENT 1: CONDITIONS OF CONSENT

### General

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

Drawing Title	Drawing No	Prepared By	Dated
Site Plan / Demolition	A02.01 Issue C	Art Made Architects	3/2/22
Basement Floor Plan	A03.01 Issue D	Art Made Architects	3/2/22
Ground Floor Plan & Fence / Barrier Diagram	A03.02 Issue E	Art Made Architects	3/2/22
First Floor Plan	A03.03 Issue B	Art Made Architects	14/2/22
External Elevations	A04.01 Issue C	Art Made Architects	14/2/22
Sections, External Finishes & Fence Details	A05.01 Issue C	Art Made Architects	3/2/22
Landscape Plan	LD01, Revision 2	Earth Matters Consulting	4/2/22
Plant Palette & Elements	LD02, Revision 2	Earth Matters Consulting	4/2/22
Civil Design For Proposed Development at 97-99 Victoria Street, Werrington, NSW	Reference no. 21502, Revision 3	Greenview Consulting	3/9/21

#### Supporting Documentation:

- Acoustic Report prepared by Day Design, dated 3/9/21
- Traffic Report prepared by Stanbury Traffic Planning, Rev 5, dated September 2021
- Plan of Management, dated May 2021
- Geotechnical Report prepared by Alliance, dated 10 June 2021

- 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 This consent does not approve signage. A separate development application for the erection of a sign or advertising structure, other than signage permitted under State Environmental Planning Policy (Exempt and Complying Development Codes) 2008, is to be submitted to Penrith City Council, complying with the requirements of Section C9-'Advertising and Signage' under Penrith Development Control Plan 2014.

6 The approved operating hours of the Childcare Centre are as follows:

- 7:00am to 6:00pm, Monday to Friday.
- Staff are permitted onsite during 'shoulder times' of 6:30am to 6:30pm, Monday to Friday.
- Closed on Public Holidays.

Any staff onsite outside of core operating hours are not to generate noise which is considered to be a nuisance or is readily audible from neighbouring dwellings.

Deliveries and waste collection services are only to occur between the hours of 7:00am to 6:00pm weekdays.

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

8 A maximum of 78x children are to be enrolled, and attend the premises, at any one time, comprising the following:

- 8x children aged between 0-2 years;
- 30x children aged between 2-3 years; and
- 40x children aged between 3-5 years.

9 Fencing of outdoor play areas and entrance to the centre are to be childproof. Details in this regard shall be shown on the Construction Certificate plans.

10 Any fencing and boundary retaining walls required as a result of this development shall be constructed as full cost to the persons benefiting from this consent. Retaining walls permitted by this consent shall be of masonry construction.

Fencing/acoustic barriers to be provided in accordance with the stamped approved 'Ground Floor Plan & Fence Barrier Diagram', and as outlined below:

(a) Fencing along the front boundary is to be no taller than 1.5m and have perspex backing to minimise visual impacts on the streetscape.

(b) Fencing along side boundaries that is forward of the building is to be no taller than 1.5m.

(c) Fencing along side and rear boundaries is to be no taller than 2.1m (inclusive of cantilevered perspex).

- 11 The child care centre operator is required to obtain an operating licence from the NSW Department of Education and Communities prior to operation of the child care centre. The child care centre is to comply with the requirements of the Education and Care Services National Regulation at all times under the Education and Care Services National Law.

## Demolition

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

All demolition works are to be conducted in accordance with AS/NZS 2601-2001 The Demolition of Structures, including the completion of a Hazardous Building Materials Assessment.

**Prior to commencement of demolition works**, a Hazardous Building Materials Assessment is to be submitted to Council. The associated investigations are required to be carried out to assess the location, extent and condition of Hazardous Building Materials including but not limited to the following:

- Asbestos
- Synthetic mineral fibres (SMF)
- Polychlorinated Biphenyls (PCBs)
- Lead-containing paint
- Ozone depleting substances
- Lead dust in ceiling cavities

The Assessment is to provide general recommendations for the removal of the hazardous materials, including the preparation of safe work method statements and risk assessments to appropriately address health and safety issues.

