

PENRITH CITY COUNCIL

MAJOR ASSESSMENT REPORT

Application number:	DA16/0357.02
Proposed development:	Extension of Awning & Enlargement of Window for Approved Serviced Apartments Building
Property address:	15 Engineers Place, PENRITH NSW 2750
Property description:	Lot 3008 DP 1184498
Date received:	21 February 2018
Assessing officer	Sufyan Nguyen
Zoning:	Zone B2 Local Centre - LEP 2010
Class of building:	Class 3 , Class 7a , Class 9b
Recommendations:	Approve

Executive Summary

Council is in receipt of a modification application to extend an awning and enlarge a window for an approved serviced apartments building at 15 Engineers Place, Penrith. The subject site is zoned B2 Local Centre and the development is permissible with Council consent.

The proposed modifications include:

- Extending the awning to wrap around the building and extend along the pedestrian through-site link located to the north of the site; and
- Enlargement of a window for Unit 104b in the building to comply with BCA natural light and ventilation requirements.

An assessment of the modified proposal under Section 4.55(1A) (previously Section 96(1A)) and Section 4.15 (previously Section 79C) of the *Environmental Planning and Assessment Act 1979* has been undertaken and the application is recommended for approval, subject to recommended condition amendments.

Site & Surrounds

The subject site is known as 15 Engineers Place, Penrith and is legally described as Lot 3008 DP 1184498. The site is situated within the Thornton Estate, north of Penrith railway station. The site is a corner allotment with frontage to Engineers Place eastwards and Lord Sheffield Circuit to the south, north and west. The allotment has a land area of 4,778m² and is irregular in shape.

An eight (8) storey serviced apartments building was approved under consent No. DA16/0357 which will be located on the south-eastern end of the lot and has a GFA of 2,744m². The north-western end of the site will be subject to a future development of a similarly scaled mixed-use development. Each end of the lot is proposed to be separated by a pedestrian through-site link spanning east-west between Lord Sheffield Circuit and Engineers Place.

Development in the vicinity is predominantly newly constructed dwellings and town houses, and vacant allotments. Several residential flat buildings (RFB) have recently been constructed along Engineers Place and Lord Sheffield Circuit. Vacant allotments located to the west and to the north-west of the subject site will be developed for RFB's and mixed-use or commercial development. The public entry to Penrith railway station is located 60 metres southwards.

Proposal

The applicant seeks approval to extend an awning and enlarge a window for an approved serviced apartments building at 15 Engineers Place, Penrith.

Plans that apply

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

Planning Assessment

• Section 96(1A) - Modifications involving minimal environmental impact

Under the provisions of Section 4.55(1A) (previously Section 96(1A)) of the *Environmental Planning and Assessment Act 1979* Council may, in response to an application being made, modify a previously approved development if:

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

(b) it is satisfied that the modified development is substantially the same development for which consent was originally granted, and

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

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

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

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

In this regard, the following is noted:

(a) The proposed modifications are considered to be of minimal environmental impact.

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

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

In applying the ordinary meaning of the words '*substantially the same development*' informed by the above cases, the modified development is of the same essence and therefore is substantially the same as the originally approved development.

There is no radical transformation to the development as the extended awning and modified window for Unit 104b is not too dissimilar to the originally approved development. Overall, the changes do not change the essence of the original approval.

(c) Given the minor scale of the proposed modifications, notification and/or advertising was not warranted.

(d) No submissions were received regarding the application.

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

Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

The proposed modifications are not considered to diminish the development's compliance with *Sydney Regional Environmental Plan No. 20 - Hawkesbury/Nepean River*.

Local Environmental Plan 2010 (Amendment 4)

Provision	Compliance
Clause 1.2 Aims of the plan	Complies
Clause 2.3 Permissibility	Complies
Clause 2.3 Zone objectives	Complies
Clause 8.1 Application of Part	Complies
Clause 8.2 Sun access	Complies
Clause 8.4 Design excellence	Complies
Clause 8.6 Serviced apartments	Complies

Section 79C(1)(a)(ii) The provisions of any draft environmental planning instrument

There are no draft environmental planning instruments applicable to the development.

