

PENRITH CITY COUNCIL

MAJOR ASSESSMENT REPORT

Application number:	DA19/0884.02
Proposed development:	Section 4.55(1A) Modifications to Site Layout, Buildings & Structures - Alterations & Additions to Existing Building for Use as Cafe & Events/Functions with Indoor & Outdoor Seating, New Outdoor Dining Pavilion, Farmers Co-Op Pavilion, Livestock Enclosures, Car Parking, Water Tanks & Signage
Property address:	44 - 50 Tench Avenue, JAMISONTOWN NSW 2750
Property description:	Lot 7 DP 38950
Date received:	17 August 2021
Assessing officer	Sufyan Nguyen
Zoning:	SEPP WSA - Affected by Obstacle Limitation SP3 Tourist - LEP 2010
Class of building:	Class 6
Recommendations:	Approve

Executive Summary

Council is in receipt of a Section 4.55(1A) modification application for alterations to approved alterations and additions to an existing dwelling primarily for use as a café with indoor and outdoor dining areas and a function centre and ancillary buildings and structures at 44-50 Tench Avenue, Jamisontown. The subject site is zoned SP3 Tourist under the Penrith Local Environmental Plan 2010 (LEP) and the proposed development is permitted with the consent of Council.

The proposed changes predominately include enlarged building footprints for the farmers co-op pavilion (+100m²), pizza/milkshake hut (+16m²), bakery/retail building (+30m²) and fodder shed (+35m²), an 800mm wider kitchen building and the addition of amenities and staff rooms for the cafe/restaurant building. Roof ridge lines are also to be increased for the farmers co-op pavilion (+400mm), pizza/milkshake hut (+2.5m) and dining pavilion (+800mm). Other minor proposed changes include a redesigned internal pathway and playground. In addition, the cafe's rainwater tank is to be relocated to the southern side elevation and a small portion of the southern side setback separation adjacent to the bulb of the adjacent service driveway is been deleted.

Overall, the proposed changes are of a minor scale relative to the large land size of the site and the proposed development maintains appropriate building and structure separation distances. Further, adequate servicing, including stormwater drainage and vehicular access and parking, in addition to noise mitigation measures, will remain in place. It should also be noted that the required servicing capacity remains unchanged, i.e., total capacity of patrons and facilities on site. Therefore, the proposed modifications to the development are unlikely to result in any significant amenity impacts on the immediate surrounds.

The modification application was notified in accordance with Penrith Development Control Plan 2014 (DCP). During the exhibition period, one public submissions was received in response, however, the matters raised are not considered to impede approval of the application. An email response was sent to the submitter dated 14 October 2021 addressing the concerns raised.

An assessment of the modified proposal under Section 4.55(1A) and Section 4.15 of the Environmental Planning and Assessment Act 1979 (the Act) has been undertaken and the application is recommended for approval, subject to recommended consent condition amendments.

Site & Surrounds

The subject site has a property address of 44-50 Tench Avenue, Jamisontown and is legally described as Lot 7 DP 38950. The site has a land area of 2.311 ha and is rectangular in shape, with a lot frontage width of 91.44m and a depth of 257.175m. The site is orientated on a north-east/south-west axis and is situated on the north-eastern side of Tench Avenue, opposite Tench Reserve, which adjoins Nepean River with an approximate 100m separation distance. A paper road known as Wilson Lane adjoins the entire rear boundary of the site. The site is affected by a slope of up to approximately 2.51m, which generally falls westwards and an overland flow path, which affects a part of the middle of the site.

The site currently accommodates a previous single storey dwelling, which is currently being converted into a café via development consent no. DA19/0884. In this regard, the operational development consent was issued on 8 June 2021 for "Alterations & Additions to Existing Building for Use as Cafe & Events/Functions with Indoor & Outdoor Seating, New Outdoor Dining Pavilion, Farmers Co-Op Pavilion, Livestock Enclosures, Car Parking, Water Tanks & Signage" and hence, subsequent demolition and earthworks have occurred on the site. A number of scattered trees and an orange tree field remains on the site.

The immediate surrounding area is characterised by a semi-rural area with detached dwellings and large lots. The Nepean Shores Retirement Community complex is situated 200m northwards from the site. It should be noted that the site and the adjoining and nearby properties situated on the north-eastern side of Tench Avenue are zoned SP3 Tourist, which permits a range of land uses and as such, the locality is transitioning to tourist-orientated development types, such as the existing Coffee Club site situated south-westwards, which accommodates a recent restaurant and café development.

Proposal

The application seeks approval for modifications for approved alterations and additions to an existing dwelling primarily for use as a café with indoor and outdoor dining areas and a function centre at 44-50 Tench Avenue, Jamisontown. The proposed modifications are in response to design changes required to address matters identified in the Construction Certificate phase of the development and comprise of the following aspects:

- The farmers co-op pavilion is proposed to be an additional 100m² in area with an increased height of approximately 400mm;
- New footpath configuration, which provides additional access to the farmers co-op pavilion;
- The pizza/milkshake hut is an additional 16m² in area with an increased height of 2.5m;
- The bakery/retail building is an additional 30m² in area with a minor increase in height;
- The kitchen building is 800mm wider with a reconfigured back of house;
- The dining pavilion has an increased height of 800mm;
- The fodder shed is an additional 35m² in area;
- The playground design has been amended;
- Modification of rainwater tank for cafe/restaurant and addition of amenities and staff rooms to the rear as well as facade changes to the screening on the deck and widening of the decking area;
- RL changes to thw farmers co-op pavilion and fodder shed; and
- Changes to the stormwater design to reflect the above modifications.

Plans that apply

- Local Environmental Plan 2010
- Development Control Plan 2014
- State Environmental Planning Policy (Western Sydney Aerotropolis) 2020
- State Environmental Planning Policy No 55—Remediation of Land
- Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

Planning Assessment

- **Section 4.55(1A) - Modifications involving minimal environmental impact**

The proposed modifications have been assessed in accordance with the matters for consideration under Section 4.55(1A) and Section 4.15 of the Act. The proposed modifications satisfy the relevant provisions of the Act in this regard.