During demolition works, the approved Hazardous Building Materials Assessment must be complied with at all times.

At the completion of demolition works, the applicant is to submit to Council a report demonstrating that the hazardous building materials identified in the Hazardous Building Materials Assessment have been removed and disposed of at a lawful waste facility.

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

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

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

**Prior to commencement of demolition works**, a portaloos with appropriate washing facilities shall be located on the site and the Principal Certifier is to be satisfied that the person employed to undertake the works is a licensed asbestos removal contractor who has a current WorkCover Asbestos License. All asbestos laden waste must be disposed of at a waste management facility licensed by the NSW Environment Protection Authority to receive asbestos waste.

14 Dust suppression techniques are to be employed during demolition to reduce any potential nuisances to surrounding properties.

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

16 Demolition works will 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 demolition work is permitted on Sundays and Public Holidays.

In the event that the demolition relates to works inside the building and do not involve external walls or the roof, and do not involve the use of equipment that emits noise then the demolition works are not restricted to the hours stated above.

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

## Environmental Matters

- 17 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.

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.

- 18 Before any works are commenced on site, adequate fencing with star picket and wire fencing shall be installed to ensure that the adjoining area premises are not disturbed by the construction/demolition works or earthworks.
- 19 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.
- 20 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.
- 21 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.

- 22 Noise levels from the premises shall not exceed the relevant noise criteria detailed in the Environmental Noise Impact Assessment (REF7227-1.1R Rev A dated 3/9/21) prepared by Day Designs Pty Ltd. 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.

**Prior to the issue of the Occupation Certificate**, a Compliance Certificate is to be obtained from a qualified acoustic consultant certifying that the building, including acoustic fencing and mechanical plant and equipment, has been constructed and installed to meet the noise criteria in accordance with the Environmental Noise Impact Assessment (REF7227-1.1R Rev A dated 3/9/21) prepared by Day Designs Pty Ltd.

The Compliance Certificate is to be submitted to and approved by Council.

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

- 23 The operating noise level of plant and equipment shall not exceed 5dB(A) above the background noise level when measured at the receiver of the premises. The provisions of the Protection of the Environment Operations Act 1997 apply to the development, in terms of regulating offensive noise.

- 24 Twelve (12) months after the issue of the Occupation Certificate, 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 'Environmental Noise Impact Assessment' (REF7227-1.1R Rev A dated 3/9/21) prepared by Day Designs Pty Ltd.

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

- 25 The operational controls detailed in the approved Plan of Management and in Section 8.1 of the 'Environmental Noise Impact Assessment (REF7227-1.1R Rev A dated 3/9/21) prepared by Day Designs Pty Ltd are to be implemented during operation of the Centre to ensure compliance with the noise criteria established.

The Plan of Management is permitted to be periodically reviewed and updated so as to improve management practices, but cannot be amended to remove practices already contained in the Plan if those amendments result in a watering down of responsibilities. Penrith City Council is to be informed of any proposed changes to the Plan of Management before they are endorsed and is to be given a minimum of 14 days from that notice being given in which to make comments to the proposed changes.

Any changes to the Plan of Management must ensure that the recommendations of the Acoustic Assessment are maintained.

- 26 In the event of substantiated, ongoing noise complaints relating to the development being received by



Council, the owner and/or occupier of the development may be required by Council to obtain the services of a suitably qualified acoustic consultant to undertake a noise impact assessment on the development to address the concerns of the community.

The noise impact assessment report is to be prepared and provided to Council for approval within 45 days of being requested. Any mitigation works are to be undertaken within thirty (30) days from the date of notice from Council, unless otherwise specified.

- 27 Appropriate signage is to be installed in the carpark and entrance of the Centre requesting patrons to minimise noise and protect the amenity of the surrounding neighbourhood.