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	Complies
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	Complies
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

North Penrith Design Guidelines

Provision	Compliance
North Penrith Design Guidelines	Complies

Section 79C(1)(a)(iiia) The provisions of any planning agreement

There are no planning agreements applicable to the development.

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

The proposed modifications are not considered to diminish the development's compliance with the regulations.

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

The proposed modifications are a minor scale. The extension of the awning is compatible with the approved development and the enlargement of the window for Unit 104b is unlikely to result in any adverse impacts on the visual quality of the streetscape. Therefore, the proposed modifications does not appreciably alter the likely impacts of the development as identified in the original assessment report for the proposal. Compliance with BCA requirements will ensure the health and safety of the future occupants.

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

The proposed modifications are of a minor scale and are not considered to diminish the suitability of the site for the development.

Section 79C(1)(d) Any Submissions

Community Consultation

Given the scale and nature of the proposed modifications, notification and/or advertising of the application was not warranted.

Referrals

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

Referral Body	Comments Received
Building Surveyor	No objections
Development Engineer	No objections
Environmental - Environmental management	No objections
Environmental - Waterways	No objections
Environmental - Public Health	No objections
Waste Services	No objections
Traffic Engineer	No objection

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

The proposed modifications do not alter the public interest considerations noted in the original assessment report for the proposal.

Conclusion

The proposed modifications have been assessed against the relevant heads of consideration contained in Section 4.55(1A) (previously Section 96(1A)) and Section 4.15 (previously Section 79C) of the *Environmental Planning and Assessment Act 1979* and have been found to be satisfactory. The modified development will result in minimal environmental impact, the site is suitable for the proposed development and the proposal is in the public interest. Given that there are no outstanding planning considerations and that the modification application is in accordance with the relevant provisions, the application is worthy of Council's support and is recommended for approval subject to the following condition amendments.

Recommendation

That DA16/0357.02 for modifications to extend an awning and enlarge Unit 104b's window for an approved service apartments building at 15 Engineers Place, Penrith be approved subject to the following condition amendment:

Condition 1

The development must be implemented substantially in accordance with the plans as tabled below and as stamped approved by Council, 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.

Architectural plans prepared by DKO Architecture			
Drawing No	Description	Revision	Date
DA101	Context Plan	D	09/11/2016
A80.1	Site Plan	E	18/02/2018
A80.2	Ground Floor Plan	E	18/02/2018
A80.3	Level 1 Plan	E	18/02/2018
DA202	Level 2 Plan	D	09/11/2016
DA203	Level 3 Plan	D	09/11/2016
DA204	Level 4 Plan	D	09/11/2016
DA205	Level 5 Plan	D	09/11/2016
DA206	Level 6 Plan	D	09/11/2016
DA207	Level 7 Plan	D	09/11/2016
DA208	Roof Plan	B	14/06/2016
DA209.1	Unit Plans	D	09/11/2016
DA209.2	Unit Plans	D	09/11/2016
DA300	Elevations – West/South	E	18/02/2018
DA302	North Elevation	E	18/02/2018
DA303	East Elevation	E	18/02/2018
DA304	North Elevation	B	14/06/2016
DA305	Section A	B	14/06/2016
DA306	Section B	B	14/06/2016
DA307	Sections C, D and E	B	14/06/2016
A5000	Public Awning Sections 1	2	08/12/2017
A5003	Public Awning Plan & Elevations	2	08/12/2017
A5005	Public Awning Sections 2	2	08/12/2017
Signage Plans Prepared by BG			
Drawing No	Description	Revision	Date
4	Site Plan	Version 1	16/03/2016
5	West Elevation	Version 1	16/03/2016
6	East Elevation	Version 1	16/03/2016
7	North Elevation	Version 1	16/03/2016
8	Section 02	Version 1	16/03/2016
ID-P / 10	General Dimensions	Version 1	16/03/2016
ID-P / 11	Typical Construction Detailing	Version 1	–
ID-B-1 / 12	General Dimensions & Typical Section	Version 1	16/03/2016
ID-B-2 / 13	General Dimensions & Section J	Version 1	09/03/2016
ID-B-3 / 14	General Dimensions	Version 1	08/03/2016
ID-B-4 / 15	General Dimensions	Version 1	09/03/2016
ID-B / 16	Section Q Detail R	Version 1	12/08/2015
ID-CP / 17	General Dimensions & Section C	Version 1	12/08/2015
18	Finishes Schedule	Version 1	--
UrbanGrowth NSW	Letter regarding access over Lot 3008 DP 1184498	-	19 August 2016

