

PENRITH CITY COUNCIL

NOTICE OF DETERMINATION

DESCRIPTION OF DEVELOPMENT

Application number:	DA20/0767
Description of development:	Demolition of Dwelling, Construction of a Seven (7) Storey Accommodation Hotel with Rooftop Bar and Restaurant, 3 Levels of Basement Parking for 63 Vehicles, Ground Floor Reception, Lounge and Dining, and Associated Site Works with Consolidation of Three Lots
Classification of development:	Class 3 , Class 6 , Class 7a

DETAILS OF THE LAND TO BE DEVELOPED

Legal description:	Lot 57 DP 215146 Lot 58 DP 36728 Lot 59 DP 36728
Property address:	28 Somerset Street, KINGSWOOD NSW 2747 30 Somerset Street, KINGSWOOD NSW 2747 32 Somerset Street, KINGSWOOD NSW 2747

DETAILS OF THE APPLICANT

Name & Address:	Boston Nepean Pty Ltd PO Box Q905 QUEEN VICTORIA BUILDING NSW 1230
-----------------	--

DECISION OF CONSENT AUTHORITY

In accordance with Section 2.17 and 4.18(1) (a) of the Environmental Planning and Assessment Act 1979 (as amended), consent is granted subject to the conditions implementation 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	24 September 2021
Date the consent expires	24 September 2026
Date of this decision	22 September 2021

POINT OF CONTACT

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

Assessing Officer:	Sandra Fagan
Contact telephone number:	+612 4732 7992

NOTES

Reasons

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

Conditions

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

Certification and advisory notes

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

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

Review of determination

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

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

Appeals in the Land and Environment Court

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

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

Designated development

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

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

Sydney Western City Planning Panels

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

ATTACHMENT 1: CONDITIONS OF CONSENT

General

- 1 The development must be implemented substantially in accordance with the plans stamped approved by Council and referenced in the table below, the consultant reports referenced at the end of the table, and with the following conditions.

Doc No.	Issue	Title	Prepared By	Date
Architectural Plans Project 220027 - 28-32 Somerset Street, Kingswood				
TP01.00	-	Basement 3	Rothelowman	09 July 2021
TP01.01	A	Basement 2	Rothelowman	09 July 2021
TP01.02	A	Basement 1	Rothelowman	09 July 2021
TP01.03	B	Ground	Rothelowman	30 July 2021
TP01.04	B	Level 1	Rothelowman	30 July 2021
TP01.05	B	Levels 2-3	Rothelowman	30 July 2021
TP01.06	B	Levels 4-5	Rothelowman	30 July 2021
TP01.07	B	Rooftop	Rothelowman	30 July 2021
TP01.08	A	Roof Services Plan	Rothelowman	09 July 2021
TP02.01	A	North Elevation	Rothelowman	09 July 2021
TP02.02	A	East Elevation	Rothelowman	09 July 2021
TP02.03	A	South Elevation	Rothelowman	09 July 2021
TP02.04	A	West Elevation	Rothelowman	09 July 2021
TP03.01	B	Section A-A	Rothelowman	30 July 2021
TP03.02	B	Sections B-B & C-C	Rothelowman	30 July 2021
TP03.03	B	Section D - Carpark Entry Ramp	Rothelowman	30 July 2021
TP05.01	A	Development Summary	Rothelowman	09 July 2021
TP05.02	A	GFA	Rothelowman	09 July 2021
TP05.04	A	Site Coverage and Deep Soil	Rothelowman	09 July 2021
TP05.05	-	Height Plane Diagram	Rothelowman	09 July 2021

TP05.06	-	Solar POV	Rothelowman	09 July 2021
TP05.07	-	Solar POV	Rothelowman	09 July 2021
Landscape Plans				
00	C	Coversheet	LandFX	27 July 2021
01	C	Landscape Constraints	LandFX	27 July 2021
02	C	Landscape Opportunities	LandFX	27 July 2021
03	C	Key Design Moves	LandFX	27 July 2021
04	C	Landscape Character	LandFX	27 July 2021
05	C	Landscape Plan	LandFX	27 July 2021
06	C	Landscape Plan - Ground	LandFX	27 July 2021
07	C	Landscape Detail Plan - 1 of 2	LandFX	27 July 2021
08	C	Landscape Detail Plan - 1 of 2	LandFX	27 July 2021
09	C	Landscape Section	LandFX	27 July 2021
10	C	Landscape Plan - Roof Terrace	LandFX	27 July 2021
11	C	Indicative Landscape Palettes	LandFX	27 July 2021
12	C	Planting Scedule and Palette	LandFX	27 July 2021
13	C	Detailed Planting Plan - Ground	LandFX	27 July 2021
14	C	Detailed Planting Plan - Roof Terrace	LandFX	27 July 2021
15	C	General Landscape Details	LandFX	27 July 2021
16	C	General Landscape Specification	LandFX	27 July 2021
Civil Engineering Package Job No. 202701				
DA_C01.01	03	Cover Sheet	Northrop	15 July 2021
DA_C02.01	03	Concept Sediment Erosion Control Plan	Northrop	15 July 2021
DA_C02.11	03	Sediment Erosion Control Details	Northrop	15 July 2021
DA_C04.01	04	Siteworks & Stormwater Management Plan - Ground Floor	Northrop	08 September 2021