Under the provisions of Section 4.55(1A) Modifications involving minimal environmental impact of the Act, Council may, in response to an application being made, modify a previously approved development if:

(a) *it is satisfied that the proposed modifications are of minimal environmental impact, and*

(b) *it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and*

(c) *it has notified the application in accordance with:*

(i) *the regulations, if the regulations so require, or*

(ii) *a development control plan, if the consent authority is a Council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*

(d) *it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.*

In this regard, the following is noted:

(a) The proposed modifications are of a minor nature and of negligible impact on the immediately surrounding natural and built environments, as detailed in this report. It should be noted that amenity and servicing are maintained and appropriate noise mitigation measures remain in place.

(b) In *Vacik Pty Ltd v. Penrith City Council* (unreported 1992) the question of substantially the same development was considered by Commissioner Stein and in particular the meaning of the word 'substantially'. In his opinion 'substantially' is taken in the context to mean 'essentially or materially or having the same essence'.

In *North Sydney Council v. Michael Standley & Associates Pty Ltd* (1998) the NSWCA recognised that a modified development must be different in some respect to the approved development and used the formulation that 'modify' meant 'to alter without radical transformation'.

In applying the ordinary meaning of the words '*substantially the same development*' informed by the above cases, the minor nature of the proposed modifications results in a development not too dissimilar to the original approval, which will be of minimal impact on the surrounding area and is not considered to change the essence of the development. The overall location and sizing of the building footprints largely resembles the original approval. It should also be noted that the site servicing capacity requirements remain unchanged.

(c) The modification application was notified in accordance with the requirements of the DCP.

(d) One submission was received regarding the modified development, however, the concerns raised are not considered to impede approval of the modification application.

Section 4.15(1)(a)(i) The provisions of any environmental planning instrument

State Environmental Planning Policy (Western Sydney Aerotropolis) 2020

State Environmental Planning Policy (Western Sydney Aerotropolis) 2020 (SEPP WSA) contains an Obstacle Limitation Surface Map, which identifies the subject site being within this area. Clause 24 Airspace operations of SEPP WSA relates to development that would penetrate the prescribed air space for the Badgerys Creek airport site and be a 'controlled activity'. In this regard, the proposal neither penetrates the prescribed air space, nor is it a controlled activity, therefore not triggering any additional considerations under this clause.

State Environmental Planning Policy No 55—Remediation of Land

The nature of the proposed modifications are not considered to diminish the development's compliance with SEPP 55.

Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

The nature of the proposed modifications are not considered to diminish the development's compliance with SREP No. 20, noting that adequate stormwater management, including stormwater treatment measures, will be in place for the development.

Local Environmental Plan 2010

Provision	Compliance
Clause 1.2 Aims of the plan	Complies
Clause 2.3 Permissibility	Complies
Clause 2.3 Zone objectives	Complies
Clause 4.3 Height of buildings	Complies

Section 4.15(1)(a)(ii) The provisions of any draft environmental planning instrument

There are no draft environmental planning instruments that specifically apply to the development.

Section 4.15(1)(a)(iii) The provisions of any development control plan

Development Control Plan 2014

Provision	Compliance
DCP Principles	Complies
C1 Site Planning and Design Principles	Complies
C2 Vegetation Management	Complies
C3 Water Management	Complies - see Appendix - Development Control Plan Compliance
C4 Land Management	Complies
C5 Waste Management	Complies
C6 Landscape Design	Complies
C7 Culture and Heritage	N/A
C8 Public Domain	N/A
C9 Advertising and Signage	N/A
C10 Transport, Access and Parking	Complies - see Appendix - Development Control Plan Compliance
C11 Subdivision	N/A
C12 Noise and Vibration	Complies - see Appendix - Development Control Plan Compliance
C13 Infrastructure and Services	Complies
E13 Riverlink Precinct controls	Complies

Section 4.15(1)(a)(iiia) The provisions of any planning agreement

There are no planning agreements in place, which are applicable to the proposal.

Section 4.15(1)(a)(iv) The provisions of the regulations

The proposed modifications are not considered to diminish the development's compliance with the applicable regulations, as endorsed by Council's Building Surveyor. In addition, the modification application has been notified and publicly exhibited in accordance with the requirements of the Regulations.

Section 4.15(1)(b) The likely impacts of the development

Under Section 4.15 of the Act, consideration must be given to the likely impacts of the development, including environmental impacts on both the natural and built environments, and the social and economic impacts in the locality.

The modified development predominately involves negligible increases to building footprints and roof ridge lines. The overall increase in sizing is considered to be appropriate for the capacity of the large allotment and hence, will be of minimal impact on the amenity of the streetscape and neighbouring properties.

Further, it is noted that a rainwater tank is now to be situated along the southern elevation of the café building, as opposed to previously being behind it due to the new amenities and staff room section and that a minor side setback separation from the bulb of the adjacent servicing driveway has been reduced. In consideration of the adequate separation distance from the front boundary and the new 1.8m masonry fence required along this section of the southern boundary, these minor changes are not considered to result in any significant impacts on the streetscape or the amenity of the southern neighbour.

In terms of social impacts, the modified development maintains adequate servicing and noise mitigation measures and it is noted that the total capacity of patrons on the site remains unchanged, which will ensure that there will be minimal impacts on the amenity of neighbouring properties.

Section 4.15(1)(c) The suitability of the site for the development

The nature of the proposed modifications is not considered to diminish the site's suitability for the development, noting that servicing is adequate and that the amenity of the immediately surrounding environment remains preserved.

Section 4.15(1)(d) Any Submissions

Community Consultation

In accordance with Appendix F2 of the DCP, the modification application was notified to the adjoining and nearby properties as per the original notification process and publicly exhibited from 20 September to 5 October 2021. During this period, one public submission was received in response, however, the concerns raised are not considered to impede approval of the application. Key concerns raised in relation to the proposal were as follows:

Issue Raised	Comments
Filling of Land and Flooding Impacts	<ul style="list-style-type: none">• The rear of the land is impacted by the 1% Annual Exceedance Probability (AEP) flood within the Peachtree Creek system. Flood modelling was not undertaken by the developer, as the development was restricted to the area above the 1% AEP flood level from Peachtree Creek.• The original approved plans under development consent no. DA19/0884 clearly showed the extent of any filling works is to be limited to the areas outside of the land impacted by the 1% AEP flood event in Peachtree Creek. The approved plans show the rear half of the property is to remain at natural ground levels.• Council is aware that filling of the flood affected portion of the land occurred at the rear of the property around June/July 2021. Council's Development Compliance Team were notified in this regard and requested that the fill material be removed.• Works-as-executed plans are required as per the original development consent, which will ensure that the rear of the land remains at natural ground levels.• The subject modification application has not changed any matters relating to finished ground levels or flooding, which were matters assessed as part of the original approval and as such the proposal poses no major flooding risk.