A public contact number is to be displayed on the signage and this phone line is to be operational during business hours. A complaint register is to be maintained and must include complaint details and any actions taken to address those complaints. A copy of the complaint register is to be provided to Council upon request.

- 28 Should any unexpected finds in relation to land contamination be found during the excavation of the site, works are to immediately cease and the Certifying Authority and Penrith City Council are to be notified. An investigation is to be undertaken by an appropriately qualified and practicing environmental consultant in accordance with State Environmental Planning Policy No 55 (Remediation of Land). Works will not be able to commence until the site is cleared by the environmental consultant and the Certifying Authority and Penrith City Council are notified.

## **BCA Issues**

- 29 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).

- 30 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.

## Health Matters and OSSM installations

- 31 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*.

The following requirements (but not limited to) are brought to your attention and shall be complied with:

(a) Hand basins in the kitchen and bottle preparation area must be serviced with hot and cold water through a single outlet, able to be mixed at a temperature of at least 40°C and fitted with a hands free operation. Where sensor taps are installed the basin must not be more than 6 metres from the hot water system. Disposable paper hand towels and soap must be provided and serviced from a dispenser adjacent to each hand basin. Hand basin in the kitchen and bottle preparation area is to be used for the sole purpose of hand washing.

(b) A hand basin must be located within the toilet cubicle. Hand basins must be serviced with hot and cold water through a single outlet, able to be mixed at a temperature of at least 40°C and fitted with a hands free operation. Where sensor taps are used the basin must not be more than 6 metres from the hot water system. Disposable paper hand towels and soap must be provided and serviced from a dispenser adjacent to each hand basin.

(c) Hot water services must be positioned at least 75mm clear of the adjacent wall surfaces, and mounted at a minimum 150mm above the floor level on a non-corrosive metal stand. The hot water system must be sized to meet the demands of the food business during peak operating and cleaning periods and be able to provide sufficient hot water throughout the working day. Discharge from the hot water system must enter the sewer through a tongue dish in accordance with Sydney Water's requirements.

(d) The floor of the food premises must be finished in an approved non absorbent material, evenly laid, or graded and drained to a trapped floor waste. All floor wastes in the food preparation, service and scullery area must be fitted with a sump removable basket and grate, a minimum 200mm in diameter, and finished in all stainless steel.

(e) Approved, recessed coving must be provided at all intersections of the floor with the walls within all food preparation, service, storage and scullery areas. All coving must have a minimum concave radius of 25mm and be installed so as to be integral to the surface finish of both floor and wall in such a manner as to form a

continuous, uninterrupted surface.

(f) The walls of the food preparation area must be of solid construction and finished with glazed ceramic tiles or other approved material to a height of 2 metres. The intersection of tiles and render must have a flush finish, or be splayed at a 45 degree angle to eliminate a ledge that would allow dust and grease to accumulate.

(h) The walls at the rear of cooking appliances must be surfaced with an impervious material, such as stainless steel, which extends from the canopy to the floor. Where a cooking appliance is sealed to the wall, the material must be lapped over the top edge of the appliance to provide a grease and vermin proof seal. Cooking appliances must only be sealed to walls made of a non-combustible material.

(i) The ceiling in the preparation, service and scullery areas must be constructed with a rigid, non-absorbent, smooth faced material free from open joints, cracks and crevices and be painted with a light coloured washable paint. The intersection of the walls and ceiling must be tight jointed, sealed and dust proofed. Drop-in panel style ceilings are not permitted.

(k) Service pipes, electrical conduits, refrigeration condensate pipes shall be enclosed or chased into walls, floors or plinths. Where it can be demonstrated that this is not feasible pipes and conduits fixed on brackets, providing a minimum of 25 mm clearance from the adjacent wall and 100 mm from the floor or adjacent horizontal surface, can be used. All openings in walls, floors and ceilings, through which service pipes and conduits pass, must be vermin proof.