DA_C04.02	01	Siteworks & Stormwater Management Plan - Basement 3	Northrop	15 July 2021
DA_C04.21	03	Stormwater Longitudinal Sections	Northrop	08 September 2021
DA_C05.01	03	Driveway Longitudinal Section	Northrop	15 July 2021
DA_C06.01	03	Details Sheet 01	Northrop	15 July 2021
DA_C06.02	01	Details Sheet 02	Northrop	15 July 2021

Consultant Reports:

- Report on Geotechnical Investigation, by Douglas Partners, Reference 99851.00, Revision R.001.Rev1, dated 7 May 2021;
- Stormwater Management Report, by Northrop, Reference 202701-CR01-C, dated 22 July 2021 (excluding the conclusions in the report relating to the HGL analysis);
- BCA Design Assessment Report, by Design Confidence, Reference P220_430-3 (BCA) JR, dated 30 July 2021;
- DA Acoustic Report, by Pulse Acoustic Consultancy, Reference 20205 - 28-32 Somerset Street, Kingswood, Revision 4, dated 29 July 2021;
- Traffic Report - Proposed Medi-Hotel 28-32 Somerset Street, Kingswood, by The Transport Planning Partnership, Reference 20227, Version: Final, dated 23 July 2021;
- Access Design Assessment Report, by Design Confidence, Reference P220_430-3 (ACCESS) FMR, dated 30 July 2021;
- Aboricultural Impact Appraisal and Method Statement (Revision A), by Naturally Trees, Reference Boston Global_AIA and MS Rev A-29/07/2021, dated 29 July 2021;
- Waste Management Plan, by Salt, Reference 20358W, dated 16 November 2020;
- Building Services Engineering Utilities Report, by Evolved Engineering, dated 5 November 2020;
- Structural Development Application Report, by Northrop, Reference SY202701-SR01, Revision 1, dated 11 November 2020;
- Report on Preliminary Site (Contamination) Investigation, by Douglas Partners, Reference 99851.00, Revision R.002.Rev0, dated 10 November 2020; and
- DA Report for ESD Services, by emf griffiths, Reference S2200406, Issue C, dated 12 November 2020.

2 Lots 58 and 59 in Deposited Plan 36728 and Lot 57 in Deposited Plan 215146, being 28, 30, and 32 Somerset Street, are to be consolidated into one lot. A copy of the registered plan of consolidation is to be submitted to the Principal Certifier and Penrith City Council, if Council is not the certifier, prior to the issue of an Occupation Certificate for the development.

3 The finishes of all structures and buildings are to be maintained at all times and any graffiti or vandalism immediately removed/repaired.

4 The food and drink areas of the hotel are not to be sub-let to a third party. Those spaces are to be operated and managed by the hotel operator.

An operational 'Plan of Management' to reflect the above, and outline appropriate management measures to

mitigate impacts upon neighbours (including matters outlined below), is to be submitted to, and written approval obtained from Penrith City Council prior to the issue of any Occupation Certificate.

Thereafter, the hotel shall be managed in accordance with the approved Plan of Management, which can be reviewed and updated to improve processes and operations with the written approval of Penrith City Council. The Plan of Management is to include of the following:

- The 24 hour contact details of the property caretaker or manager, who has overall responsibility for the operation, administration, cleanliness, maintenance and fire safety of the premises;
- Any rules, including details of how they will be publicised to guests, visitors and patrons, that cover guest behaviour, activities and noise, visitor policy and any other relevant rules;
- Measures to minimise unreasonable impact to the habitable areas of adjoining properties, including the management of the licensed bar / restaurant areas and the external seating areas;
- The use of external and publicly accessible spaces should be restricted in accordance with the Acoustic Report referenced at Condition 1 and other conditions of this consent; and
- Details of how complaints will be investigated and managed.