CONDITIONS

General

1 A001

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A80.2	Ground Floor Plan	E	18/02/2018
A80.3	Level 1 Plan	E	18/02/2018
DA202	Level 2 Plan	D	09/11/2016
DA203	Level 3 Plan	D	09/11/2016
DA204	Level 4 Plan	D	09/11/2016
DA205	Level 5 Plan	D	09/11/2016
DA206	Level 6 Plan	D	09/11/2016
DA207	Level 7 Plan	D	09/11/2016
DA208	Roof Plan	B	14/06/2016
DA209.1	Unit Plans	D	09/11/2016
DA209.2	Unit Plans	D	09/11/2016
DA300	Elevations – West/South	E	18/02/2018
DA302	North Elevation	E	18/02/2018
DA303	East Elevation	E	18/02/2018
DA304	North Elevation	B	14/06/2016
DA305	Section A	B	14/06/2016
DA306	Section B	B	14/06/2016
DA307	Sections C, D and E	B	14/06/2016
A5000	Public Awning Sections 1	2	08/12/2017
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ID-P / 10	General Dimensions	Version 1	16/03/2016
ID-P / 11	Typical Construction Detailing	Version 1	--
ID-B-1 / 12	General Dimensions & Typical Section	Version 1	16/03/2016
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ID-B-3 / 14	General Dimensions	Version 1	08/03/2016
ID-B-4 / 15	General Dimensions	Version 1	09/03/2016
ID-B / 16	Section Q Detail R	Version 1	12/08/2015
ID-CP / 17	General Dimensions & Section C	Version 1	12/08/2015
18	Finishes Schedule	Version 1	--
UrbanGrowth NSW	Letter regarding access over Lot 3008 DP 1184498	-	19 August 2016

As amended on 9 March 2018 under Section 4.55(1A) of the Environmental Planning and Assessment Act 1979 and on 3 February 2017 under Section 96(1A) of the Environmental Planning and Assessment Act 1979.

2 A001 M - Special (No waiting zones in lane)

No approval is granted for the proposed waiting zones along the private laneway at the rear of the site.

3 **A001A Special (Waste Pick Up)**

Waste collection from the site is not to occur between the hours of 5:00am and 5:00pm seven days and shall occur no later than 9:00pm seven days.

4 **A001AA Special (Amended plans)**

Deleted on 3 February 2017 under Section 96(1A) of the Environmental Planning and Assessment Act 1979.

5 **A001B Special (Compliance with Waste Report)**

The construction and fit-out of the waste/bin rooms located on ground floor of the building is to be in accordance with the recommendations included within the Waste Management Plan prepared by Elephants Foot Recycling Solutions dated 6/04/2016 as details on pages 12, 13 and 14.

6 **A001C Special (Car Parking Provision)**

The applicant is to provide Penrith City Council with confirmation from the owner of Lot 3003 in DP 1184498 and/or the owner of Lot 3008 in DP 1184496 that a total of ten (10) car parking spaces will be provided within the future development (not including the subject development) on either lot, for the exclusive use of the customers and/or staff of the serviced apartments development located on the subject site, prior to the issue of an Occupation Certificate.