(l) All wash sinks and food preparation sinks must be serviced with hot and cold water through a single outlet. Wash sinks must be supplied with water at a temperature of not less than 54 °C for washing.

(m) The double bowl sink must be constructed of stainless steel, have a minimum bowl size of 450mm x 300mm x 300mm to enable cleaning of large pots and equipment, be fitted with a draining area at each end, and have a splashback as part of the unit at least 300mm up the wall.

(n) The cleaners sink must be serviced with hot and cold water through taps fitted with hose connectors. Cleaner's sinks must be located outside of areas where open food is handled.

(o) All fixtures, fittings and equipment must be provided with smooth and impervious surfaces, free from cracks and crevices to enable easy cleaning. All fittings and fixtures must be built into the wall and floor so as to be free from joint, gaps and cavities to enable easy cleaning or alternatively, supported on one of the following:

(i) Plinths – plinths must be an integral part of the floor, constructed of solid materials similar to the floor at least 75mm in height and coved at the intersection with the floor. All plinths must have a smooth and impervious finish. All fittings and fixtures must be properly sealed to the plinth so to be free from gaps, cracks and cavities.

(ii) Wheels or castors – fittings and fixtures can be supported on wheels or castors. The wheels and castors must be capable of supporting and easily moving a full loaded fitting. All wheels and castors must be provided with a restraining device.

(iii) Legs – fittings and fixtures can be supported on legs but must be constructed of a non-corrosive, smooth metal or moulded plastic. All legs must be free from cracks and crevices. All legs must have a clearance space between the floor and the underside of the fitting of at least 200 mm.

**NOTE:** False bottoms under fittings are not permitted (AS4674-2004 – Section 4.2 and 4.3).

(p) All food preparation benches must be constructed in stainless steel or finished in a smooth and non-absorbent approved material that is free of joints.

- 32 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.

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.

- 33 Appliances used to store potentially hazardous food must have a capacity to keep foods hotter than 60°C, refrigerated foods less than 5°C, and frozen foods less than 18°C and be provided with a digital thermometer, accurate to 1°C that can be easily observed from outside the appliance.
- 34 Dishwashing/glass washing machines must have capacity for utensils and equipment to 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.
- 35 All storage cabinets (internal and external surfaces) must be finished in a smooth and non-absorbent approved material that is free of joints.
- 36 Light bulbs or tubes are to be shatterproof or fitted with approved light diffusers (covers or shields) to prevent contamination of food by glass from a broken light globe or tube. Light fittings must be free from any feature that would collect dirt or dust, harbour insects or make the fitting difficult to clean. Light fittings must be recessed into ceilings or equipment where possible. Heat lamps must be protected against breakage by a shield extending beyond the bulb.
- 37 Shelves must be smooth and impervious; free from joints, cracks and crevices; and able to be easily cleaned. The lowest shelf must be at least 200mm off the floor to allow easy cleaning underneath. Approved

materials must be used, such as galvanised piping, stainless steel or laminated plastic. Shelves are to be sealed to the wall or kept clear of walls to allow easy access for cleaning (>40 mm).

38 The storeroom must be constructed in accordance with AS4674-2004 by providing the following:

- A smooth, even, non-slip floor surface.
- Coving at all intersections of the floor and walls with approved, recessed coving to a minimum concave radius of 25mm, so as to be integral to the surface finish of both floor and wall in such a manner as to form a continuous, uninterrupted surface. "Feather edge skirting" and non-rebated coving are not permitted.
- Walls must be provided with a smooth even surface and painted with a light coloured washable paint to enable easy cleaning.
- The ceiling must be constructed with a rigid, non-absorbent, smooth faced material free from open joints, cracks and crevices and be painted with a light coloured washable paint. The intersections of the walls and ceiling must be tight-jointed, sealed and dustproof. Drop in panel style ceilings are not permitted.
- Shelving or storage racks must be designed and constructed to enable easy cleaning.