5 The car parking spaces at all basement levels are to be used solely by staff and visitors/guests of the hotel. At no time are the car parking spaces to be let to a third party.

6 The only signage approved is the building identification sign shown on the architectural drawings referenced at Condition 1. The final details of the sign, including the position, material, method of illumination, and design is to be submitted to Council for approval prior to the signage being installed and displayed. The approved signage shall only be for building and/or tenancy identification signage. The position and visibility of signage is not to be used as a reason to request the removal or relocation of any street tree/s which are required to be retained or are proposed as new street trees.

7 Prior to the issue of any Occupation Certificate, the applicant is to provide evidence to the Principal Certifier that a commercial contract for all waste collection services to the site has been entered into. Such a contract must be retained and maintained while the site is being used. All costs associated with waste collection are to be at the expense of the developer/operator/landowner.

The hotel waste is to be managed in accordance with the Waste Management Plan referenced at Condition 1.

8 The drawings and details submitted with the Construction Certificate application are to include all of the relevant recommendations and details as contained in the specialist consultant reports referenced at the end of the table at Condition 1.

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

(a) Lighting

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

(b) Basement Car Parking

- A security system must be installed on any pedestrian and vehicle entry/exit points to the car park, including the lift and stairwell, to minimise opportunities for unauthorised access.
- All areas of the car park must be well-lit, with consistent lighting to prevent shadowing or glare.
- Car park surfaces including walls and ceilings are to be light coloured with details included with the **Construction Certificate** application.

(c) Building Security & Access Control

- Intercom, code or card locks or similar must be installed for all entries to the building and restricted areas. Access to hotel floors must be restricted to visitors travelling to the roof top only.
- Australian Standard 220 door and window locks must be installed in all premises/rooms.
- CCTV is to be provided to cover communal public space areas. Cameras must be of sufficient standard to be useful for police in the event of criminal investigations. Lighting must be provided to support cameras at night (alternatively infra-red cameras are recommended). Signage must be displayed to indicate that CCTV cameras are in use.
- A monitored alarm system must be installed.
- A Plan of Management must be submitted **prior to the issue of an Occupation Certificate** detailing safety and security practices for the rooftop amenities, in particular the bar/restaurant.

(d) Graffiti/Vandalism

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

(e) Landscaping

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

10 The southern elevation is to be further articulated to improve the facade's presentation to Hargrave Street. These changes are to include the following:

- (a) Additional decorative screening to the open stairwell, which may also serve to provide a form of artwork and visual interest;
- (b) Additional windows on the southern facade of the hotel rooms at all levels;
- (c) A window on the eastern wall of the employee break room; and
- (d) The basement driveway is to be amended by replacing some of the perforated screen to the arbour with solid screening (towards the rear) to assist with noise mitigation.

Details of these amendments are to be submitted to Penrith City Council for approval prior to the issue of a Construction Certificate.

Demolition

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

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

- 12 You should read Council's Fact Sheet titled "Handling and Disposal of Fibrous Cement Products" **before any demolition works commence on the site**.

Prior to commencement of demolition works on site, a portaloo with appropriate washing facilities shall be located on the site and the Principal Certifying Authority is to be satisfied that:

- Measures are in place so as to comply with the WorkCover Authority's "Short Guide to Working with Asbestos Cement"; and
- The person employed to undertake the works is a licensed asbestos removal contractor and is holder of a current WorkCover Asbestos Licence.

Any demolition works involving the removal of all asbestos shall only be carried out by a licensed asbestos removal contractor who has a current WorkCover Asbestos Licence. All asbestos laden waste, including asbestos cement flat and corrugated sheeting, must be disposed of at a tipping facility licensed by the Environment Protection Authority to receive asbestos wastes.

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

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

- 15 Demolition works 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; and
- No demolition work is permitted on Sundays and Public Holidays.

In the event that the demolition relates to works inside the building, does not involve external walls or the roof, and does 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.

Heritage/Archaeological relics

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

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

Environmental Matters

- 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.

The approved sediment and erosion control measures are to be installed **prior to and maintained throughout the construction phase of the development until the land, that was subject to the works, has been stabilised and grass cover established**. 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 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 the Penrith Development Control Plan) with consideration of all relevant guidelines (e.g. EPA, ANZECC, NH&MRC), standards, planning instruments and legislation;
 - clearly indicate the legal property description of the fill material source site;
 - provide details of the volume of fill material to be used in the filling operations;
 - provide a classification of the fill material to be imported to the site in accordance with the Environment Protection Authority's "Environmental Guidelines: Assessment, Classification & Management of Non-Liquid Wastes" 1997; and
 - (based on the fill classification) determine whether the fill material is suitable for its intended purpose and land use and whether the fill material will or will not pose an unacceptable risk to human health or the environment.