A review of the need for these spaces may be undertaken after 24 months from the issue of an Occupation Certificate of the serviced apartments building. If it is determined that the additional ten (10) car parking spaces are not being utilised at sufficient capacity, a modification application may be lodged to amend or remove this condition. The review must be undertaken by an appropriately qualified and experienced traffic consultant with adequate justification provided in support of any request to modify or delete this condition.

As amended on 3 February 2017 under Section 96(1A) of the Environmental Planning and Assessment Act 1979.

7 **A001D Special (Lane Width)**

In accordance with stamped approved correspondence prepared by Urban Growth NSW dated 19 August 2016 and as marked in red on the stamped approved plans, sufficient passing width is to be provided within the boundaries of the northern end of the subject site (Lot 3008 DP 1184498) adjacent the northern pull-in bay located on Lot 3007 DP 1184498, to allow vehicles to pass a waste collection truck when parked in the pull-in bay.

8 **A001E Special (Pedestrian Link)**

Prior to the issue of the Construction Certificate a detailed design plan of the pedestrian through-site link is to be submitted to the Manager Development Services at Penrith City Council. The detailed design plans are to include the following:

- (a) a dimensioned layout to an appropriate scale;
- (b) a schedule of all surface treatments, materials and finishes;
- (c) details and specifications of proposed planters, street furniture and public art installations;
- (d) details and locations of any kerb and gutter, pram ramps and sign posting proposed.

Civil details are to be designed in accordance with Council's standards and specifications. Detailed plans are to be approved by the Manager Development Services at Penrith City Council and relevant works completed prior to the issue of the Occupation Certificate for the serviced apartments building.

9 **A001H - Special (Signage Curfew)**

Internally illuminated upper level wall signage located above level 4 on all facades of the building is to have the hours of illumination restricted to 7:00am to 9:00pm Monday to Sunday.

10 **A001K - Special (Use of DKO Architects)**

DKO Architects are the approved architects for the design and documentation of the serviced apartments development and are to be retained throughout the design and construction phase as per the NSW Government Architects correspondence dated 28 May 2016.

11 **A001L - Special (Materials & Finishes)**

A Schedule of Materials and Finishes is to be submitted to and approved by the Manager Development Services at Penrith City Council prior to the issue of the Construction Certificate.

12 **A001N Special (Building Maintenance and Operations Plan)**

Prior to the issue of the Occupation Certificate, a Building Maintenance and Operation Plan must be submitted and approved by Penrith City Council. This Plan is to include the following aspects of the buildings operation:

(a) Details of the Traffic Control Measures including the maintenance and operations of the system and what measures will be employed during periods where the system is unavailable such as power failures, emergencies or maintenance.

(b) The allocation of the parking spaces. Details shall ensure that any staff parking is allocated as a stacked space and that stacked spaces are for the use of valet personnel only.

(c) Details of how waste (recycling and residual) will be managed during the operation of the development.

13 **A006 - Separate DA for future development stages**

This development consent relates to the construction of the serviced apartments building and the pedestrian through-site link only. A separate development application shall be submitted to Penrith City Council for any future development of the site not covered by this consent. No approval is granted for the pattern of laneways, roads or landscaping or other urban design detail indicated on plans or referenced within supportive reports or documentation that is not located on the subject site being Lot 3008 in DP 1184498.

14 **A011 - Engineering Works DCP**

All civil engineering construction works shall be carried out substantially in accordance with Penrith City Council's Engineering Works Development Control Plan and accompanying Guidelines for Engineering Works for Subdivisions and Developments Part 2-Construction.

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

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

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

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

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

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

18 **A Special (BLANK)**

A right of footway shall be registered on the title of the subject land in the location of the pedestrian through-site link prior to the issue of an Occupation Certificate.

