

# PENRITH CITY COUNCIL

## MAJOR ASSESSMENT REPORT

|                              |  |
|------------------------------|--|
| <b>Application number:</b>   | DA16/1083.02   |
| <b>Proposed development:</b> | Deletion of Condition 11 - Eight (8) Storey Serviced Apartments Building containing 58 Serviced Apartments, Related Facilities, Three (3) Ground Floor Commercial Tenancies & Two (2) Levels of Basement Car Parking |
| <b>Property address:</b>     | 21 Woodriff Street, PENRITH NSW 2750   |
| <b>Property description:</b> | Lot 106 DP 1236304   |
| <b>Date received:</b>        | 5 December 2018  |
| <b>Assessing officer</b>     | Jake Bentley   |
| <b>Zoning:</b>               | Zone B4 Mixed Use - LEP 2010   |
| <b>Class of building:</b>    | Class 2 , Class 6 , Class 7a   |
| <b>Recommendations:</b>      | Approve  |

### Executive Summary

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Council is in receipt of a modification application seeking to delete Condition 11 of DA16/1083 to allow for future strata subdivision of the approved building at 21 Woodriff Street, Penrith. The subject site is zoned B4 Mixed Use under Penrith Local Environmental Plan (PLEP) 2010 and the proposed modification application is permissible with consent.

In accordance with Clause 4.4 of Appendix F4 in the Penrith Development Control Plan (DCP) 2014 the modification application did not require notification to surrounding property owners. However, one submission was received in response. Correspondence was provided to this objector dated 1 February, 2019 addressing concerns raised and in this regard the objection received is considered resolved.

An assessment under Section 4.15 and Section 4.55(1A) of the Environmental Planning and Assessment Act 1979 has been undertaken and the application is recommended for approval, subject to the deletion of Condition 11 and recommended condition amendments.

## Site & Surrounds

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The subject site is located on the corner of Woodriff Street and Union Lane in Penrith with an irregular shape covering a total area of 2,471m<sup>2</sup>. The site is currently being utilised for the purposes of car parking and numerous trees to the eastern and western boundary occupy the site. The site is identified as being flood prone land as well as being impacted by a right of carriageway easement and easement for services within the southern portion of the site to provide access to the car park on the adjoining western site. The site is also impacted by a right of footway and easement for underground cables and street lighting equipment to the northern portion of the site.

The neighbouring property to the west is occupied by Judges Car Park (3 storey car park), the neighbouring property to the south is occupied by a car parking area whereas the surrounding properties to the north, north-west, north-east, east and south-east are occupied by commercial tenancies with the exception of local heritage item 'Memory Park' to the north-east and second storey flats to the south-east at 26 Woodriff Street, Penrith.

The subject site benefits from an approval issued by the Sydney West Regional Panel dated 3/10/2018 for the construction of an eight storey serviced apartment building containing 58 serviced apartments, related facilities, three ground floor commercial tenancies and two levels of basement car parking (DA16/1083). It is also noted that the subject site was created from an approved 2 lot Torrens Title subdivision (DA17/0890) which sought to dedicate a portion of the driveway to Judges car park as road reserve.

## Proposal

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The proposed modification application seeks to delete Condition 11 of DA16/1083 to allow for future strata subdivision. Condition 11 reads as follows:

*"Strata subdivision of the building or part of the building to be used as serviced apartments is not permitted."*

## Plans that apply

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- Local Environmental Plan 2010 (Amendment 4)
- Development Control Plan 2014
- Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

## Planning Assessment

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

In accordance with Section 4.55(1A) of the Environmental Planning and Assessment Act 1979 a consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify a consent if:

*(a) it is satisfied that the proposed modification is 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.*

The proposed modification has been assessed in accordance with the above provisions as follows:

(a) The proposed deletion of Condition 11 will allow for the approved development to be subdivided subject to a future subdivision approval. In this regard, the proposed modification application is considered to have minimal environmental impact noting no modification to the approved built form.

In addition, under the provisions of Clause 8.6 of PLEP 2010, the strata subdivision of a serviced apartment building needs to achieve the design quality principles within Schedule 1 of State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development and the design principles of the Apartment Design Guideline. The development is considered to satisfy the above clause. Therefore, the modification application is considered to be of minimal environmental impact.

(b) The proposed modification application is for the deletion of Condition 11 only. In this regard, the proposed modification is considered to be substantially the same development.

An additional condition to the consent is recommended requiring a Positive Covenant to be registered on the land title requiring the serviced apartments to be managed by a single entity and used for short-term accommodation only. The proposed Positive Covenant will ensure the serviced apartments are used as serviced apartments if strata subdivided in the future and maintained under separate ownerships.

(c) In accordance with Clause 4.4 of Appendix F4 in the Penrith Development Control Plan (DCP) 2014 the modification application did not require notification to surrounding property owners.

(d) While notification was not required, one submission was received. The matters raised within the submission have been considered during the assessment of the proposed modification application which are detailed later within this report.

An assessment under Section 4.15 and 4.55(1A) of the Environmental Planning and Assessment Act 1979 has been undertaken and the application is considered satisfactory.

It is noted that Clause 123BA Functions exercisable by council on behalf of Regional Panel of the Environmental Planning and Assessment Regulation 2000 states as follows:

*The following consent authority functions of a Sydney district or regional planning panel are prescribed under section 4.7 (2) (h) of the Act as functions to be exercised on behalf of a panel by the council of the area concerned:*

- (a) the determination of applications to modify a development consent under section 4.55 (1) of the Act,*
- (b) the determination of applications to modify a development consent under section 4.55 (1A) of the Act.*

The original approved was determined by the Sydney West Planning Panel and the subject modification application was lodged under the provisions of Section 4.55(1A). In light of the above, Council is able to determine the subject modification application.

## **Section 79C(1)(a)(i) The provisions of any environmental planning instrument**

### **Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River**

An assessment of the development has previously been conducted against relevant criteria within Sydney Regional Environmental Plan No. 20 - Hawkesbury-Nepean River (No. 2 - 1997) and was determined as being satisfactory subject to the recommended conditions of consent. The proposed modification will not impact this result.

## Local Environmental Plan 2010 (Amendment 4)

| Provision                          | Compliance                |
|------------------------------------|---------------------------|
| Clause 1.2 Aims of the plan        | Complies                  |
| Clause 2.3 Permissibility          | Complies - See discussion |
| Clause 2.3 Zone objectives         | Complies                  |
| Clause 7.2 Flood planning          | Complies                  |
| Clause 7.8 Active street frontages | Complies                  |
| Clause 8.1 Application of Part     | Complies                  |
| Clause 8.6 Serviced apartments     | Complies - See discussion |

### Clause 2.3 Permissibility

The proposed deletion of Condition 11 to allow for future strata subdivision of the proposal will not impact permissibility of the development originally approved under DA16/1083. The original approval included ground floor retail and commercial tenancies and 58 serviced apartments with associated ancillary features such as a gym, swimming pool and conference room. Both commercial premises and serviced apartments are permissible with consent in the site's B4 Mixed Use zoning under the provisions of PLEP 2010 which are to be maintained.

Strata subdivision of the approved serviced apartments will not impact this aspect of the development as being defined as 'serviced apartments'. PLEP 2010 defines serviced apartments as follows: *'means a building (or part of a building) providing self-contained accommodation to tourists or visitors on a commercial basis and that is regularly serviced or cleaned by the owner or manager of the building or part of the building or the owner's or manager's agents.'*

In this regard, should approval be forthcoming, an additional condition to the consent is recommended requiring a Positive Covenant to be registered on the land title requiring the serviced apartments to be managed by a single entity and used for short-term accommodation only. The required Positive Covenant will ensure the serviced apartments are maintained for this use if strata subdivided in the future.