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.

- 19 A construction 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 approved development. This plan is to include any hazardous materials from the demolition of buildings.

The waste management plan shall be prepared in accordance with the relevant provisions of Penrith Development Control Plan 2014, and shall address all waste materials likely to result from the approved development, with details of the estimated waste volumes, on site storage and management, proposed re-use of materials, designated waste contractors, recycling outlet and / or landfill site.

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.

- 20 All waste materials stored on site during works 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 acoustic report prepared by Pulse Acoustics, dated 29 July 2021, reference number 20205. The recommendations provided in the above-mentioned acoustic report shall be implemented and incorporated into the design and construction of the development, and shall be shown on plans accompanying the Construction Certificate application. A certificate is to be obtained from a qualified acoustic consultant certifying that the building has been constructed to meet the noise criteria in accordance with the approved acoustic report. This certificate is to be submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

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 boundaries of the premises. The provisions of the Protection of the Environment Operations Act 1997 apply to the development, in terms of regulating offensive noise.
- 24 Deliveries and service vehicles (including garbage collection vehicles) generated by the development are limited to between 7am and 10pm, Monday to Saturday.
- 25 The basement car park and basement waste storage room are to be mechanically ventilated in accordance with the relevant sections of the BCA and AS 1668, Parts 1 & 2. The discharge of the mechanical ventilation is to be to the roof of the building. The exhaust risers are to be reticulated through the internal areas of the

building prior to their discharge to the roof. Suitable details are to be submitted to Penrith City Council for approval prior to the issue of a Construction Certificate and the approved details are then to be included in the Construction Certificate drawings.

26 An acoustic report is to be provided to Council and written approval obtained from Council, prior to a Construction Certificate being issued, which outlines the noise impacts and mitigation measures required for all mechanical plant on the premises. The acoustic report is to be prepared by a suitably qualified and practising person in accordance with the Noise Guide for Industry.

27 An unexpected finds protocol is to be developed by an appropriately qualified environmental consultant. Prior to the issue of a Construction Certificate, the protocol is to be submitted to Council and approved. If Council is not the certifying authority for the development, the protocol is required to be submitted to Penrith City Council for approval.

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

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

28 A clearance inspection shall be carried out and a Clearance Certificate issued by an independent licensed asbestos assessor (for Class A asbestos removal work) or an independent competent person (in any other case) before any site excavation or construction works occur. This Certificate is to be submitted to the Certifying Authority prior to the issue of a Construction Certificate.

The Clearance Certificate is to verify that the surface of the development site is free from asbestos. The clearance inspection and Clearance Certificate is to be undertaken and prepared in accordance with the Work Health and Safety Regulation 2011, and all applicable Australian Standards and NSW WorkCover codes of practice.

29 All mechanical plant is to be located within the Rooftop level (Seventh Floor) as shown in the architectural drawings referenced at Condition 1. The roof level can contain the photovoltaic panels (which are to be placed with a zero degree pitch as shown in the drawings) and the Energy Recovery Ventilators (which are to project no more than 850mm from the roof and are to be set back from all building edges). A certificate is to be obtained from a qualified acoustic consultant certifying that the mechanical plant and equipment has been chosen and installed to meet the noise criteria in accordance with the approved acoustic report referenced at Condition 1. This Certificate is to be provided to the Principal Certifier prior to the issue of any Occupation Certificate.

30 The following restrictions apply to the bar, lounge, and dining areas of the hotel. This includes the internal bar and lounge areas located on ground level, the external seating area located on the ground floor arbour on Somerset Street, the internal 'food & beverage' area located at rooftop level, and the whole of the external/outdoor terrace around the perimeter of the rooftop level (northern, southern, and eastern sides). These areas are to be used and managed in accordance with the recommendations of the acoustic report referenced at Condition 1. In this regard, the use of those spaces is restricted as follows:

- The use of the internal areas of both the ground floor and rooftop bar/lounge/dining are limited to between 6:00am to 12:00am (midnight) every day;
- All external facades adjoining the ground floor and rooftop level food and beverage spaces, including windows and doors, are to be closed between 10:00pm and 7:00am with doors used only for direct ingress and egress as required;
- The use of the ground floor arbour area to Somerset Street, and the rooftop external terrace area is limited to between 7:00am to 10:00pm, Monday to Saturday, and 8:00am to 10:00pm on Sundays and Public Holidays, except for the two areas shown in red at page 35 of the Acoustic Report, being the northern and southern end of the external rooftop terrace, with these areas only able to operate until 6:00pm, unless Penrith City Council approve additional acoustic treatments;
- The total number of patrons permitted internally in the rooftop bar/dining area is 75 patrons, in the external roof top area is 99 patrons (as per page 34 of the Acoustic Report), in the ground level lounge is 84 patrons, and in the ground level bar is 36 patrons (these limits do not include staff);
- Music can only can be played within internal areas and is not to exceed 75dBA within the space; and
- The 1.8m high glazed balustrade around the entire perimeter of the outdoor dining/bar area is to be retained/provided.

BCA Issues

31 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).

- 32 The external walls of the building including attachments must comply with the relevant requirements of the National Construction Code (NCC). Prior to the issue of a Construction Certificate and Occupation Certificate, the Certifying Authority and Principal Certifying Authority must:
- (a) Be satisfied that suitable evidence is provided to demonstrate that the products and systems proposed for use or used in the construction of external walls including finishes and claddings such as synthetic or aluminium composite panels comply with the relevant requirements of the NCC; and
 - (b) Ensure that the documentation relied upon in the approval processes include an appropriate level of detail to demonstrate compliance with the NCC as proposed and as built.
- 33 Notwithstanding the comments at Clause 3.4.1 of the Access Report referenced at Condition 1, the employee breakout room located on the ground floor must be provided with an accessible Water Closet for use by staff, with details to be provided with the Construction Certificate. In addition, way-finding signage is to be installed and maintained for the accessible room located on the northern side of the building at ground floor level.
- 34 The Construction Certificate application is to provide details showing how the requirements and recommendations of the Accessibility Report, referenced at Condition 1, have been achieved. Details are to be shown on the drawings accompanying the Construction Certificate application.

Health Matters and OSSM installations

- 35 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*.
- 36 The proprietor of the food business shall ensure that the requirements of the NSW Food Act 2003, NSW Food Regulation 2015 and the Australian and New Zealand Food Standards Code are met at all times.
- 37 A satisfactory inspection of the food preparation areas, from an authorised officer of Council's Environmental Health Department, is required prior to the issue of an 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.
- 38 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 issue of an Occupation Certificate and operation of the business.
- 39 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 AS 1668, Parts 1 & 2. Detailed

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

The exhaust hood must completely cover the equipment to be ventilated 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 2000mm above floor level.

Prior to the issue of an Occupation 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 AS 1668, 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.

40 A Food Safety Supervisor, with a current Food Safety Supervisor Certificate recognised by the NSW Food Authority, must be appointed by the business prior to commencement of the business.

41 A detailed plan showing the information below must be submitted to and approved by Council prior to the issue of a Construction Certificate:

- Details of the finish of the walls and ceiling (note acoustic panels are not permitted in food preparation areas);
- Details and location of coving to all floor wall joins;
- Details and location of shelving to the storage area for food and packaging;
- Construction material of shelving indicating lowest shelf at least 150mm above ground level;
- Details of materials used on benches in kitchen;
- Reference to the construction of the premises being in accordance with the Australian New Zealand Food Standards Code, Food Safety Standard 3.2.3 "Food Premises and Equipment" and AS 4674 - 2004 "Design, Construction and Fit Out of Food Premises";
- Hand wash facilities fitted with a hands free operation warm water through a common spout;
- Location of separate sink for (a) washing of vegetables and fruit, (b) hand washing, and (c) washing (required) and sanitizing sinks (if no dishwasher);
- Location of any floor wastes and hose connectors (if being installed) and/or cleaner's sink (may be in cleaner's room or laundry);
- Details and location of all equipment in the kitchen including, but not limited to, ovens, fridges, freezers, dishwasher, etc;
- Location of personal staff storage area;
- Any fluorescent light fittings being fitted with a smooth faced diffuser and identified on the plan; and
- Location and information of mechanical ventilation for oven/stove in accordance with Section 2.5.2 of AS 4674 - 2004 "Design, Construction and Fit Out of Food Premises".

No fit out works shall commence on the site until after the above plan has been supplied to Council and Council has advised the Principal Certifier in writing that it is satisfactory.

Utility Services

- 42 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.
- 43 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.
- 44 **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.