Note: Additional terms may be added to the standard wording for a Right of Footway as provided in the Conveyancing Act. Additional wording may stipulate that the Right includes the use of the through-site link for dining associated with tenancies with frontage to the through-site link which includes the placement of tables and chairs within the through-site link.

As amended on 3 February 2017 under Section 96(1A) of the Environmental Planning and Assessment Act 1979

19 **A Special Condition (BLANK)**

Prior to the issue of Construction Certificate additional details regarding the requirements of Section 3.1 of Councils WSUD Policy which relates to the use of efficient (WELS) rated fittings and rainwater harvesting and reuse must be submitted to Council for review.

Environmental Matters

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

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

21 **D013 - Approved noise level 1**

Noise levels from the premises shall not exceed the relevant noise criteria detailed in the Noise Impact Assessment (Document Reference: 20151400.1/3003A/RO/BW) prepared by Integrated Group Services and dated 11/04/2016. The recommendations provided in the above-mentioned acoustic report shall be implemented and incorporated into the design and construction of the development, and shall be shown on plans accompanying the Construction Certificate application. A certificate is to be obtained from a qualified acoustic consultant certifying that the building has been constructed to meet the noise criteria in accordance with the approved acoustic report. This certificate is to be submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

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

22 **D014 - Plant and equipment noise**

Prior to the issue of the Construction Certificate, further details on the type and location of all mechanical plant and equipment associated with the development, is to be provided to Council for consideration and approval. Suitable data and information, assessed by a qualified acoustic consultant, is to be supplied to demonstrate that the operation of the plant and equipment (including mechanical ventilation/air-conditioning equipment) will comply with the internal noise criteria required for each of the individual units within the development, as well as complying with the provisions of the Protection of The Environment Operations Act 1997 that apply to the development, in terms of regulating offensive noise. In this regard, 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.

Prior to the issue of the Occupation Certificate, a Compliance Certificate is to be submitted to and approved by Council. The Compliance Certificate is to be prepared by an appropriately qualified acoustic consultant and is to certify that all plant and equipment have been installed to comply with the above information and the established noise criteria. Should the Compliance Certificate identify any non-compliance issues, the Certificate is to provide suitable recommendations for mitigation of those issues. Any mitigation works are to be undertaken within thirty (30) days from the date of notice from Council, unless otherwise specified. This Compliance Certificate for the mechanical plant and equipment may be included in the Compliance Certificate that is required for the development as a whole with respect to certifying that the building has been constructed to meet the noise criteria established in the Noise Impact Assessment (Document Reference: 20151400.1/3003A/RO/BW) prepared by Integrated Group Services and dated 11/04/2016.

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

No fill material shall be imported to the site until such time as a Validation Certificate (with a copy of any report forming the basis for the validation) for the fill material has been submitted to Council. The Validation Certificate shall:

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

24 **D - Dust**

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

25 **D Special BLANK**

Prior to the issue of the Construction Certificate, a soil erosion and sediment control plan, prepared in accordance with Landcom's "Managing Urban Stormwater: Soils and Construction" 2004 shall be submitted to Council for approval. (Note: Visit www.urbangrowth.nsw.gov.au to obtain a copy of the publication). If Council is not the Certifying Authority, a copy of Council's approval is to be provided to the Principal Certifying Authority prior to the issue of a Construction Certificate.

The approved erosion and sediment control measures are to be installed prior to the commencement of works on site and shall be maintained throughout the construction phase of the development until the landscaping, driveway and on-site parking areas have been completed for the development. The erosion and sediment control measures are to be maintained in accordance with the Department of Housing's "Managing Urban Stormwater: Soils and Construction" 2004 and are to ensure that mud and soil from vehicular movements to and from the site does not occur during the construction of the development.