### Clause 8.6 Serviced apartments

This Clause states as follows:

*'Development consent must not be granted for development for the purpose of the strata subdivision of a building or part of a building that is or has been used for serviced apartments, unless the consent authority is satisfied that the design quality principles set out in Schedule 1 to State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development and the design principles of the Apartment Design Guide (within the meaning of that Policy) are achieved for the development as if it were a residential apartment development within the meaning of that Policy'.*

In this regard, the proposed modification application has been accompanied by a Statement of Environmental Effects addressing the design quality principles set within State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development (SEPP 65) and the design principles of the Apartment Design Guideline (ADG).

Noting the above, the approved plans for DA16/1083 have been assessed against the matters required to be achieved under Clause 8.6 Serviced apartments of PLEP 2010 as follows:

### SEPP 65 Schedule 1 Design quality principles

#### ***Principle 1: Context and neighbourhood character***

The subject site is relatively flat in nature, occupied by numerous large trees, is identified as a site to provide for an attractive street frontage and is neighboured by commercial premises to the north, east and south-east, and a car park to the south and west. The neighbouring site to the south is zoned RE1 Public Recreation whereas the neighbouring properties to the west, north and east are zoned B4 Mixed Use with the exception of a site containing a heritage item known as 'Memory Park' zoned RE1 Public Recreation to the north.

The site's surrounding the subject site are occupied by commercial uses within a 2 storey built form. However, the PLEP 2010 Height of Building Maps indicates that a 24m maximum building height standard applies to the surrounding area. In this regard, the approved development has responded to the applicable controls which indicate a change in character of the area. In particular, the inclusion of ground floor commercial premises creates an attractive appearance from the ground and invites the public to utilise the premises encouraging on-street activity.

### ***Principle 2: Built form and scale***

As mentioned above, the 24m maximum height of building under PLEP 2010 applicable to the site and surrounding sites indicates a change in character of the area in relation to overall built form. The ground floor commercial component encourages on-street activity which is in character with the surrounding area being a city centre and the approved landscaping delineates the public and private space as well as provides an attractive appearance.

### ***Principle 3: Density***

The development provided for a non-compliant floor space ratio and building height however, this variation was considered acceptable via separate Clause 4.6 Variation requests as part of the original assessment. The location of the site being within a city centre provides access to jobs, public transport and community facilities. In addition, the serviced apartments have been assessed against the design criteria within the ADG and is considered satisfactory.

### ***Principle 4: Sustainability***

The inclusion of the ground floor commercial tenancies provides numerous social and economic benefits to the area and the development is considered satisfactory in relation to the controls for natural ventilation and solar access within the ADG. In addition, Council's Waterways Team originally stated that the development will be able to proceed in accordance with Council's Water Sensitive Urban Design Policy (WSUD) subject to recommended conditions of consent.

### ***Principle 5: Landscape***

It is noted that the existing trees on-site are to be removed to cater for the development. The existing trees are located to the Woodriff Street frontage as well as the western boundary. The approved landscaping on-site has provided for trees and planting within the locations of the existing trees on-site and has located vegetation forward of the commercial tenancies to create an attractive and vibrant entrance.

Vegetation planting has also been provided to the ground and podium level up against the western boundary adjacent to the neighbouring Judges Car Park to create an attractive screen and enhance amenity to occupants of the building.

### ***Principle 6: Amenity***

The ground floor lobby of the development is easily identifiable due to the location of pedestrian access and the location of the communal open space on the podium level is identifiable due to its positioning adjoining the lift corridor. The centralised location of living areas within units minimise noise impacts and the development has been considered as satisfactory in relation to apartment sizes, solar access and natural ventilation.

The plans do not indicate any storage locations within the units however, 2 or more bathrooms have been provided for each unit, generous bedroom and living room sizes have been provided and 372m<sup>2</sup> of storage has been provided within the basement levels. In this regard, storage is considered satisfactory.

### ***Principle 7: Safety***

The northern and eastern orientation of apartment living areas and balconies provides for opportunities for casual surveillance of Woodriff Street and Union Lane. The ground floor has been designed to provide for identifiable pedestrian access points to the building from the north, south and east and the inclusion of ground floor commercial tenancies provides for later operation therefore enhancing security.

In addition, the location of some apartments overlook the internal communal open space area providing opportunities for casual surveillance.

### ***Principle 8: Housing diversity and social interaction***

The development provides for a mix of 2 bedroom, 3 bedroom and accessible apartments with a variety of internal floor and balcony areas. The development provides for a landscaped communal open space area to the podium level with outdoor seating and a communal open space area on the seventh floor occupied by a swimming pool, gym, BBQ area and outdoor seating area. In this regard, the development provides for a variety of communal activities encouraging social interaction.

### ***Principle 9: Aesthetics***

A variety of external treatments such as masonry rendered, cladding, glass balustrades and windows have been provided as well as a contrast of window heights and proportions assist in breaking up the built form.

## **Apartment Design Guideline**

### ***Part 3 Siting the development***

**Orientation 3B-1:** The approved development will maintain numerous pedestrian access points and the building has been orientated to the north and west with balconies positioned to maximise solar access.

**3B-2:** The neighbouring southern site is currently vacant, the western adjoining site is occupied by a car park and the neighbouring eastern and south-eastern properties are occupied by commercial tenancies with the exception of first floor flats at 26 Woodriff Street, Penrith. However, there are no overshadowing impacts during the morning period and overshadowing was previously considered as minimal during the original assessment of DA16/1083. In this regard, there are no adverse overshadowing impacts envisioned.

**Public Domain Interface 3C-1:** Ground floor commercial premises are approved with serviced apartments located on the level above. Balconies are located addressing both the Woodriff Street and Union Lane frontages.

The ground floor commercial areas, lift and lobby locations are provided with access via a ramp from Union Lane and the south-eastern end of Woodriff Street.

**Communal and Public Open Space 3D-1:** The communal open space areas are located on the podium level and roof of the development with an area of 705m<sup>2</sup> which is 28% of the site area. Therefore the communal open space area is above the 25% site area requirement and will be maintained as per the original development consent granted. The communal open space area located on the roof receives suitable solar access from 10am onwards and the podium level communal open space receives suitable solar access from 12pm onwards.

The podium level communal open space is visible from the corridor adjacent to the lifts and is therefore easily identifiable.

**3D-2:** A pool, BBQ area, outdoor seating and a gym have been provided within the communal open space areas.

**3D-4:** The ground floor of the development is occupied by commercial tenancies each with an address to the street. The extensive landscaping provided forward of the commercial tenancies delineates the private and public space and suitable pedestrian pathways have been provided linking the public and private space.

**Deep Soil Zones 3E-1:** The basement levels have been recessed from the north and north-east portions of the site with the upper level commercial tenancies and waste indentation bay providing an encroachment within this area. However, substantial planting to the sites Woodriff Street frontage and a portion of the Union Lane frontage has been provided within the deep soil zone area, noting also that the basement does not encroach this area.

**Visual Privacy 3F-1:** The following setbacks of the development are noted below (all habitable rooms):

| Level  | North East   | South West  |
|--------|--|---|
| Podium | 2.5m To boundary   | 10m 6m and 7m for Unit 109                          |
| 2-5    | 2.5m To boundary   | 10m 6.1m, 6.3m, 6.5m and 6.8m for Unit 209          |
| 6      | 2.5m To boundary, with the exception of Unit 605 and 606 being 1m. | 10m 8.3m, 8.7m and 6.8m for Unit 607                |
| 7      | 4.7m 4m  | 10m 8.4m, 8.7m and 8.7m at the end of the BBQ area. |

In this regard, the development does not comply with separation requirements. However, considering the site is separated by a road to the north (Union Lane) and east (Woodriff Street) with properties on the opposite side of Woodriff Street occupied by commercial tenancies there are no adverse privacy impacts envisioned. The southern property is occupied by a car park and is zoned RE1 Public Recreation, the development provides a 10m setback therefore there are no privacy impacts envisioned. The neighbouring property to the west is occupied by Judges Car Park and the built form steps inwards from the sixth floor. In this regard, there are no adverse privacy impacts envisioned.