- 45 The matters contained in the referral response letter from Endeavour Energy dated 29 July 2021 shall be addressed and taken into consideration to the satisfaction of Endeavour Energy.
- 46 This development consent only permits a blast wall around the northern side of the substation, no more than 3m in height. Should the wall be higher than 3m, approval must first be obtained from Penrith City Council prior to the blast wall being installed or prior to the issue of any Occupation, whichever occurs first. The finish, colour and texture of the blast wall is to complement the materials and finishes used in the building and/or boundary fencing.

Construction

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

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

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

Signage but no more than 2 signs stating the above details 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.

48 Prior to the commencement of construction works:

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

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

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

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

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

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

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

49 No work is to commence on site until such time as a person accredited to prepare traffic control plans in accordance with AS 1742.3 "Traffic Control Devices for Works on Roads" and the RMS publication "Traffic Control Works on Roads" and the RMS publication "Traffic Control at Worksites" has certified a Traffic Control Plan for the development/site. The Traffic Control Plan shall be implemented during the construction phase of the development and a copy of the plan shall be available on site at all times.

A copy of the Traffic Control Plan shall accompany the Notice of Commencement to be submitted to Penrith City Council 2 days before any work is to commence onsite.

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

Guidelines:

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

Other construction works carried out inside a building/tenancy and that 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.

51 Prior to the erection of any crane or any temporary construction structure at a height greater than the roof of the subject development, written notice shall be provided to Council **and the Nepean Blue Mountains Local Health District** (NBMLHD) at least 21 days prior to the erection, indicating at least the following:

- Name of responsible company and relevant contact details;
- Dimensions (height, length, etc);
- Position and orientation of boom/jib and counterboom/jib;
- Length of time that such a crane or structure will be erected on site; and
- The management plan and measures that will ensure that the crane or structure will be of least possible impact on flight operations for Ambulance NSW in accordance with and addressing Guideline H - Protecting Strategically Important Helicopter Landing Sites as part of the *National Airports Safeguarding Framework*.

To satisfy the above requirements, and if so directed by either Penrith City Council or NBMLHD, the applicant is to submit a Flight Safety Report, specific to this development to demonstrate protection of the Nepean Hospital HLS Flight Path.

Any crane or any temporary construction structure erected at a height greater than the roof of the subject development shall comply with the following:

- Be equipped with medium intensity steady red lighting positioned at the highest point and both ends of the boom/jib and counterboom/jib, such that the lighting will provide an indication of the height of the crane and the radius of the crane boom/jib. Such lighting, which should be displayed at night, should be positioned so that when displayed it is visible from all directions;
- When a crane is unattended for an extended period of time ensure the crane's boom is retracted and lowered as far as possible; and
- No part of the crane or structure shall extend beyond the boundaries of the subject development site unless approved by Penrith City Council **in consultation with the Nepean Blue Mountains Local Health District**. Any encroachment beyond the boundaries of the subject site shall be the minimum amount required to facilitate construction and access all parts of the construction site.

The plan is to be submitted to the Certifying Authority, Penrith City Council and NBMLHD and complied with at all times.

52 The Principal Certifier is to ensure that the recommendations of the ESD Report referenced at Condition 1 are incorporated into the details submitted with the Construction Certificate.

Engineering

53 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.

54 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.

55 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) Road opening for utilities;
- b) Road occupancy or road closures (including temporary construction work zones and tower crane operation);
- c) The placement of hoardings, structures, containers, waste skips, signs, etc in the road reserve; and
- d) Temporary construction access.

All works shall be carried out in accordance with the Roads Act approval, the development consent, including the stamped approved plans, and Penrith City Council's specifications, guidelines and best engineering practice. Contact Penrith City Council's Asset Management Department on 4732 7777 or visit Penrith City Council's website for more information.

Note:

- Where Penrith City Council is the Certifier for the development, the Roads Act approval for the above works may be issued concurrently with the Construction Certificate.
- All works associated with the Roads Act approval must be completed prior to the issue of any Occupation Certificate.

56 Prior to the issue of any Construction Certificate, the Certifier shall ensure that a Section 138 Roads Act application, including 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 the following:

- New kerb and gutter, path paving, landscaping and public domain street furniture for the full frontage of the site in Somerset Street and Hargrave Street in accordance with the Kingswood Public Domain Manual;

- Extension of the road drainage system in Hargrave Street and upgrade of the existing drainage system in Hargrave Street to provide sufficient capacity for the development;
- Vehicular crossover for the basement car park; and
- Regulatory signage and line marking works in Somerset Street and Hargrave Street, subject to separate approval by the Local Traffic Committee.

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

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

Note:

- Where Penrith City Council is the Certifier for the development, the Roads Act approval for the above works may be issued concurrently with the Construction Certificate.
- All works associated with the Roads Act approval must be completed prior to the issue of any Occupation Certificate.