<p>Stormwater Drainage</p>	<ul style="list-style-type: none"> • The topography of the site naturally falls to the rear, towards the unmade road reserve of Wilson Lane. It is noted that the area along Wilson Lane is relatively flat and is inundated by the 1% AEP flood from Peachtree Creek. The development site is required to provide an on-site stormwater detention (OSD) system to limit post-developed stormwater flows to pre-developed flows. • Discharge from the OSD system will occur via an open channel that discharges at the rear of the property towards the unmade road of Wilson Lane, approximately 15m north of the southern boundary. The stormwater system is therefore considered to be adequate. • The acoustic barrier (1.8m high masonry fence) to be situated along the front section of the southern side boundary will direct stormwater run-off to the OSD basin, away from the southern neighbouring buildings.
<p>Overlooking and Privacy Impacts</p>	<ul style="list-style-type: none"> • The minor changes proposed in the modification application to building footprints and structures are not considered to result in overlooking or privacy impacts, as per the original approval. • The acoustic barrier (1.8m high masonry fence) and new landscaping along the front section of the southern side boundary, adjacent to the existing building and proposed buildings on the site, will remain in place to mitigate amenity and privacy impacts.

An email response was sent to the submitter on 14 October 2021, advising of the above consideration given to the concerns raised.

Referrals

The application was referred to the following stakeholders and their comments have formed part of the assessment:

Referral Body	Comments Received
Building Surveyor	No objections
Development Engineer	No objections - subject to conditions
Environmental - Environmental management	No objections
Environmental - Waterways	No objections
Environmental - Public Health	No objections
Traffic Engineer	No objection

Building Surveyor

The modification application was referred to several of Council's internal departments, including Council's Building Surveyor, Development Engineer and Environmental Management Unit, with no major concerns raised, subject to existing consent conditions and amended consent conditions to reflect the updated architectural and civil engineering plans. In consideration of the nature of the proposed modifications, re-referral to Council's other internal departments as per the original development application was not considered warranted, with the previous recommended conditions of consent remaining satisfactory. It is noted that the site servicing matters included in the deferred commencement conditions have since been adequately addressed, as reflected in the conditions of consent included in the operational development consent.

Section 4.15(1)(e)The public interest

In consideration of the nature and scale of the modified development, in addition to the proposed modifications being compliant with the applicable development controls, the health and safety of the public will not be adversely affected and therefore the modified development is not considered likely to generate any significant issues of public interest.

Conclusion

The proposed modifications have been assessed against the relevant heads of consideration contained in Section 4.55(1A) and Section 4.15 of the EP&A Act and have been found to be satisfactory. The modified development is not considered to result in any adverse environmental or socio-economic impacts. The site remains suitable for the development and the development is not considered to be contrary to the public interest. Given that there are no outstanding planning considerations and that the modification application is in accordance with the relevant provisions, the application is worthy of Council's support and is recommended for approval.

Recommendation

1. That DA20/0884.02 for modifications to approved alterations and additions to an existing dwelling primarily for use as a café with indoor and outdoor dining areas and a function centre with ancillary buildings and structures at 44-50 Tench Avenue, Jamisontown be approved, subject to the following amended conditions of consent.

CONDITIONS

General

1 A001 - Approved plans table

The development must be implemented substantially in accordance with the following plans and documents stamped approved by Council, the application form and any supporting information received with the application, except as may be amended in red on the stamped approved plans and documents or by plans or documents submitted to satisfy the deferred commencement conditions, and as amended by the following conditions.

Drawing Title	Prepared By	Job No.	Drawing No.	Issue	Dated
Proposed Site Plan	Killing Matt Woods	0461	12	I	08/08/21
Demolition Site Plan	Killing Matt Woods	0461	13	I	08/08/21
Cut & Fill Site Plan	Killing Matt Woods	0461	14	I	08/08/21
Proposed Site Plan	Killing Matt Woods	0461	21	I	08/08/21
Proposed Site Plan	Killing Matt Woods	0461	22	I	08/08/21
Detail Roof Plan Page 1-2	Killing Matt Woods	0461	31-32	I	08/08/21
Illustrative Elevations Page 1-9	Killing Matt Woods	0461	51-59	I	08/08/21
True Elevation Page 1-5	Killing Matt Woods	0461	71-75	I	08/08/21
Parking Detail Plan	Killing Matt Woods	0461	90	I	08/08/21
Accessible Parking Detail Plan	Killing Matt Woods	0461	91	I	08/08/21
Customer Parking Detail Plan	Killing Matt Woods	0461	92	I	08/08/21
Typical Timber Framing Illustrative Details	Killing Matt Woods	0461	101	I	08/08/21
Dining Pavilion (Architectural Plans and Details)	Killing Matt Woods	0461	110-119	I	08/08/21
Kitchen (Architectural Plans and Details)	Killing Matt Woods	0461	120-127	I	08/08/21
Alfresco BBQ (Architectural Plans and Details)	Killing Matt Woods	0461	130-137	I	08/08/21
Retail & Bakery (Architectural Plans and Details)	Killing Matt Woods	0461	140-148	I	08/08/21
Amenities (Architectural Plans and Details)	Killing Matt Woods	0461	150-159	I	08/08/21
Pizza Hut (Architectural Plans)	Killing Matt Woods	0461	160-165	I	08/08/21
Animal and Livestock Enclosures (Architectural Plans and Details)	Killing Matt Woods	0461	170-176	I	08/08/21
Seating Pod (Architectural Plans and Details)	Killing Matt Woods	0461	180-185	I	08/08/21
Farmers Co-op (Architectural Plans and Details)	Killing Matt Woods	0461	190-210	I	08/08/21
Covered Walkway (Architectural Plans and Details)	Killing Matt Woods	0461	211-219	I	08/08/21
House Dining (Architectural Plans and Details)	Killing Matt Woods	0461	220-246	I	08/08/21
Fodder Shed (Architectural Plans and Details)	Killing Matt Woods	0461	250-259	I	08/08/21
Playground (Architectural Plans and Details)	Killing Matt Woods	0461	240, 291-296	I	08/08/21
Typical Fence Details	Killing Matt Woods	0461	701-703	I	08/08/21
Typical Site Details	Killing Matt Woods	0461	711	I	08/08/21
Window Schedule (Page 1-3)	Killing Matt Woods	0461	780-783	I	08/08/21
Glazed Door Schedule Page 1	Killing Matt Woods	0461	784	I	08/08/21
Door Schedule Page 1	Killing Matt Woods	0461	791	I	08/08/21
Proposed Finishes	Killing Matt Woods	0461	801	I	08/08/21
Detail Plan Barn & Seating Pods	Killing Matt Woods	0461	05	N	22/04/21
Typical Acoustic Wall Details	Killing Matt Woods	0461	34	M	09/11/20
Stormwater Concept Plans	MBR Consulting Engineers	19039	000-114	I	03/08/21
Landscape Plans (as amended via Condition 11)	Concept Landscape Architects	LPDA 20-268	2-8	F	06/11/20