In addition, the majority of balconies within the development are provided with privacy louvers to assist in maintaining privacy to adjoining neighbours.

**3F-2:** Habitable rooms and balconies on the podium level are separated from the communal open space by landscaping in raised planter beds.

**Bicycle and Car Parking 3J-1:** The site is zoned B4 Mixed Use and the parking rate for residential flat building developments as stated within Penrith Development Control Plan 2014 has been assessed against the development as follows:

- 82 car parking spaces have been provided.
- On-site resident parking for each dwelling:
  - 1 space per 1 or 2 bedrooms: 54 rooms = 54 parking spaces
  - 2 spaces per 3 or more bedrooms: 4 rooms = 8 parking spaces
  - 1 space per 40 units for service vehicles: 58 rooms = 1.45 services vehicles
  - In addition, visitor parking is to be provided for developments that have 5 or more dwellings: 1 space per every 5 dwellings, or part thereof:  $58/5 = 11.6$  parking spaces
  - 1 space for car washing for every 50 units, up to a maximum of 4 spaces per building: 1 car washing space required:

The development requires 76 car parking spaces. In this regard, the development is compliant by 6 parking spaces.

**Solar and Daylight Access 4A-1:** The Shadow Diagrams submitted in support of the approved development show that northern facing units receive solar access for the entire day during mid winter. Given the location of living area windows for units addressing Woodriff Street, it is envisioned that additional solar rays will access the living rooms via balcony's. It is also noted that a total of 23 units have living and private open space areas orientated to the north.

A total of 18 units to the west and south elevation receive solar access for 2 hours during mid winter to their private open space and living areas. In this regard, a total of 41 units receive adequate solar access which is 71% of the total 58 serviced apartments. In addition, the eastern facing living room and balconies receive solar access at 9am but then begin to become overshadowed at 10am during mid winter with the exception of Unit 108, 208 as well as the above units and Unit 606. The units which do not receive solar access at all during mid winter equals a total of 6 which is 10% of the 58 apartments.

The development provides for large living room windows to the units that have living areas orientated to the north and west in order to receive sunlight to a portion of the living room located 1m above the finished floor level. In addition, it is noted that the north-eastern most units living room windows have sill heights 1m

above the finished floor level and receive solar access for the entire morning and a portion of the afternoon period.

**Natural Ventilation 4B-3:** The development provides a total of 36 units to which natural ventilation can be achieved as they provide for window openings on separate elevations which are unobstructed and at a suitable distance from each other. It is noted that Units 101, 104, 105, 108 and the units above provide for inlet and outlet windows which are not the same size. However, whilst this is not ideal cross ventilation can still be achieved as the approved plans reflect the examples of units which can provide natural cross ventilation as shown within the ADG. In this regard, 62% of units can achieve natural ventilation which complies with the 60% minimum requirement.

**Ceiling Heights 4C-1:** The development provides for the following ceiling heights:

**Floor Ceiling Height**

|        |      |
|--------|------|
| Ground | 4.4m |
| 1-6    | 3.1m |
| 7      | 3.3m |

In this regard, the development complies.

**Apartment Size and Layout 4D-1:** The ADG requires the following minimal internal areas:

|           |                  |
|-----------|------------------|
| Bedrooms  | Internal Area    |
| Studio    | 35m <sup>2</sup> |
| 1 bedroom | 50m <sup>2</sup> |
| 2 bedroom | 70m <sup>2</sup> |
| 3 bedroom | 90m <sup>2</sup> |

Minimal internal area includes 1 bathroom. Additional bathrooms increase the minimal internal area by 5m<sup>2</sup> each. It is noted that majority of serviced apartments provide for 2 or more bathrooms however, each apartment complies with the internal dimensions requirements with the exception of Unit 605. The internal area of Unit 605 is 97m<sup>2</sup> and given that 3 bathrooms have been provided for within a 3 bedroom unit at least 100m<sup>2</sup> of internal floor area is required. The unit provides for a reasonably sized kitchen and living area and the removal of a bathroom to comply with the minimum requirement would not generate a significant change. In this regard, the 3m<sup>2</sup> non-compliance is considered satisfactory.

All habitable rooms are provided with an external window at least 10% of the size of the rooms internal area. Initially there were some concerns with the southern facing windows located within the north-western units. However, the approved elevation plans shows that the windows are of a suitable size.

**4D-2:** The apartments on levels 1-5 have a ceiling height of 3.1m therefore the maximum depth is 7.75m, whereas, level 6 has a 3.3m ceiling height and therefore the maximum depth is 8.25m. The units which do not comply with this control are 103, 104, 106, 107 and 110 (including the above units to level 5) and Units 603 and 608. It is noted that the non-compliances for the above units are for the open plan kitchen and living room layout.

The units provide for a kitchen/living room depth of 8.5m. However, considering the minor non-compliance of 0.5m and that large windows to the adjacent balcony have been provided allowing for improved solar access and natural ventilation, the non-compliance is satisfactory.

**4D-3:** All bedrooms and living areas are of a suitable size and width. All bedrooms are provided with a wardrobe.

**Private Open Space and Balconies 4E-1:** The following controls apply to balconies:

| Dwelling type | Minimum area     | Minimum depth |
|---------------|------------------|---------------|
| 2 bedroom     | 10m <sup>2</sup> | 2m            |
| 3 bedroom     | 12m <sup>2</sup> | 2.4m          |

Each apartment complies with the above requirement with the exception of Unit 601 which provides for a



balcony with a depth of 2m for a 3 bedroom unit. However, the total balcony area is 24m<sup>2</sup> which is double the requirement and the adjacent living area next to the balcony entrance door provides for suitable seating. In this regard, the minor non-compliance is considered satisfactory.

All balconies and terraces for units provided at the podium level meet the minimum area requirements however, they do not meet the 3m minimum width requirement. Given the built form responds to the DCP in relation to setbacks and the location of communal open space on the podium level, the approved balcony and terrace areas for the podium level units are considered satisfactory.

**Common Circulation and Spaces 4F-1:** The maximum number of apartments on a single floor is 10. The development provides for two lifts, a fire staircase and a seating area within the common corridor to break up the appearance of a long straight hallway which is acceptable in this instance.

**Storage 4G-1:**

The following storage rates are required: 2 bedroom: 8m<sup>3</sup>, 3 bedroom: 10m<sup>3</sup>.

Whilst the approved plans do not indicate a specific location for internal storage within each unit, it is noted that each unit is provided with at least 2 bathrooms and generous sized bedrooms as well as living areas. In this regard, there is sufficient space within each apartment for storage. In addition, the basement has provided 372m<sup>2</sup> of designated storage space which is considered may be appropriately divided between units.

**Universal Design 4Q-1:** A total of 4 apartments have been identified as being accessible apartments.

**Water Management and Conservation 4V-2:** The approved development was referred to Council's Development Engineering and Waterways Teams to which no objections were raised subject to conditions of consent. Council's Waterways Team confirmed that the development could proceed in accordance with Council's Water Sensitive Urban Design (WSUD) Policy.