39 All garbage must be stored in accordance with the requirements of the Food Safety Standards of the Australian and New Zealand Food Standards Code and the *Protection of the Environment Operations Act 1997* to prevent the harbourage of vermin or generation of odours.

40 Rubbish bins must be cleaned regularly to remove the food scraps stuck on the bin surface and to minimise the emission of odour that attracts insects and vermin. Bins may be cleaned either by the rubbish collecting contractors or inside a rubbish room constructed to the above specifications.

Bins, hoppers and other containers used for storing garbage or recyclable material shall be:

- a) constructed of impervious material such as metal or plastic; and
- b) have tight fitting lids
- c) bins that cannot be lifted for draining after cleaning shall have drainage bungs at the base.

## Utility Services

41 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](http://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.

- 42 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.

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

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

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

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

## Construction

- 44 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 is 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.

45 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.

46 The rainwater tank(s) is to be:

- erected on a self-supporting base in the approved location on the property in accordance with the stamped-approved site plans for the development,
- structurally sound and constructed in accordance with AS/NZS 3500 1.2- 1998: National Plumbing and Drainage - Water Supply - Acceptable Solutions,
- fully enclosed and all openings sealed to prevent access by mosquitoes,
- fitted with a first flush device,
- fitted with a trickle system to top up from mains water,
- provided with an air gap, and
- installed by a licensed plumber in accordance with Sydney Water's "Plumbing requirements Information for rainwater tank suppliers and plumbers April 2003" and the NSW Code of Practice: Plumbing and Drainage.

Additionally, the following are to be provided:

- A back flow prevention device shall be provided at the water meter in accordance with Sydney Water



requirements.

- In the event of a power failure, a back up supply of mains water shall be provided to at least one toilet in the dwelling.
- The rainwater tank(s) and associated piping is to be labelled 'Rainwater - Not for Drinking' in accordance with Sydney Water requirements.
- The rainwater tank and pipework is to be painted in colours matching the external finishes of the dwelling and is to be of non-reflective finish.
- The overflow for the rainwater tank is to be connected into the existing stormwater disposal system on the site.

47 Before a rainwater tank(s) can be used, a certificate or suitable document is to be submitted to the Principal Certifying Authority stating that the rainwater tank has been installed in accordance with:

- the Manufacturer's Specifications, and
- Sydney Water and NSW Health requirements.

This certificate or documentation is to be provided by the licensed plumber who installed the rainwater tank on the property, and is to be submitted prior to the issue of the Occupation Certificate.

## Engineering

48 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.

49 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.

50 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 opening for utilities and stormwater (including stormwater connection to Penrith City Council roads and other Penrith City Council owned drainage)
- d) Road occupancy or road closures (including temporary construction work zones and tower crane operation)

- e) The placement of hoardings, structures, containers, waste skips, signs etc. in the road reserve
- f) Temporary construction access
- g) Temporary ground anchors (for basement construction)

All works shall be carried out in accordance with the Roads Act approval, the development consent, including the stamped approved plans, and Penrith City Council's specifications, guidelines and best engineering practice. A single 6m wide vehicle crossing shall be provided.

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

- 51 The stormwater management system shall be consistent with the plan/s lodged for development approval, prepared by Greenview Consulting, reference number 210502, revision 3, dated 03.09.21.

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. Kerb outlets shall have a minimum 15m spacing with a maximum discharge rate of 25L/s for the 10% AEP storm event.

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.

- 52 Prior to the issue of any Construction Certificate, the Certifier shall ensure that the stormwater drainage system for the basement car park has been designed in accordance with the requirements for pumped systems in AS3500.3 Plumbing and Drainage – Stormwater Drainage.

- 53 Prior to the issue of any Construction Certificate, the Certifier shall ensure that vehicular access, circulation, manoeuvring, pedestrian and parking areas associated with the subject development are in accordance with Penrith City Council's Development Control Plan, AS2890.1, AS2890.2 and AS2890.6.