Documents:

- Air Quality Impact Assessment prepared by SLR, Reference No. 610.19103-R02-v1.2.docx, dated 10

September 2020;

- Detailed Site Investigation prepared by Noel Finianos, Job No. E2250, Revision 0, dated 24 March 2020;
- Development Application Access Review prepared by Phillip Chun Accessibility Pty Ltd, Reference No. AN019-213829, dated 11 December 2019;
- Noise Impact Assessment, prepared by Rodent Stevens Acoustics, Reference No. R200089R1, Revision 5, dated 5 November 2020;
- Plan of Management prepared by Liquor Advisory Services Pty Ltd, dated 7 May 2021;
- Rezoning Traffic and Parking Assessment Report prepared by Positive Traffic Pty Ltd, Report No. PT1906501_Final_V4, dated September 2020; and
- Sewer Servicing Design prepared by SLR, Reference No. 630.30042-R01-v0.2, dated 21 October 2020.

As amended on 3 June 2021 in accordance with issue of operational development consent and satisfaction of Schedule 1 (Deferred Commencement) conditions and on 14 October 2021 under Section 4.55(1A) of the Environmental Planning and Assessment Act 1979.

2 **A012 - Food Act**

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 **A019 - Occupation Certificate**

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 **A021 - Business Registration**

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.**

5 **A026 - Advertising sign (not for residential)**

A separate development approval for the erection of a sign or advertising structure is to be obtained, other than for signage approved as part of this consent or for an advertisement listed as exempt development.

6 **A029 - HOURS OF OPERATION AND DELIVERY TIMES**

The approved operating hours of the development are:

- Dining Pavilion and House Dining: 7.00am to 12 midnight, Friday to Saturday; 7.00am to 9.00pm, Sunday to Thursday, with special events permitted to 12 midnight;
- Bakery and Retail and Playground: 7.00am to 5.00pm, Monday to Sunday; and
- Farmers' Co-Op: 7.00am to 5.00pm, Saturday.

Delivery and service vehicles generated by the development are limited to 7.00am to 5.00pm, Monday to Saturday.

7 **A030 - Patron Numbers**

Patron numbers are restricted to the following:

- A maximum of 200 patrons are to be on site at any one time;
- A maximum of 20 children are permitted in the playground area at any one time; and
- A maximum of 100 patrons are to be on site at any one time for pre-booked special events (including weddings, parties and corporate events, etc) with the remainder of the site closed to the public.

A maximum of 10 local produce stalls measuring 3m x 3m are permitted on the site as part of the approved market/farmers' co-op use.

8 **A038 - LIGHTING LOCATIONS**

Prior to the issue of an Occupation Certificate, a lighting system shall be installed for the development to provide uniform lighting across common areas and driveways. Exterior lighting shall be located and directed in such a manner so as not to create a nuisance to surrounding land uses. The lighting shall be the minimum level of illumination necessary for safe operation. The lighting shall be in accordance with AS 4282 "Control of the obtrusive effects of outdoor lighting" (1997).

9 **A039 - Graffiti**

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

10 **A Special (Arborist's Report)**

Prior to the issue of a Construction Certificate, an Arborist's Report shall be submitted and approved by Council to assess the existing tree in the proposed playground. Any tree protection measures and required amendments to the playground design to retain the tree, shall be submitted to and approved by Council.

11 [A Special \(Landscape Plan\)](#)

Prior to the issue of a Construction Certificate, the landscape plans prepared by Conzept Landscape Architects, DWG No. LPDA 20 - 268, page numbers 2-8, dated 06.11.20, Revision F, shall be amended to delete the excess pedestrian pathway (in a north/south direction) adjacent to western side of the rear car parking area. It is to be replaced with suitable trees for shading, such as spotted gum trees or the like. In addition, the wattle trees adjacent to the north-western side of the playground shall be replaced with larger trees, which have a long-life span to ensure adequate shading, such as spotted gum trees or the like.

The amended landscape plans shall also reflect the final site and building layout approved via modification application no. DA19/0884.02.

As amended on 14 October 2021 under Section 4.55(1A) of the Environmental Planning and Assessment Act 1979.

12 [A Special \(Plan of Management\)](#)

The Plan of Management submitted to satisfy the deferred commencement conditions shall be complied with at all times.

In the case that any formal complaints are received by Council in regard to the development, additional documentation shall be submitted to review, and if required, amend the operations of the site.

Demolition

13 [B001 - Demolition of existing structures](#)

Structures nominated for demolition on the approved plans shall be demolished as part of the approved works.

14 [B002 - AS FOR DEMOLITION AND DISPOSAL TO APPROVED LANDFILL SITE](#)

All demolition works are to be conducted in accordance with the provisions of AS 2601-1991 "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**.

15 [B003 - ASBESTOS](#)

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.

16 [B004 - Dust](#)

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

17 [B005 - Mud/Soil](#)

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

Environmental Matters

18 **D001 - Implement approved sediment& erosion control measures**

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.

19 **D009 - Covering of waste storage area**

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.

20 **D010 – Appropriate disposal of excavated or other waste**

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 an 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.

21 **D013 - Approved noise level 1**

Noise levels from the premises shall not exceed the relevant noise criteria detailed in 'Noise Impact Assessment: Proposed Cafe/Restaurant - 44-50 Tench Avenue, Jamisontown' prepared by Rodney Stevens Acoustics Pty Ltd, Reference No. R200089R1, Revision 5, dated 5 November 2020.