**Waste Management 4W-1:** A waste chute room, temporary bin storage area and a bulky waste storage area has been provided for at the ground level of the premises. Both the waste chute, temporary bin storage area and bulky waste rooms are accessible via the back of house located along the Union Lane frontage adjacent to the waste indentation bay. It is also noted that Council's Waste Services Team supported the approved waste collection arrangements subject to conditions of consent.

In light of the above, the development is considered to be in accordance with the design quality principles within Schedule 1 of SEPP 65 and the design principles of the ADG.

## Section 79C(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 | N/A   |
| C2 Vegetation Management               | N/A   |
| C3 Water Management                    | N/A   |
| C4 Land Management                     | N/A   |
| C5 Waste Management                    | N/A   |
| C6 Landscape Design                    | N/A   |
| C7 Culture and Heritage                | N/A   |
| C8 Public Domain                       | N/A   |
| C9 Advertising and Signage             | N/A   |
| C10 Transport, Access and Parking      | N/A   |
| C11 Subdivision                        | N/A   |
| C12 Noise and Vibration                | N/A   |
| C13 Infrastructure and Services        | N/A   |
| E11 Penrith                            | Complies - see Appendix - Development Control Plan Compliance |

## Section 79C(1)(a)(iv) The provisions of the regulations

The proposed deletion of Condition 11 to provide for future strata subdivision of the building will not impact the developments ability to comply with the Building Code of Australia (BCA) and the regulations subject to the conditions of consent.

## Section 79C(1)(b)The likely impacts of the development

The deletion of Condition 11 from DA18/1083 will allow for future strata subdivision of the building, providing for private ownership opportunities in part of the approved serviced apartments and commercial tenancies. Clause 8.6 of PLEP 2010 states that strata subdivision of a serviced apartment building needs to achieve the design quality principles of Schedule 1 within SEPP 65 and the design principles of the ADG. The serviced apartments component of the development has been determined as being in principle in accordance with the design quality principles within Schedule 1 of SEPP 65 and the design principles of the ADG particularly in relation to solar access, natural ventilation, unit size/layout and private open space.

In addition, an additional condition of consent is recommended requiring a Positive Covenant to be registered on the land title requiring that the serviced apartments are managed by a single entity and used for short-term accommodation only. In this regard, the serviced apartment component of the development will meet the definition of a serviced apartment as enforced by the Positive Covenant. Noting the above there are no adverse impacts envisioned as a result of the proposed modification application via the provision of appropriate conditions.

## Section 79C(1)(c)The suitability of the site for the development

The site remains suitable for the development in accordance with the original development consent granted.

## Section 79C(1)(d) Any Submissions

### Community Consultation

In accordance with Clause 4.4 of Appendix F4 in the Penrith Development Control Plan (DCP) 2014 the modification application did not require notification to surrounding property owners. However, one submission was received in response to the receipt of the application. The issues raised are addressed below.

| Objection  | Consideration   |
|--|---|
| Concerns that the approved development will no longer be used for serviced apartments.                 | <p>Penrith Local Environmental Plan 2010 defines serviced apartments as follows:</p> <p><i>'means a building (or part of a building) providing self-contained accommodation to tourists or visitors on a commercial basis and that is regularly serviced or cleaned by the owner or manager of the building or part of the building or the owner's or manager's agents.'</i></p> <p>Noting the above, should development consent to the modification be forthcoming it is considered appropriate that an additional condition to the consent be recommended providing that a positive covenant be registered on the land title requiring that the serviced apartments are managed by a single entity and used for short-term accommodation only.</p> <p>In this regard, it is considered that the serviced apartment component of the building will remain as serviced apartments.</p>  |
| Removal of Condition 11 warrants a new development application rather than a modification application. | <p>The approved development has been assessed against the above and are considered in principle to be in accordance with design quality principles of SEPP 65 and the design principles of the ADG.</p> <p>The proposed modification application seeks to delete Condition 11 of DA16/1083 which reads as follows:</p> <p><i>'Strata subdivision of the building or part of the building to be used as serviced apartments is not permitted.'</i></p> <p>This Condition was imposed as the original development application did not include strata subdivision and was therefore not assessed against the provisions of Clause 8.6 in Penrith Local Environmental Plan 2010. The removal of a condition of consent is considered to meet the requirement of the appropriate sections of the Environmental Planning and Assessment Act 1979 which has been considered by this current request.</p> <p>In this regard, the proposal is considered to satisfy the requirements of a modification application under the provisions of Section 4.55(1A) of the Environmental Planning and Assessment Act 1979.</p> |

A written response was sent to the submitter on 1 February 2019 advising of the above consideration given to their concerns which are considered to have been appropriately resolved.

## 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 - subject to conditions |
| Development Engineer                     | No objections - subject to conditions |
| Landscape Architect                      | No objections - subject to conditions |
| Environmental - Environmental management | No objections - subject to conditions |
| Environmental - Waterways                | No objections - subject to conditions |
| Environmental - Public Health            | No objections - subject to conditions |
| Waste Services                           | No objections - subject to conditions |
| Traffic Engineer                         | No objection subject to conditions    |
| Community Safety Officer                 | No objections - subject to conditions |
| Tree Management Officer                  | No objections - subject to conditions |

## Section 79C(1)(e)The public interest

Clause 8.6 Serviced apartments of PLEP 2010 makes provisions for the strata subdivision of serviced apartments. The development satisfies these provisions as previously discussed within this report. The development standards provided within PLEP 2010 serves the public interest and in this regard, the modified development is not considered contrary to the public interest.

## Section 94 - Developer Contributions Plans

The proposed modification application has been discussed with Council's Development Contributions Coordinator who has stated that there are no additional Section 7.11 developer contributions applicable.

## Conclusion

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In assessing this modification application against the relevant environmental planning policies, being Penrith Local Environmental Plan and Penrith Development Control Plan 2014 the modified development satisfies the aims, objectives and provisions of these policies. The site is suitable for the modified development, the modified development is in the public interest and there is unlikely to be negative environmental or built form impacts arising from the modified development. Therefore, the modification application is worthy of support, subject to the recommended condition amendments and additions.

## Recommendation

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That DA16/1083.02 for the deletion of Condition 11 of DA16/1083 to allow for future strata subdivision of the development subject to separate development approval at 21 Woodriff Street, Penrith be approved subject to the attached condition amendment and addition.

## General

### 1 A001

The development must be implemented substantially in accordance with the following plans approved by the Sydney Western City Planning Panel, the application form and any supporting information received with the application, except as may be amended in red on the approved plans and by the following conditions.