- 54 Prior to the issue of a Construction Certificate, a geotechnical investigation report and strategy shall be submitted to the Certifier to ensure the stability of any adjoining Council owned infrastructure and surrounding developments. The geotechnical investigation, report and strategy shall comply with the recommendations contained in the technical direction GTD 2012/001 prepared by the Roads and Maritime Services.

- 55 The developer shall undertake a dilapidation report for all surrounding buildings and Council owned infrastructure that confirms that no damage occurs due to the excavations associated with the development. If Council is not the Certifier for the development then the dilapidation report shall be submitted to Council prior to the issue of any Construction Certificate and then updated and submitted prior to the issue of any Occupation Certificate confirming no damage has occurred.
- 56 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.
- 57 Prior to the issue of any Occupation Certificate, the Principal Certifier shall ensure that all works associated with a S138 Roads Act approval have been inspected and signed off by Penrith City Council.
- 58 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.

- 59 Prior to the issue of any Occupation Certificate, the Principal Certifier shall ensure that the basement pump out systems:
- 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.

- 60 Prior to the issue of any Occupation Certificate, a restriction on the use of land and positive covenant relating to the basement pump out systems 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.
- 61 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.

62 The plans accompany the Construction Certificate application are to be amended to reflect the following:

- car space #19 is to be allocated as a visitor space, and
- car space #12 is to be allocated as a staff space.

The Principal Certifier is to ensure that the above amendments have been incorporated into the construction certificate plans, prior to the issue of a Construction Certificate.

63 All car parking and manoeuvring must be in accordance with AS2890.1-2004; AS2890.6-2009 and Council's requirements.

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

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

66 All car spaces 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.

## Landscaping

67 **Prior to the issue of a Construction Certificate**, a revised landscape plan shall be submitted to and approved by Penrith City Council incorporating the following details:

- Additional planting of 5x canopy trees of a suitable species and a minimum 75L pot size located within the deep soil area at the rear of the site, as marked in red on the landscape plan; and
- Natural turf is to be provided along the frontage of the site;
- The driveway colour is to be a medium to light to reduce heat absorption; and
- Detailed design of any shade structures. The materials proposed for shade structures and any proposed slide shall be included in accordance with AS 4685 'Playground equipment and surfacing'.

All landscape works are to be constructed in accordance with the approved landscape plan (as approved under this condition) and the relevant provisions 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.**

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

69 On 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. This report shall be prepared by a suitably qualified and experienced landscape professional.

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

70 All plant material associated with the construction of approved landscaping is to be planted in accordance with the Tree Planting Specification prescribed in Penrith Council's Development Control Plan 2014.

71 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.

72 No trees are to be removed, ringbarked, cut, topped or lopped or wilfully destroyed (other than those within the proposed building footprint or as shown on the approved plans) without the prior consent of Penrith City Council and in accordance with Council's Tree Preservation Order and Policy.

## Section 94

- 73 This condition is imposed in accordance with Penrith City Council's Section 7.12 Development Contributions Plan for Non-Residential Development. Based on the current rates detailed in the accompanying schedule attached to this Notice, \$22,447.00 is to be paid to Penrith City Council prior to a Construction Certificate being issued for this development (the rates are subject to quarterly reviews). If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted Section 7.12 plan.

The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule. Council should be contacted prior to payment to ascertain the rate for the current quarterly period. The Section 7.12 invoice accompanying this consent should accompany the contribution payment. The Section 7.12 Development Contributions Plan for Non-Residential Development may be inspected at Council's Civic Centre, 601 High Street, Penrith.

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

In addition, given that the proposed cost of carrying out the development is greater than \$750,000, a cost summary report is provided by a quantity surveyor who is a registered member of the Australian Institute of Quantity Surveyors in accordance with Section 3.2.3 of Council's Section 7.12 Contributions Plan for Non-Residential Development. The cost summary report is also required prior to the issue of a Construction Certificate.

## Certification

- 74 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.

75 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.

## SIGNATURE

Name:	Lucy Goldstein
Signature:	

For the Development Services Manager