57 The stormwater management system shall be consistent with the stamped approved plans prepared by Northrop Consulting, Job No. 202701.

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

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

58 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 Development Control Plan 2014, AS 2890.1, AS 2890.2 and AS 2890.6.

59 Prior to the commencement of any works on-site (including demolition works) or prior to the issue of any Construction Certificate, whichever occurs first, a Construction Traffic Management Plan (CTMP) shall be submitted to Penrith City Council's Asset Management Department for endorsement. The CTMP shall be prepared by a suitably qualified consultant with appropriate training and certification from Transport for NSW. The CTMP shall include details of any required road closures, work zones, loading zones and the like. Approval of the CTMP may require approval of the Local Traffic Committee. Please contact Council's Asset Management Department on 4732 7777 and refer to Council's website for a copy of the Temporary Road Reserve Occupancy Application Form.

60 Prior to the issue of a Roads Act Approval, a Performance Bond is to be lodged with Penrith City Council for all civil upgrade works in Somerset Street and Hargrave Street. The value of the bond shall be determined in accordance with Penrith City Council's adopted Fees and Charges Schedule. Contact Penrith City Council's Development Engineering Department on 4732 7777 for further information relating to bond requirements.

- 61 Prior to the issue of any 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 technical direction GTD 2012/001 prepared by Transport for NSW can be used as a guide for preparing the geotechnical investigation report and strategy.
- 62 The developer shall undertake a dilapidation report/s 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/s 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.
- 63 Upon completion of all works in the road reserve, all verge areas fronting and within the development are to be turfed. The turf shall extend from the back of kerb to the property boundary, with the exception of concrete footpaths, service lids or other infrastructure which is not to be turfed over. Turf laid up to concrete footpaths, service lids or other infrastructure shall finish flush with the edge.
- 64 All existing (aerial) and proposed services for the development, including those across the frontage of the development, are to be located or relocated underground in accordance with the relevant authority's regulations and standards.
- 65 Prior to the issue of any Occupation Certificate, the Principal Certifier shall ensure that all works associated with any Section 138 Roads Act approval have been inspected and signed off by Penrith City Council.
- 66 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.

- 67 Prior to the issue of any Occupation Certificate, the Principal Certifier shall ensure that the stormwater management systems (including water sensitive urban design):
- have been satisfactorily completed in accordance with the approved Construction Certificate and the requirements of this consent;
 - have met the design intent with regard to any construction variations to the approved design, and;
 - any remedial works required to be undertaken have been satisfactorily completed.

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

- 68 Prior to the issue of any Occupation Certificate, a restriction on the use of land and positive covenant relating

to the water sensitive urban design 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.

- 69 Prior to the issue of any Occupation Certificate and installation of regulatory/advisory signage and line marking, plans are to be lodged for such with Penrith City Council and approved by the Local Traffic Committee.

Note:

- Contact Penrith City Council's Engineering Services Department on 4732 7777 for further information on this process.
- Allow eight (8) weeks for approval by the Local Traffic Committee.
- Applicable fees are indicated in Council's adopted Fees and Charges Schedule.

- 70 Prior to the issue of any Occupation Certificate, a Maintenance Bond is to be lodged with Penrith City Council for all civil upgrade works in Somerset Street and Hargrave Street. The value of the bond shall be determined in accordance with Penrith City Council's adopted Fees and Charges Schedule.

Note:

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

- 71 The stormwater management systems 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.

- 72 Prior to the issue of any Occupation Certificate, an Operational Traffic Management Plan is to be prepared. The Plan shall include all details of any traffic control measures and the management of heavy vehicles servicing the development and manoeuvring on the site. The Plan shall include, but not be limited to, the provision of:

- Traffic controllers to provide oversight and manage heavy vehicles during their manoeuvring on the site;
- Management of pedestrians and ensure they are kept clear of any heavy vehicles servicing the site, particularly during reversing manoeuvres; and
- Details on how drivers will be made aware that they must comply with the operational traffic management plan for the development.

- 73 All car spaces are to be sealed, line marked and dedicated for the parking of vehicles associated with the hotel use only and are not to be used for storage of materials, products, waste materials and the like.

- 74 The required sight lines around the driveway entrances are not to be compromised by landscaping, fencing,

signage or other structures.