| Doc No.   | Issue | Title   | Prepared By                  | Date             |
|---|-------|---|------------------------------|------------------|
| <b>Architectural Plans</b>                            |       |   |                              |                  |
| DA11  | B     | Demolition Plan                                     | Morson Group                 | 27 August, 2018  |
| DA12  | C     | Floor Plan – Basement B1 & B2                       | Morson Group                 | 13 April, 2018   |
| DA13  | E     | Floor Plan – Ground Level                           | Morson Group                 | 24 August, 2018  |
| DA14  | D     | Floor Plan – Podium Level                           | Morson Group                 | 24 August, 2018  |
| DA15  | D     | Floor Plan – Typical Levels 2-5                     | Morson Group                 | 24 August, 2018  |
| DA16  | D     | Floor Plan – Level 6                                | Morson Group                 | 24 August, 2018  |
| DA17  | C     | Floor Plan – Level 7                                | Morson Group                 | 6 August, 2018   |
| DA18  | C     | Roof Plan   | Morson Group                 | 6 August, 2018   |
| DA19  | E     | Elevations – North & South                          | Morson Group                 | 27 August, 2018  |
| DA20  | D     | Elevations – East & West 1                          | Morson Group                 | 27 August, 2018  |
| DA21  | D     | Elevations – West 2 & South 2                       | Morson Group                 | 24 August, 2018  |
| DA22  | C     | Overall Sections – Sheet 1                          | Morson Group                 | 6 August, 2018   |
| DA23  | C     | Overall Sections – Sheet 2                          | Morson Group                 | 6 August, 2018   |
| DA24  | C     | Façade Cross Section                                | Morson Group                 | 24 August, 2018  |
| DA25  | C     | Traffic & Footpath Planning                         | Morson Group                 | 24 August, 2018  |
| DA26  | BP    | Adaptable Apartments & Porte Cochere Details        | Morson Group                 | 15 August, 2018  |
| DA28  | C     | Window Schedule & Elevations                        | Morson Group                 | 24 August, 2018  |
| DA29  | A     | Council Easement Plan                               | Morson Group                 | 4 May, 2018      |
| DA31  | A     | Temporary Traffic Diversion & Site Storage Location | Morson Group                 | 13 October, 2016 |
| <b>Stormwater Plans all Job Reference No. E286341</b> |       |   |                              |                  |
| D1  | B     | Details, Notes & Legend                             | Donovan Associates           | 2 March, 2018    |
| D2  | B     | Stormwater Management Basement Level 2 Floor Plan   | Donovan Associates           | 2 March, 2018    |
| D3  | B     | Stormwater Management Basement Level 1 Floor Plan   | Donovan Associates           | 2 March, 2018    |
| D4  | B     | Stormwater Management Site / Ground Floor Plan      | Donovan Associates           | 2 March, 2018    |
| D5  | B     | Stormwater Management Podium Level Plan             | Donovan Associates           | 2 March, 2018    |
| D6  | B     | Stormwater Management Roof Plan                     | Donovan Associates           | 2 March, 2018    |
| D7  | B     | Stormwater Management WSUD Plan                     | Donovan Associates           | 2 March, 2018    |
| D8  | B     | Stormwater Details                                  | Donovan Associates           | 2 March, 2018    |
| D9  | B     | Sediment Control Plan                               | Donovan Associates           | 2 March, 2018    |
| D10   | B     | Sediment Control Details                            | Donovan Associates           | 2 March, 2018    |
| <b>Landscape Plans all Drawing No. LPDA 16 - 505</b>  |       |   |                              |                  |
| 1   | G     | Landscape Plan (Ground Level)                       | Conzept Landscape Architects | 21 August, 2018  |
| 2   | E     | Landscape Plan (Podium Level)                       | Conzept Landscape Architects | 7 March, 2018    |
| 3   | B     | Specification & Detail                              | Conzept Landscape Architects | 21 August, 2018  |

- Waste Management Plan prepared by Elephants Foot Recycling Solutions, Revision B, Copy No. 2, dated 27 September, 2016;

- Detailed Contamination Assessment and Remediation Action Plan prepared by Geotechnique Pty Ltd, Report No. 13704/2-AA, dated 14 July, 2016;
- Contamination Assessment of Soil prepared by Geotechnique Pty Ltd, Job No. 13704/3, Reference no. 13704/3-AA, dated 22 June, 2018;
- Acoustic Impact Assessment prepared by Rodney Stevens Acoustics, Report No. 170016R1, Revision 1, dated 4 June, 2018;
- Overland Flow Assessment prepared by Donovan Associates, Reference No. E286341, Issue C, dated 2 March, 2018;
- Water Sensitive Urban Design Strategy prepared by Donovan Associates, Job Reference No. E286341, Issue B, dated 2 March, 2018;
- Draft Site Specific Operations and Maintenance Manual prepared by Donovan Associates, Job Reference No. E286341, dated 12 October, 2016;
- Energy Efficiency Evaluation under Section J of the BCA 2016 prepared by Partners Energy, Reference 6030, dated 27 July, 2016;
- Access Review prepared by Funktion, Issue DA 02, dated 27 September, 2016;
- Refuse Collection Arrangements associated with proposed mixed use development prepared by Stanbury Traffic Planning, dated 10 April, 2018;
- Obtrusive Lighting Report prepared by Designbybow, dated 8 June, 2018; and
- Landscape Design letter prepared by Conzept Landscape Architects, dated 12 January, 2018.

2 **A019 - OCCUPATION CERTIFICATE (ALWAYS APPLY)**

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

3 **A046 - Obtain Construction Certificate before commencement of works**

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

4 **A Special (BLANK)**

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

5 **A Special (BLANK)**

Construction works will be restricted to the following hours in accordance with the NSW Environment Protection Authority Noise Control Guidelines:

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

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

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

6 **A Special (BLANK)**

Prior to occupation of the commercial tenancies within the building, separate Development Approval is to be obtained to use each tenancy within the building.

7 **A Special (BLANK)**

A separate Development Application for the erection of a sign or advertising structure, other than an advertisement listed as exempt development, is to be submitted to Penrith City Council, complying with the requirements of Penrith Development Control Plan 2014.

8 **A Special (BLANK)**

For the purpose of preserving the amenity of neighbouring properties, hours of operation (Monday to Sunday) for the following uses are to be restricted to between:-

- Serviced Apartments Reception: 24 hours
- Gymnasium: 7am to 10pm
- Swimming Pool and servery: 8am to 9pm
- Conference Room: 8am to 9pm

9 **A Special (BLANK)**

**Prior to the issue of an Occupation Certificate**, correspondence is to be provided to the nominated Certifying Authority from Telstra indicating that the telecommunication facilities located upon the subject site have been maintained in a manner to the satisfaction of Telstra.

10 [A Special \(BLANK\)](#)

A temporary car park and access to Judges Car Park as shown on Drawing No. DA29, Issue A, 'Temporary Traffic Diversion & Site Storage Location', dated 13 October, 2016 prepared by Morson Group forming part of the consent is to be provided and operated during the construction period.

11 [A Special \(BLANK\)](#)

**DELETED**

***As amended on 12 February 2019 under the provisions of section 4.55(1A) of the Environmental Planning and Assessment Act 1979.***

12 [A Special \(BLANK\)](#)

No approval is expressed or implied by this consent for the development to operate as a residential flat building.

13 [A Special \(BLANK\)](#)

**Prior to the issue of an Occupation Certificate**, evidence is to be provided to the certifying authority that the Torrens Title Subdivision x 2 Residue Lots & Road Widening provided by DA17/0890 has been registered with the NSW Land Registry Services.

14 [A Special \(BLANK\)](#)

Morson Group Architects (or such other architects as is approved by the NSW Government Architect) are to have an ongoing role in the design and construction of the approved development.

Specifically, no Construction Certificate is to be issued for the construction of the new building (other than site preparation works) unless a Construction Certificate drawings are accompanied by a written confirmation that the plans are consistent with the design intent of the approved development application plans and will achieve design excellence.

15 [A Special BLANK](#)

The external walls of the building including attachments must comply with the relevant requirements of the National Construction Code (NCC). Prior to the issue of a Construction Certificate and Occupation Certificate the Certifying Authority and Principal Certifying Authority must:

(a) Be satisfied that suitable evidence is provided to demonstrate that the products and systems proposed for use or used in the construction of external walls including finishes and claddings such as synthetic or aluminium composite panels comply with the relevant requirements of the NCC; and

(b) Ensure that the documentation relied upon in the approval processes include an appropriate level of detail to demonstrate compliance with the NCC as proposed and as built.

16 [A Special BLANK](#)

Prior to the commencement of the development's use and in perpetuity, the following community safety and crime prevention through environmental design (CPTED) requirements shall be satisfied:

**Lighting**

- Pedestrian pathways, laneways and access routes in outdoor public spaces should be lit to the minimum Australian Standard of AS 1158. Lighting should be consistent in order to reduce the contrast between shadows and illuminated areas. Lighting should be designed in accordance with AS 4282 – Control of the obtrusive effects of outdoor lighting.