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.

22 **D026 - Liquid wastes**

Only clean and unpolluted water is to be discharged into Penrith City Council's stormwater drainage system. Liquid wastes suitable for discharge to the mains sewer are to be discharged in accordance with Sydney Water requirements.

If mains sewer is not available or if Sydney Water will not allow disposal to the sewer then a licensed waste contractor is to remove the liquid waste from the premises to an appropriate waste facility.

The waste contractor and waste facility are to hold the relevant licenses issued by the NSW Environment Protection Authority.

23 **D06A – Approval for bulk earthworks/major filling operations (Use for bulk earthworks/ major filling operations)**

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 Council. The Validation Certificate shall:

- state the legal property description of the fill material source site,
- be prepared by an appropriately qualified person (as defined in *Penrith Development Control Plan 2014*) 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.

An appropriately qualified person/s (as defined in the *Penrith Development Control Plan 2014*) shall:

- Supervise the filling works,
- (On completion of filling works) carry out an independent review of all documentation relating to the filling of the site, and shall submit a review findings report to Council and any Principal Certifying Authority,
- Certify by way of a Compliance Certificate or other written documentation that fill materials have been placed on the site in accordance with all conditions of this consent and that the site will not pose an unacceptable risk to human health or the environment. A copy of the Compliance Certificate or other documentation shall be submitted to Council and any Principal Certifying Authority.

The contact details of any appropriately qualified person/s engaged for the works shall be provided with the Notice of Commencement.

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.

{**Note:** *Penrith Development Control Plan 2014* defines an appropriately qualified person as "a person who, in the opinion of Council, has a demonstrated experience, or access to experience in hydrology, environmental chemistry, soil science, eco-toxicology, sampling and analytical procedures, risk evaluation and remediation technologies. In addition, the person will be required to have appropriate professional indemnity and public risk insurance."}

24 **D Acoustic Barrier Fence**

Prior to the issue of a Construction Certificate, a revised acoustic fence plan shall be submitted to and approved by Council. The acoustic fence shall be sympathetic to character of the locality and not be of a stark finish.

Prior to the issue of an Occupation Certificate, a 1.8 metre high solid acoustic fence is to be constructed on the south-western boundary of the site and a 1.6 metre high solid acoustic fence is to be constructed surrounding the Playground, as shown in Figure 2-2 of the 'Noise Impact Assessment: Proposed Cafe/Restaurant - 44-50 Tench Avenue, Jamisontown' prepared by Rodney Stevens Acoustics Pty Ltd, Reference No. R200089R1, Revision 5, dated 5 November 2020.

The acoustic fences are to provide adequate noise attenuation, and are to be constructed in accordance with Section 5.1 of the above-mentioned approved Noise Impact Assessment.

25 **D Acoustic Compliance Report**

Twelve (12) months after the issue of an 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 not be limited to, all noise generating activities on the site and the level of compliance with the noise criteria set within the 'Noise Impact Assessment: Proposed Cafe/Restaurant - 44-50 Tench Avenue, Jamisontown' prepared by Rodney Stevens Acoustics Pty Ltd, Reference No. R200089R1, Revision 5, dated 5 November 2020. It is also to consider the requirements of the NSW Environment Protection Authority's 'Noise Policy for Industry', other relevant guideline documents and the conditions of this development consent.

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

26 **D Agricultural Plan of Management**

The 'Plan of Management: Orange Fields - 44-50 Tench Ave, Jamisontown NSW' prepared by Bullseye AG, dated 11 March 2020 (Volume 2 (Updated)) is to be implemented and adhered to in relation to the management of the agricultural operations carried out on site.

27 **D Air Quality Assessment**

The construction and operational phases of the development are not to generate air quality impacts (including dust and odour) that exceed the relevant air quality criteria detailed in '44-50 Tench Avenue, Jamisontown: Air Quality Impact Assessment' prepared by SLR Consulting Australia Pty Ltd, Reference No. 610.19103-R02-v1.2, dated 10 September 2020. The recommendations provided in the above-mentioned report shall be implemented and incorporated into the design, construction and operations of the development.

A certificate is to be obtained from a qualified air quality consultant certifying that the development has been constructed to meet the air quality criteria in accordance with the Council approved Air Quality Impact Assessment. **Prior to the issue of an Occupation Certificate**, this certificate is to be submitted to Council for approval.

28 **D Mechanical Plant**

All mechanical plant and equipment is to comply with the noise criteria established in the Council approved 'Noise Impact Assessment: Proposed Cafe/Restaurant - 44-50 Tench Avenue, Jamisontown' prepared by Rodney Stevens Acoustics Pty Ltd, Reference No. R200089R1, Revision 5, dated 5 November 2020.

Prior to the issue of a Construction Certificate, further details on the type and location of all mechanical plant and equipment associated with the development is to be provided to Penrith City Council for consideration and approval. Suitable data and information assessed by a suitably qualified acoustic consultant is to be supplied to demonstrate compliance with the established noise criteria.

29 **D Music Requirements**

A noise limiter is to be installed to ensure that background music does not exceed 75 dB(A) at 1 metre from the speakers. All amplified equipment forming part of the in-house sound system must be connected to this limiter.

30 **D Unexpected Finds Protocol**

Should any "unexpected finds" occur during site excavation and earthworks including, but not limited to, the identification/finding of contaminated soils, buried building materials, asbestos, odour and/or staining, works are to cease immediately and Penrith City Council is to be notified. Any such "unexpected finds" shall be addressed by an appropriately qualified person consultant.

All remediation works within the Penrith Local Government Area are considered to be Category 1 works under *State Environmental Planning Policy No. 55—Remediation of Land*. Should any contamination be found during development works and should remediation works be required, development consent is to be sought from Penrith City Council before the remediation works commence.

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

BCA Issues

31 E006 - Disabled access and facilities

Access and sanitary facilities for persons with disabilities are to be provided and maintained in accordance with the requirements of the Building Code of Australia and AS 1428 "Design for Access and Mobility". Details of compliance are to be provided in the relevant plans and specifications accompanying the Construction Certificate application.

32 E009 - Annual fire safety-essential fire safety (Class 2-9 buildings)

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 buildings. The annual fire safety statement for the buildings 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.