- 75 All vehicles are to enter and exit the site in a forward direction.
- 76 Convex mirrors (and/or other management measures) are to be installed and maintained to assist with sight lines between the driver of service vehicles and cars approaching the ramp at Basement Level 1.
- 77 The use of hydraulic rock hammers and/or percussive excavation techniques is not permitted until the Principal Certifier has approved a specialised methodology accompanied by additional geotechnical, vibration and acoustic information.
- 78 The applicant/developer must ensure that the relevant requirements, inspections and/or information, as recommended in the Geotechnical Report referenced at Condition 1, occurs at the appropriate time, including after the basement excavation is completed to confirm that the designed drainage system is adequate for the actual groundwater seepage flows.
- 79 No approval in this development consent has been granted for any ground anchors and/or footings that protrude beyond the boundaries of the subject site, including into adjoining private property/ies or within Council's footpath.
- 80 Any groundwater removed from the site, whether originating from water table levels or seepage, must not be drained or discharged directly into Council's stormwater system without first obtaining written approval to do so from Council's Asset Management Unit. Any such request to discharge must be accompanied by evidence as to the suitability of the groundwater to be discharged, including any treatment required, volumes and method of discharge.
- 81 No approval has been granted for dewatering of any groundwater that may be encountered during excavation. The applicant is to ensure that any approvals required under the Water Management Act from Water NSW are obtained, if required.

Landscaping

82 All landscape works are to be constructed in accordance with the stamped approved landscape plans tabled at Condition 1 and the relevant provisions of Penrith Development Control Plan 2014. Landscaping shall be retained and 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.

In particular, the new landscaping is to be retained and maintained on the Somerset Street frontage of the site and in the arbour along the driveway area. 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.

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

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

i. Implementation Report

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

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

ii. Maintenance Report

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

The landscaping shall be maintained in a healthy state thereafter.

85 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.

86 The trees identified for retention in the arborist report referenced at Condition 1, being Trees numbered 1, 4,

5, 7, and 8 in that report, shall be retained and duly protected during the construction of the development as per the recommendations of that report. For any tree located outside the subject site, the applicant is to make every reasonable effort to obtain the relevant landowner's consent prior to the installation of tree protection measures.

Tree protection measures shall:

- be installed before any works can commence on site including the clearing of site vegetation;
- comply with the standards prescribed by the Method Statement of the arborist report; and
- be certified by the author of the arborist report before any works can commence on site. The certification is to be a Compliance Certificate or other written document certifying that the tree protection measures have been installed in accordance with the recommendations in the approved TMP. The Compliance Certificate or other suitable documentation shall be submitted to the Principal Certifying Authority a minimum of 2 days prior to the commencement of site works. A copy of the Compliance Certificate or written documentation is to be submitted to Council with the "Notice of Commencement".

87 Trees numbered 2, 3, 6, 9, and 10 in the arborist report referenced at Condition 1 are permitted to be removed by this development consent.

88 The Section 138 Roads Act application is to show details of the street trees required to be installed in both the Somerset Street and Hargrave Street public domain. The street trees in Hargrave Street are to be Zelkova 'Green Vase', 100L and the existing Brush Box is also to be replaced with Zelkova. The street trees in Somerset Street are to be Lophostemon Confertus, 100L, unless otherwise agreed by Penrith City Council.

Section 94

89 This condition is imposed in accordance with Penrith City Council's Section 7.12 Contributions Plan for Non-Residential Development. Based on the current rates detailed in the accompanying schedule attached to this Notice, **\$307,377.00 is to be paid to Council prior to a Construction Certificate being issued** for the development (the rates are subject to quarterly reviews). If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted Section 7.12 Contributions Plan. The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule.

Council should be contacted prior to payment to ascertain the rate for the current quarterly period. The Section 7.12 invoice accompanying this consent should accompany the contribution payment.

Note:

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

Payment of Fees

90 Prior to the commencement of any works on site, all fees associated with Penrith City Council-owned land and infrastructure shall be paid to Council. These fees include Road Opening fees and Infrastructure Restoration fees.

Certification

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

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

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

The Principal Certifier shall submit to Council an "Appointment of Principal Certifier" in accordance with Section 6.6 of the Environmental Planning and Assessment Act 1979. Two days before any construction works are to commence on site, the proponent shall submit a "Notice of Commencement" to Council in accordance with Section 6.6 of the Environmental Planning and Assessment Act 1979.

93 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 and commencement of the approved use. The Occupation Certificate shall not be issued if any conditions of this consent, but not the conditions relating to the operation of the development, are outstanding, and/or if the development does not comply with the provisions of the Environmental Planning and Assessment Act and Regulation.

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

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

SIGNATURE

Name:	Sandra Fagan
Signature:	

For the Development Services Manager