**Graffiti/Vandalism**

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

## **Environmental Matters**

17 [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.

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

All waste materials stored on-site during construction works are to be contained within a designated area such as a waste bay or bin to ensure that no waste materials are allowed to enter the stormwater system or neighbouring properties. The designated waste storage areas shall provide at least two waste bays / bins so as to allow for the separation of wastes, and are to be fully enclosed when the site is unattended.

19 **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 the approved waste management plan.

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

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

20 **D014 - Plant and equipment noise**

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

21 **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 Contaminated Land Development Control Plan) with consideration of all relevant guidelines (e.g. EPA, ANZECC, NH&MRC), standards, planning instruments and legislation,
- clearly indicate the legal property description of the fill material source site,
- provide details of the volume of fill material to be used in the filling operations,
- provide a classification of the fill material to be imported to the site in accordance with the Environment Protection Authority's "Environmental Guidelines: Assessment, Classification & Management of Non-Liquid Wastes" 1997, and
- (based on the fill classification) determine whether the fill material is suitable for its intended purpose and land use and whether the fill material will or will not pose an unacceptable risk to human health or the environment.

An appropriately qualified person/s (as defined in the Penrith City Council Contaminated Land Development Control Plan) 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, soils 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."}



22 **D Special BLANK**

If any suspect materials are encountered during any stage of future earthworks/ site preparation, the Unexpected Finds Management Protocol (prepared by Geotechnique, Attachment E, date 22 June 2018, Reference No. 13704/3-AA) is to be complied with at all times during the excavation and construction phase of the development.

23 **D Special BLANK**

The gymnasium floor is to be entirely covered with A1 Rubber flooring system and EVA foam flooring (flooring material outlined in the Acoustic Report prepared by Rodney Stevens Acoustics, date 9 June 2018, Ref: 170016R1, Revision 1).

With the exception of the designated treadmill area, this area is to be covered in accordance with the approved Acoustic Report by Rodney Stevens Acoustics, date 9 June 2018, Ref: 170016R1, Revision 1.

A certificate is to be obtained from a qualified acoustic consultant certifying that the gymnasium flooring 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**.

24 **D Special BLANK**

Site remediation works shall be carried out generally in accordance with the approved Detailed Contamination Assessment and Remedial Action Plan prepared by Geotechnique Pty Ltd. dated 14 July 2016 (Report. No. 13704/2-AA) as well as Penrith Development Control Plan 2014, the ANZECC and NHMRC Guidelines (1992) and applicable NSW Environment Protection Authority Guidelines.

On completion of the site remediation works, the following documentation is to be submitted for approval to the Principal Certifying Authority and Penrith City Council, if Council is not the Principal Certifying Authority:

- Written notification that the site remediation works have been completed is to be submitted within 30 days of the said works having been completed.
- Prior to the commencement of works, a Validation Report, prepared by an appropriately qualified person as defined in Penrith Development Control Plan 2014, is to be submitted before any building work can commence on the remediated site. The report shall certify that the remediation works have been carried out in accordance with the approved Remedial Action Plan, relevant NSW Environment Protection Authority requirements and Penrith Development Control Plan 2014.

25 **D Special BLANK**

No public address systems will be used in the gymnasium at this site.

26 **D Special BLANK**

**Prior to commencement of remediation**, a site plan is to be provided to Council for approval that shows key site locations during the remediation works, including the proposed locations of the truck entry/exit, the loading area, the decontamination zone and those areas that may be used for stockpiling of contaminated materials.

27 **D Special BLANK**

The recommended landscaping details to reduce intrusive light from neighbouring developments, as detailed in the Obtrusive Lighting Report prepared by Design by Bow, dated 8 June 2018 are to be undertaken **prior to the issue of any Occupation Certificate**.

28 **D Special BLANK**

The on-waste infrastructure provided within the development is to be built in accordance with configurations specified in the plan Drawing No. DA13 - Floor Plan-Ground Level, Revision E, dated 24 August, 2018 prepared by Morson Group. On-site waste infrastructure is permissible to change only in accordance with conditions stipulated by Council's Waste Service Department.

## 29 **D Special BLANK**

The following waste management requirements must be complied with and details of compliance demonstrated **prior to the issue of an Occupation Certificate**:

- All on-site waste collection infrastructure, doors and access points (Waste Chute Room, Waste Collection Room, Commercial Waste Room and Bulky Waste Room) are to be locked through an Abloy Key System to permit access to the respective Collection Contractor.
- All on-site waste collection infrastructure (Waste Chute Room, Waste Collection Room, Commercial Waste Room and Bulky Waste Room) are to provide wash facilities through the use of a centralised mixing valve and hose cock. Respective drainage and water proofing to be installed to support the use of hose facilities.
- The provision of regulatory signage labelled "No Parking - Waste Collection and Removalist Vehicles Excepted" (R5-445 or R5-447 modified) is required to be installed along the frontage of the building (Union Lane) to accommodate a 10.5m Heavy Rigid Waste Collection Vehicle (22.5m long loading bay). A sign plan is to be submitted identifying the location of the parking restrictions to be endorsed by Council's Local Traffic Committee and adopted by Council prior to implementation.
- All on-site waste collection infrastructure (Waste Chute Room, Waste Collection Room, Commercial Waste Room and Bulky Waste Room) is to have 1.8m outwards opening (180 degrees) dual doors to permit access of 1100L bins.

## **BCA Issues**

### 30 **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 building. The annual fire safety statement for a building must:

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

(b) be given:

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

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

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

### 31 **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.

## **Utility Services**

32 [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](http://www.sydneywater.com.au) then the “e-developer” icon, or telephone 13 20 92.

The Section 73 Compliance Certificate must be submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

33 [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 (as identified on the provided architectural and landscaping plans), Penrith City Council shall be consulted over the proposed location of the substation before the Construction Certificate for the development is issued as the location of the substation may impact on other services and building, driveway or landscape design already approved by Council.

## Construction

34 [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 the site:

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

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

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

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

### 35 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 the council, or
- alternatively, any other sewage management facility approved by council.

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

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

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

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

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

### 36 H special BLANK

The recommended construction details to meet indoor design sound levels, as detailed in the report prepared by Rodney Stevens Acoustics, dated 4 June 2018, Report Reference: 170016R1, Revision 1 are to be undertaken during construction. **Prior to issue of an Occupation Certificate**, a qualified acoustic consultant shall certify that the development has been constructed to meet the indoor design sound levels in accordance with the approved acoustic report.

### 37 H special BLANK

An alternate ventilation system is required, as windows and doors on all facades need to be closed to achieve internal noise level criteria. The alternate ventilation system details are to accompany the **Construction Certificate** application.

**Prior to issue of an Occupation Certificate**, a qualified acoustic consultant shall certify that the approved ventilation system has been installed with the acoustical attenuation measure.

### 38 H Special BLANK

The construction and operation of the public swimming pool/s and spa pool/s and associated premises shall comply with the Public Health Act 2010, Public Health Regulation 2012 and any relevant standards, guidelines or codes of practice published or endorsed by the NSW Ministry of Health.

## Swimming Pools

### 39 J002 - Fencing when water in pool

When the swimming pool construction has reached a stage where the pool is capable of holding water, the pool area shall be restricted from access in accordance with AS 1926 "Swimming Pool Safety". Restriction of access to the pool area shall also comply with the Swimming Pools Act, 1992.