33 E01A - BCA compliance for Class 2-9

All aspects of the building design shall comply with the applicable performance requirements of the Building Code of Australia so as to achieve and maintain acceptable standards of structural sufficiency, safety (including fire safety), health and amenity for the on-going benefit of the community. Compliance with the performance requirements can only be achieved by:

(a) complying with the deemed to satisfy provisions, or

(b) formulating an alternative solution which:

- complies with the performance requirements, or
- is shown to be at least equivalent to the deemed to satisfy provision, or

(c) a combination of (a) and (b).

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

34 E Special (BLANK)

The Principal Certifying Authority shall ensure that the requirements of the Development Application Access Review prepared by Phillip Chun Accessibility Pty Ltd, Ref: AN019-213829, dated 11 December 2019 are incorporated into the Construction Certificate plans and the necessary works completed prior to the issue of an Occupation Certificate.

Health Matters and OSSM installations

35 F001 - General Fitout

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 Fit-out of Food Premises*.

36 F006 - Water tank & nuisance

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

37 **F022 - Commercial kitchen(exhaust system)**

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 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 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.

38 **F025 - Food safety supervisor**

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.

39 **F027 - Hand basins**

All hand wash basins in all the food outlets 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. Disposable paper hand towels and soap must be provided and serviced from a dispenser adjacent to each hand basin.

Where sensor taps are installed, the basin must not be more than 6 metres from the hot water system.

40 **F028 - Staff toilets**

Staff toilets must be provided on the premises. Where a toilet adjoins a food preparation area, it must be separated by an air lock and its doors must be fitted with self closing devices. Toilets intended for customer use must not be accessed through areas where open food is handled, displayed or stored. All toilets on the premises are to be provided with hand wash basins and adequate supplies of liquid hand soap and single use paper towels or other means to effectively dry hands.

41 **F030 - Hot water service**

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.

42 **F032 - Floor covering**

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.

43 **F033 - Walls – food prep area**

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° angle to eliminate a ledge that would allow dust and grease to accumulate.

44 **F034 - Walls – behind cooking appliances**

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.

45 **F035 - Ceilings**

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.

46 **F039 - Fly screens**

Flyscreens or other approved means of excluding flies must be provided to all window and door openings.

47 **F045 - Food Prep Sink - clearance area**

Any food preparation sinks must be separated from all other sinks by a minimum distance of 2 metres or have an approved form of physical barrier that separates the sink.

48 **F047 - Fixtures & fittings**

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:

a. 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.

b. 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.

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

Note: False bottoms under fittings are not permitted (AS 4674-2004 – Sections 4.2 and 4.3).

49 **F051 - Shelving**

All fixtures, fittings and equipment must be smooth and impervious; free from joints, cracks and crevices; and able to be easily cleaned. They are to be constructed from approved materials such as stainless steel, laminated timber, or plastic. All cracks and crevices are to be sealed to prevent the harbourage of cockroaches.

All shelves must be at least 200mm off the floor to allow easy cleaning underneath.

50 **F052 - Coolrooms**

All coolroom and/or freezer room floors must be finished with a smooth even surface and graded to the door. A sanitary floor waste must be located outside the coolroom and freezer adjacent to the door. All metal work in the coolroom and freezer room must be treated to resist corrosion.

Condensation from coolrooms and refrigeration motors must discharge to sewer via a tundish with air gap separation in accordance with Sydney Water requirements.

All cool rooms and freezer rooms must be provided with:

- A door which can at all times be opened from inside without a key; and
- An approved alarm device located outside the room, but controlled only from the inside.

51 **F055 - Lockers**

Sufficient lockers must be provided in the food preparation area or store room specifically for the storage of cleaning materials, employees' clothing and personal belongings.

52 **F056 - Storerooms**

All storerooms on the site must be constructed in accordance with AS 4674-2004 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.

53 **F060 - Grease Arrestor**

The grease arrestor must not be installed in any kitchen, food preparation or food storage area. The grease arrestor shall be installed in accordance with Sydney Water's requirements.

54 **F special BLANK**

If any food for consumption is grown on site, 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.

Utility Services

55 **G002 - Section 73 (not for**

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**.

56 **G004 - Integral Energy**

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.

57 **G006 -**

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

58 **H001 - Stamped plans and erection of site notice**

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

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

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

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

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

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

59 **H002 - All forms of construction**

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.

60 [H006 - Submission of and implement waste management plan](#)

A completed Waste Management Plan shall be submitted to Penrith City Council for consideration and approval. Council must approve the plan **before works can commence on site**.

The waste management plan shall be prepared in accordance with Council's Development Control Plan, and shall address all waste materials likely to result from the proposed 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, construction and site operations, with supporting documentation/receipts retained in order to verify the recycling and disposal of materials in accordance with the approved plan.

61 [H036 - Rainwater Tank \(Also impose H037, H038, H039, G005 & Q010\)](#)

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 buildings.
- 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 buildings 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.

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.

62 [H037 - Safe supply of water from catchment areas \(Also impose H036, H038 & H039\)](#)

The catchment area (for the rainwater tank(s)) includes the parts of the roof of the dwelling(s) from which water is collected and includes gutters. To ensure a safe supply of water:

- roof catchment areas must be kept clear of overhanging vegetation,
- gutters must have sufficient fall to downpipes to prevent pooling of water,
- overflow, discharge from bleed off pipes from roof mounted appliances such as air conditioners, hot water services and solar heaters must not discharge into the rainwater catchment area,
- for roofs containing lead based, tar based or asbestos material the tank supply must not be connected to drinking, bathing and gardening tap water outlets,
- appropriate measures must be installed to prevent foreign materials from contaminating the water which enters the rainwater tank.

63 [H038 - Connection of rainwater tank supply \(Also impose H036, H037 & H039\)](#)

The rainwater tank(s) supply must not be connected to drinking and bathing water tap outlets.

64 [H039 - Rainwater tank pumps \(Also impose H036, H037 & H038\)](#)

The rainwater tank(s) pump must not exceed 5dBA above ambient background noise level at the nearest residential property boundary. The provisions of the *Protection of the Environment Operations Act 1997* apply to the development, in terms of regulating offensive noise.

65 [H041 - Hours of work \(other devt\)](#)

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

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

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

Engineering

66 [K101 - Works at No Cost to Council](#)

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

67 [K201 - Infrastructure Bond](#)

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.