40 **J003 - Pool fence (commercial)**

The swimming pool is to be surrounded at all times by a child-resistant barrier that:

- separates the swimming pool from the serviced apartments and associated uses situated on the premises and from any place (whether public or private) adjoining the premises, and
- is located immediately around the swimming pool, and
- contains within its bounds no structure apart from the swimming pool and such other structures (such as diving boards and pool filtration plants) as are wholly ancillary to the swimming pool, and
- is designed, constructed, installed and maintained in accordance with the standards prescribed by AS 1926 "Swimming Pool Safety".

41 **J010 - Pool board/ sign (add J009)**

A sign must be erected in a prominent position in the immediate vicinity of the swimming pool and must:

- be erected in accordance with the provisions relating to instructional posters of the document entitled "Policy Statement No. 9.4.1: Guidelines for the Preparation of Posters on Resuscitation" published by the Resuscitation Council. (A copy may be purchased from Penrith City Council's Civic Centre, 601 High Street, Penrith), and
- bear a notice that contains the words "YOUNG CHILDREN SHOULD BE SUPERVISED WHEN USING THIS SWIMMING POOL", together with details of resuscitation techniques (for adults, children and infants) set out in the relevant provisions of the document entitled "CardioPulmonary Resuscitation" published by the Australian Resuscitation Council. (A copy may be purchased from Penrith City Council's Civic Centre, 601 High Street, Penrith).

42 **J011 - NSW Swimming Pool Register**

The swimming pool must be registered on the NSW Swimming Pool Register when it is capable of holding water and before the issue of an Occupation Certificate. The swimming pool is to be registered at [www.swimmingpoolregister.nsw.gov.au](http://www.swimmingpoolregister.nsw.gov.au) or in person at Penrith City Council (a \$10 fee applies when registering at Council).

43 **J012 - Backwash and Overflow**

All backwash from the swimming pool shall be directed into the mains sewer.

44 **J special condition - Registration and notification**

The occupier of any premises at which a public swimming pool or spa pool is situated must notify Council using the NSW Ministry of Health Notification Form available from [www.health.nsw.gov.au](http://www.health.nsw.gov.au) prior to the pool or spa being used. The occupier of the premises must notify Council within 7 days of any change of details.

## Engineering

45 **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 at no cost to Penrith City Council.

46 **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 the issue of any Construction Certificate. 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 City Works Department on (02) 4732 7777 or visit Penrith City Council's website for more information.

47 **K203 - S138 Roads Act – Works and structures - Roadworks requiring approval of civil drawings. CIVIL CONSTRUCTION IN THE ROAD RESERVE**

**Prior to the issue of any Construction Certificate**, the Certifying Authority shall ensure that a Section 138 Roads Act application, including payment of application and inspection fees, has been lodged with Penrith City Council (being the Roads Authority under the Roads Act 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, waste skips, signs, etc in the road reserve
- f) Temporary construction access
- g) The provision of road works, landscaping works, path paving works in Woodriff Street and Union Lane, the relocation / reconstruction of the existing raised threshold within the right of carriageway, road treatment to the pedestrian crossings in Union Lane to encourage the perception of the roadway as a shared vehicular and pedestrian zone and provision of pram ramps in Union Lane.

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 (02) 4732 7777 or visit Penrith City Council's website for more information.

Note:

- a) 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.
- b) All works associated with the Roads Act approval must be completed prior to the issue of any Occupation Certificate.

48 **K205 - S68 Local Government Act – Stormwater drainage works CIVIL CONSTRUCTION IN LOTS**

**Prior to the issue of any Construction Certificate** with the exception for early works as agreed to by Council, the Principal Certifying Authority and/ or Certifying Authority shall ensure that an application under Section 68 of the Local Government Act, including payment of application and inspection fees, has been lodged with Penrith City Council for provision of the temporary car park access to Judges Place car park, additional car parking spaces along with any associated works that are located on the adjoining Council owned land being Lot 104, DP 1031340.

An Early Works Construction Certificate may be granted for works which do not result in termination of the current access to Judges Carpark from Woodriff Street. The temporary access to Judges carpark must be approved, constructed and operational prior to any works commencing on site which terminate the current access to Judges Carpark from Woodriff Street.

Engineering plans are to be generally in accordance with the plan prepared by Morson Group, Drawing No. DA31, issue A, dated 13 October, 2016, and shall 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 (02) 4732 7777 or visit Penrith City Council's website for more information.

Note:

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



49 **K209 - Stormwater Concept Plan**

The stormwater management system shall be provided generally in accordance with the concept plan/s lodged for development approval, prepared by Donovan Associates, Job Reference Number E286341, Drawing Numbers D1 to D10, all Issue B, all dated 2 March, 2018.

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 a Construction Certificate** the Certifying Authority shall ensure that the stormwater management system has been designed in accordance with Council's Stormwater Drainage for Building Developments and Water Sensitive Urban Design Policy.

50 **K211 - Stormwater Discharge – Basement Car parks**

**Prior to the issue of any Construction Certificate**, the Certifying Authority shall ensure that the stormwater drainage system for the basement car park has been designed in accordance with the requirements for pumped systems in AS 3500.3 (or as amended) (Plumbing and Drainage – Stormwater Drainage).

51 **K213 - Flooding - Flood Report Recommendations**

**Prior to the issue of any Construction Certificate**, the Certifying Authority shall ensure that the proposed development is compatible with the recommendations of the Overland Flow Assessment prepared by Donovan Associates, Reference Number E286341, Issue C, dated 2 March 2018.

52 **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 29.2m AHD (standard flood level + 0.5m freeboard). Basement entry levels shall be at a minimum of RL 29.0m AHD.

53 **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 and 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.

54 **K224 - Construction Traffic Management Plan**

**Prior to the issue of a Construction Certificate**, the Certifying Authority shall ensure that a Construction Traffic Management Plan (CTMP) has been submitted to and approved by Penrith City Council. Approval of the CTMP may require endorsement from the Local Traffic Committee. The CTMP shall include, but not limited to the following: vehicle routes, number of construction vehicles, hours of operation, access arrangements, pedestrian management, turning templates for narrow streets and intersections and parking management for workers. The CTMP shall be certified by an appropriately accredited person and/or RMS. The CTMP shall be certified by an appropriately accredited person and/or RMS Traffic Controller. The CTMP shall ensure that adequate parking is provided for the development and surrounding parking not severely impacted by the construction of this development.

The CTMP shall be supported by a traffic control plan, designed in accordance with the requirements of the Roads and Traffic Authority's Manual, Traffic Control at Work Sites Version 2, and the current Australian Standards, Manual of Uniform Traffic Control Devices Part 3, 'Traffic Control Devices for Works on Roads'.

The traffic control plan must be prepared by a suitably qualified and RMS accredited Work Site Traffic Controller.

55 **K225 - Performance Bond**

Prior to the issue of a Roads Act Approval, a Performance Bond is to be lodged with Penrith City Council for any road works and landscaping works within Woodriff Street and Union Lane.

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 (02) 4732 7777 for further information relating to bond requirements.

56 **K226 - Basement Geotechnical Testing/ Dilapidation Report**

**Prior to the issue of a Construction Certificate**, the Certifying Authority shall ensure that a Geotechnical investigation, report and strategy has been conducted to ensure stability of the Council infrastructure and surrounding developments. The geotechnical investigation, report and strategy shall comply with the recommendations contained in the technical direction GTD 2012/001 prepared by the Road and Maritime Services, as amended. The applicant shall undertake a dilapidation report for all surrounding buildings and Council owned infrastructure that confirms that no damage occurs due to the excavations associated with the development. If Council is not the Certifying Authority the dilapidation report shall be submitted to Council prior to Construction Certificate issue and then updated and submitted prior to any Occupation Certificate issue confirming no damage has occurred.