68 **K202 - S138 Roads Act – Works and Structures - Minor Works in the public road DRIVEWAYS ROAD OPENINGS**

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
- e) The placement of hoardings, structures, containers, waster skips, signs, etc in the road reserve
- f) 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 City Assets Department on 4732 7777 or visit Penrith City Council's website for more information.

Note:

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

69 **K203 - S138 Roads Act - Roadworks Requiring Approval of Civil Drawings**

Prior to the issue of any Construction Certificate, the Certifier shall ensure that a separate 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 kerb and gutter and piped drainage for the frontage of the development in Tench Avenue.

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**.

70 **K210 - Stormwater Management**

The stormwater management system shall be consistent with plans lodged for development approval, prepared by MBR Consulting Engineers, Project No. 19039, Drawing No.s 000-114, **Issue E, dated 03/08/2021**.

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

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

As amended on 3 June 2021 in accordance with issue of operational development consent and satisfaction of Schedule 1 (Deferred Commencement) conditions and on 14 October 2021 under Section 4.55(1A) of the Environmental Planning and Assessment Act 1979.

71 **K214 - Flooding – Floor levels**

Prior to the issue of any Construction Certificate, the Certifying Authority shall ensure that all habitable floor levels are in accordance with the stamped approved plans with a minimum floor level of RL 28.2m AHD (Nepean River standard flood level of RL 27.7m AHD + 0.5m freeboard). The floor level of the rear Farmers' Co-Op Pavilion is to be a minimum of RL 27.0m AHD (Peachtree Creek flood level of RL 26.5m AHD + 0.5m freeboard).

72 **K222 - Access, Car Parking and Manoeuvring – General**

Prior to the issue of any Construction Certificate, the Certifying Authority shall ensure that vehicular access, circulation, manoeuvring, pedestrian and parking areas associated with the subject development are in accordance with AS 2890.1, AS 2890.2, AS 2890.6 and *Penrith Development Control Plan 2014*.

73 **K224 - Construction Traffic Management Plan**

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.

74 **K225 - Performance Bond**

Prior to the issue of a Roads Act Approval, a Performance Bond is to be lodged with Penrith City Council for provision of kerb and gutter and piped drainage for the frontage of the development site in Tench Avenue.

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.

75 **K301 - Sediment & Erosion Control**

Prior to the commencement of works, sediment and erosion control measures shall be installed in accordance with the approved Construction Certificate and to ensure compliance with the *Protection of the Environment Operations Act 1997*.

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

76 [K302 - Traffic Control Plan](#)

Prior to commencement of any works associated with the development, a Traffic Control Plan, including details for pedestrian management, shall be prepared in accordance with AS 1742.3 “Traffic Control Devices for Works on Roads” and the Roads and Maritime Services’ publication “Traffic Control at Worksites” and certified by an appropriately accredited Roads and Maritime Services Traffic Controller.

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

Note:

- A copy of the Traffic Control Plan shall accompany the Notice of Commencement to Penrith City Council.
- Traffic control measures may require road occupancy/road closure approvals issued under Section 138 of the Roads Act by Penrith City Council **prior to the issue of a Construction Certificate**.

77 [K403 - Major Filling/ Earthworks](#)

All earthworks shall be undertaken in accordance with AS 3798 and Penrith City Council’s Design Guidelines for Engineering Works for Subdivisions and Developments and Engineering Construction Specification for Civil Works.

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

78 [K405 - Turf to Verge](#)

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.

79 [K501 - Penrith City Council clearance – Roads Act/ Local Government Act](#)

Prior to the issue of an Occupation Certificate, the Principal Certifying Authority shall ensure that all works associated with a Section 138 Roads Act approval or Section 68 Local Government Act approval have been inspected and signed off by Penrith City Council.

80 [K502 - Works as executed – General and Compliance Documentation](#)

Prior to the issue of an Occupation Certificate, works-as-executed drawings, final operation and maintenance management plans and any other compliance documentation shall be submitted to the Principal Certifying Authority in accordance with Penrith City Council’s Engineering Construction Specification for Civil Works, WSUD Technical Guidelines and Stormwater Drainage for Building Developments Policy.

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

81 [K503 - Stormwater Compliance](#)

Prior to the issue of any Occupation Certificate, the Principal Certifying Authority shall ensure that the stormwater management systems (including water sensitive urban design measures):

- Have been satisfactorily completed in accordance with the approved Construction Certificate and the requirements of this consent.
- Have met the design intent with regard to any construction variations to the approved design.
- Any remedial works required to be undertaken have been satisfactorily completed.

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

82 [K504 - Restriction as to User and Positive Covenant](#)

Prior to the issue of an Occupation Certificate, a restriction as to user and positive covenant relating to the stormwater management systems (including water sensitive urban design measures) shall be registered on the title of the property. The restriction as to user and positive covenant shall be in Penrith City Council’s standard wording as detailed in Penrith City Council’s Stormwater Drainage Specification for Building Development Policy – Appendix F.

83 [K511 - Directional signage](#)

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

84 [K515 - Maintenance Bond](#)

Prior to the issue of an Occupation Certificate, a Maintenance Bond is to be lodged with Penrith City Council for provision of kerb and gutter and piped drainage in Tench Avenue for the frontage of the development site.

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

Note:

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

85 [K601 - Stormwater Management System Operation and Maintenance](#)

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.

86 [K Special \(BLANK\)](#)

All vehicles (including service vehicles and waste collection vehicles) are to enter and exit the site in a forward direction.

87 [K Special \(BLANK\)](#)

Access to the site shall be restricted at all times to vehicles no greater in length than medium rigid vehicles (MRV), being no greater than 8.8m in length, in accordance with the MRV swept paths provided to Council, dated November 2020.

88 [K Special \(BLANK\)](#)

All car parking and manoeuvring must be in accordance with AS 2890.1-2004 and AS 2890.6-2009.

89 [K Special \(BLANK\)](#)

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

Landscaping

90 [L001 - General](#)

All landscape works are to be constructed in accordance with the stamped approved plans, as amended by Condition 11, and the *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.

91 [L002 - Landscape construction](#)

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

92 [L003 - Report requirement](#)

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. The report is to 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.

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.

This report is to be prepared by a suitably qualified and experienced landscape professional.

93 [L005 - Planting of plant](#)

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

94 [L006 - Aust Standard](#)

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.

95 [L007 - Tree protection measures – no TMP with DA](#)

All trees that are required to be retained as part of the development are to be protected in accordance with the minimum tree protection standards prescribed in Appendix F4 of the *Penrith Development Control Plan 2014*.

96 [L008 - Tree Preservation Order](#)

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.

97 [L012 - Existing landscaping \(for existing development\)](#)

Landscaping undertaken as part of the approved development is to be retained and maintained at all times.

Development Contributions

98 [N Special \(S7.12 contribution plan\)](#)

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, **\$9,165.00 is to be paid to Council prior to a Construction Certificate being issued** for this development (the rates are subject to quarterly reviews). If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted Section 7.12 Contributions Plan. The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule.

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

Certification

99 **Q001 - Notice of Commencement & Appointment of PCA1**

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

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

(b) submit a Notice of Commencement to Penrith City Council.

The Principal Certifying Authority shall submit to Council an "Appointment of Principal Certifying Authority" in accordance with Section 6.6 of the *Environmental Planning and Assessment Act 1979*.

Information to accompany the Notice of Commencement

Two (2) days before any earthworks or construction/demolition works are to commence on site (including the clearing site vegetation), the proponent shall submit a "Notice of Commencement" to Council in accordance with Section 6.6 of the *Environmental Planning and Assessment Act 1979*.

100 **Q006 - Occupation Certificate (Class 2 - 9)**

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(s) 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(s) 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.

Operation of OSSM

101 **R105 - Plumbing Code of Australia**

All drainage and sanitary plumbing shall be carried out in accordance with the requirements of the *Plumbing and Drainage Act 2011* and the Plumbing Code of Australia.

102 **R113 - Decommission old system**

The contents of the existing septic tank are to be removed by a licensed waste contractor and deposited to an approved waste facility. The disconnected tank shall be removed, demolished or filled with clean soil and garden lime. Documentation of the collection and disposal of waste is to be retained and provided to Council on request.

103 [R124 - Operational Wastewater Management Plan](#)

Prior to the issue of an Occupation Certificate, an Operational Wastewater Management Plan (OWMP) shall be provided to Penrith City Council for consideration and approval. The OWMP shall be prepared by a suitably qualified consultant in consultation with Council and other relevant agencies, and may need to be amended to include the comments provided by Council and other agencies. The OWMP is to address:

- All environmental aspects of the operation of the wastewater management system;
- All systems and controls to be implemented to minimise the potential for any adverse environmental impacts; and
- A program for ongoing monitoring and review to ensure that the OWMP remains contemporary with relevant environmental standards. Council is to be consulted prior to any amendments of the OWMP. Council may request a review of the OWMP or any proposed amendments.

The OWMP should include, but not be limited to, the following:

- System information (including specifications and site plans);
- Maintenance and servicing program;
- System failure contingency;
- Odour management; and
- Health and safety.

The wastewater management system is to be operated in accordance with the requirements of this Plan.

104 [R Approval to operate](#)

Prior to the issue of the 'Approval to Operate' for the wastewater management system:

- A Section 73 Compliance Certificate obtained from Sydney Water is to be submitted to Council;
- A Commissioning Certificate for the wastewater management system shall be provided to Council for approval. This Certificate shall be prepared by a suitably qualified and experienced installer of wastewater management systems and certify that the system has been installed in accordance with the approved Sewer Servicing Design Plan; and
- A works-as-executed (WAE) plan, prepared by a registered surveyor or the design engineer, is to be provided to Council for approval.

105 [R OSSM Inspections](#)

Penrith City Council is both the consent authority and certifying authority for the installation of the wastewater management system. **It is your responsibility to contact Council's Environmental Health Department to organise all inspections required for the installation of the system.**

In this regard, the on-site pumping station and all associated pipework will need to be inspected on completion of the system's installation (before backfilling occurs) and prior to its commissioning, to ensure compliance with those conditions specific to the installation of the system.

A copy of the satisfactory inspection reports carried out by Council shall be submitted to the Principal Certifying Authority if Council is not the Principal Certifying Authority.

106 [R OSSM Installation](#)

Prior to the issue of an Occupation Certificate, the wastewater management system is to be installed in its entirety in accordance with:

- the Council approved Sewer Servicing Design Plan,
- Sydney Water's requirements, and
- the conditions of this consent.

All wastewater generated on the site is to be diverted to the approved on-site pumping station and disposed of by way of a private rising main in Wilson Lane to Sydney Water's sewerage system.

Prior to the issue of an Occupation Certificate, and before the wastewater management system can be used, an 'Approval to Operate' for the wastewater management system is to be sought from and issued by Penrith City Council.

107 [R Pipeline Agreement](#)

Prior to the issue of a Construction Certificate, a Private Pipeline Agreement is to be entered into with Penrith City Council's City Assets Department requiring the preparation and execution of a Deed of Agreement for private utility services installed on Council controlled and/or owned land. Any works in Wilson Lane, including the provision of the private sewer main, will require a separate Section 138 Roads Act approval from Council's City Assets Department as the Roads Authority under the Roads Act.

Appendix - Development Control Plan Compliance

Development Control Plan 2014

Part C - City-wide Controls

C3 Water Management

C3.5 Flood Planning

C3.6 Stormwater Management and Drainage

It is noted that minor changes to the original stormwater system are required to reflect the enlarged building footprints. The minor changes do not raise any flooding or engineering matters as previously assessed in the original application. As such, the original recommended conditions of consent in this regard remain valid, as endorsed by Council's Senior Development Engineer.

C10 Transport, Access and Parking

C10.5.1 Parking

The modified development results in a total net gross floor area increase of 46m² for the enlarged bakery, takeaway coffee/retail and milkshakes/pizza buildings, which equates to a minimum of 94.07 off-street parking spaces required for the development, as per DCP parking rates. Given that the original proposal made provision for a total of 96 off-street parking spaces and the total number of patrons and staff on the site remains unchanged, the development provides adequate off-street parking.

C12 Noise and Vibration

C12.4 Industrial and Commercial Development

The modified development does not result in an intensification of use given the total number of patrons and staff on the site remains unchanged. Further, adequate noise mitigation measures remain in place, as per the original approval and therefore the modified development is unlikely to adversely impact on the amenity of neighbouring residential development.