57 **K401 - Flooding – Surveyor Verification of floor levels**

A certificate prepared by a registered surveyor verifying that all habitable floor levels are at or above RL 29.2m AHD (standard flood level + 0.5m freeboard) shall be submitted upon completion of the building to that level. No further construction of the building is to be carried out until approval to proceed is issued by the Principal Certifying Authority.

58 **K501 - Penrith City Council clearance – Roads Act/ Local Government Act**

**Prior to the issue of any 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.

59 **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.

60 **K503 - Stormwater Compliance**

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

- a) Stormwater management systems (including on-site detention and water sensitive urban design)
  - 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.

61 **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:

- a) Stormwater management systems (including on-site detention and water sensitive urban design)

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

62 **K511 - Directional signage**

**Prior to the issue of any Occupation Certificate**, directional signage and linemarking shall be installed indicating required directional movements for vehicles and the location of customer parking to the satisfaction of the Principal Certifying Authority.



63 **K515 - Maintenance Bond**

**Prior to the issue of any Occupation Certificate**, a Maintenance Bond is to be lodged with Penrith City Council for road works and landscaping works in Woodriff Street and Union Lane.

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

Note:

- a) Contact Penrith City Council's Engineering Services Department on (02) 4732 7777 for further information relating to bond requirements.

64 **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.

65 **K Special (BLANK)**

All car spaces are to be dedicated for the parking of vehicles only and are not be used for storage of materials/products/waste materials, etc.

66 **K Special (BLANK)**

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

67 **K Special (BLANK)**

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

68 **K Special (BLANK)**

**Prior to the issue of an Occupation Certificate**, secure bicycle parking is to be provided at a convenient location(s) in accordance with *AS 2890.3:2015 Bicycle Parking Facilities*.

69 **K Special (BLANK)**

**Prior to the issue of any Occupation Certificate**, the following shall be provided as civil works in **Union Lane, Penrith** as follows:

- An indented on-street bay for waste/removalist vehicles, minimum 22.5m length, 2.5m width at the Union Lane frontage;
- Regulatory signage at the bay indicating "No Parking - Waste Collection and Removalist Vehicles Excepted" (R5-445 or R5-447 modified);
- The location of the bay is to be determined by complying sight distances from the driveway in accordance with AS 2890.1: 2004;
- Pedestrian access **of 1.5m** is to be available on the southern side of Union Lane;
- The concrete pedestrian blisters on the north side of Union Lane directly opposite the proposed indented bay are to be infilled/reconstructed as an island. RMS approved pedestrian fencing is to be installed on the island to restrict pedestrian access at this location, **generally as shown amended in red on the attached plan**.
- All works, including relocation of necessary services, **are to be undertaken by the applicant and at no cost to Council**.

The engineering plans and associated parking restrictions are to be endorsed by Council's Local Traffic Committee and adopted by Council prior to construction. (The Local Traffic Committee sits once per month which may delay finalization of the plans.)

## Landscaping

70 **L001 - General**

All landscape works are to be constructed in accordance with the stamped approved plans as amended by the applicable conditions of this Development Consent and Sections C2 'Vegetation Management' and C6 'Landscape Design' of Penrith Development Control Plan 2014.

Landscaping shall be maintained:

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

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

71 **L002 - Landscape construction**

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

72 **L003 - Report requirement**

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

i. Implementation Report

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

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

ii. Maintenance Report

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

73 **L005 - Planting of plant**

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

74 **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.

75 **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.

76 **L Special (Arborist Report)**

An arborist's report/Tree Protection Plan must be submitted. The Plan must be included as part of the construction plans to be used on site and must include specifications for the implementation of tree protection measures for all trees on site.

77 **L Special (BLANK)**

All trees and landscaping must be maintained in perpetuity to enable maturity to their full potential in healthy growing conditions. This includes mature height, spread and form, consistent with the tree species. Pruning must not alter the natural form and height of trees.

78 [L Special \(BLANK\)](#)

**Prior to the issue of a Construction Certificate**, a revised landscape and public domain plan with details and sections in accordance with the Penrith CBD Public Domain Technical Manual is to be provided to the satisfaction of Penrith City Council addressing the following;

- Tree species along Woodriff Street are to be provided as *Lophostemon confertus*. The number and location of these trees are to be provided to the satisfaction of Penrith City Council's Design and Projects Section;
- An alternate feature tree species is to be provided for the corner of Union Lane and Woodriff Street. The identified tree is to take into consideration the available vertical space (volume adjacent to the proposed building facade) to allow for a mature canopy and urban (paved) ground conditions;
- Details of furniture paving including pattern and transition between paving types;
- Details of how Tree No. 29 as indicated on the approved landscape plan is to be retained and maintained during the construction period;
- The location of all Tactile Ground Surface Indicators;
- Details of how landscaping will not obstruct proposed signage to Judges Car Park; and
- Plans are to be amended so as to remove all steps within the road reserve area.

79 [L Special \(Protection of trees to remain on site\)](#)

All trees approved by Council for removal shall be removed in a manner so as to prevent damage to those trees that are to be retained.

80 [L Special \(Trees of public property\)](#)

All precautions shall be taken to adequately protect trees on public property (i.e. footpaths, roads, reserves, etc) against damage during construction. No trees on public property shall be removed, pruned or damaged during construction. This includes the erection of any fences, hoardings or other temporary works. The placement of construction materials beneath the canopy of street trees is prohibited.

## Development Contributions

81 [N001 - Section 94 contribution \(apply separate condition for each Contribution Plan\)](#)

This condition is imposed in accordance with Penrith City Council's Section 7.11 Contributions Plan for Penrith City - Civic Improvement Plan. Based on the current rates detailed in the accompanying schedule attached to this Notice, \$166,268.00 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 7.11 plan. The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule.

Council should be contacted prior to payment to ascertain the rate for the current quarterly period. The S7.11 invoice accompanying this consent should accompany the contribution payment. The Section 7.11 Contributions Plan for Penrith City - Commercial Office may be inspected at Council's Civic Centre, 601 High Street, Penrith.

## Payment of Fees

82 [P001 - Costs](#)

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

83 [P002 - Fees associated with Council land \(Applies to all works & add K019\)](#)

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

## Certification

84 **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 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 the development does not comply with the provisions of the Environmental Planning and Assessment Act and Regulation.

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

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

85 **Q01F - Notice of Commencement & Appointment of PCA2 (use for Fast Light only)**

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

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

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

Information to accompany the Notice of Commencement

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

86 **Q Special (BLANK)**

**Prior to the issue of a Construction Certificate (excluding early works),** a restriction/positive covenant is to be endorsed by Council that provides for the following:

"The development is to be managed by a single entity as a 'serviced apartment' development in accordance with the applicable definition contained within Penrith Local Environmental Plan 2010 being self-contained accommodation to tourists and visitors on a commercial basis."

**Prior to the issue of an Occupation Certificate,** the above restriction/positive covenant must be registered with Land Registry Services and evidence of registration provided to the Certifying Authority and Penrith City Council.

***Added on 12 February 2019 under the provisions of Section 4.55(1A) of the Environmental Planning and Assessment Act 1979.***

# **Appendix - Development Control Plan Compliance**

## **Development Control Plan 2014**

### **E11 Penrith**

#### **11.6 Controls for Residential Development**

The development has been assessed in accordance with the design quality principles of SEPP 65 and the design principles within the ADG as discussed previously within this report. It is noted that the proposed modification application does not propose subdivision of the development at this stage however, the removal of Condition 11 will allow for future strata subdivision of the building. While so, the previously approved built form is considered to have appropriately responded to the requirements of SEPP 65 and will raise no adverse environmental impacts.