26 **D Special BLANK**

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

All remediation works within the Penrith Local Government Area are considered to be Category 1 works under State Environmental Planning Policy 55-Remediation of Land. Should any contamination be found during development works and should remediation be required, development consent is to be sought from Penrith City Council before the remediation works commence.

27 **D Special BLANK**

Drainage details demonstrating that all waste water discharge from bin washing in the bin wash area will discharge to an approved sewer outlet, are to be shown on plans accompanying the Construction Certificate application.

28 **D Special BLANK**

The stockpiled material referenced in the "Environmental Site Assessment (Document Reference S0079:NMW:54235 Penrith ESA) prepared by prensa and dated January 2016 is to be removed from the site prior the commencement of the works.

BCA Issues

29 **E006 - Disabled access and facilities**

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

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.

Health Matters and OSSM installations

32 F001 - General Fitout

The construction, fit out and finishes of the food premises must comply with Standard 3.2.3 of the Australian and New Zealand Food Standards Code, and AS4674-2004 *Design, Construction and Fitout of Food Premises*.

33 F001A - Special (Food Fit out and Registration)

Fit out details of any part of the development involved in the sale of food to be public are to be submitted to Council, prior to the release of the construction certificate. This is to include detailed floor plans and cross sectional plans, drawn to scale showing:

- The proposed floor plan layout of the café.
- Details of all construction materials and other materials that will be used with the café (ie. finishes of all floor, coving, walls and ceilings)
- Elevations of the walls and floor finishes, showing the type and method of coving to be used.
- Details on toilet facilities and hand washing within toilet facilities.
- Locations and design details of proposed hand washing facilities.
- Locations and design details of proposed washing facilities and any floor waste.
- Proposed location and details of all fixtures, fittings and appliances (including proposed method of installation). This should include details of double/triple bowl sinks and/or commercial dishwasher.
- Proposed location and details of all waste storage areas including bin cleaning.
- Details on trade waste (grease trap requirements).

Any business involved in the sale of food to the public is to be registered with Penrith City Council by completing the "Registration of Premises" form. This form is to be returned to Council prior to the issuing of the occupation certificate and operation of the business.

Utility Services

34 G002 - Section 73 (not for

A Section 73 Compliance Certificate under the Sydney Water Act 1994 shall be obtained from Sydney Water. The application must be made through an authorised Water Servicing Coordinator. Please refer to "Your Business" section of Sydney Water's website at www.sydneywater.com.au then the "e-developer" icon, or telephone 13 20 92.

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

35 G004 - Integral Energy

Prior to the issue of a Construction Certificate, a written clearance is to be obtained from Endeavour Energy stating that electrical services have been made available to the development or that arrangements have been entered into for the provision of services to the development.

In the event that a pad mounted substation is necessary to service the development, Penrith City Council shall be consulted over the proposed location of the substation before the Construction Certificate for the development is issued as the location of the substation may impact on other services and building, driveway or landscape design already approved by Council.

Construction

36 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.

37 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.

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

A completed Construction Waste Management Plan shall be submitted to Penrith City Council for consideration and approval. Council must approve the plan before a Construction Certificate can be issued for the approved development.

The Construction Waste Management Plan shall address all waste materials likely to result from the construction phase of the proposed development, with details of the estimated waste volumes, onsite storage and management, proposed re-use of materials, designated waste contractors, recycling outlet and / or landfill site.

The approved waste management plan must be implemented on-site and adhered to throughout the construction phase of the development, with supporting documentation / receipts retained in order to verify the recycling and disposal of materials in accordance with the approved plan.

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

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

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

Other construction works carried out inside a building/tenancy that do not involve the use of equipment that emits noise are not restricted to the construction hours stated above.

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

Roads Act Requirements

40 [I001 A Special \(Roads Act Apporval to be Sought\)](#)

An application under the *Roads Act 1993* is to be submitted to Penrith City Council for works related to Engineers Place prior to the issue of the Construction Certificate. Detailed design plans are to include:

- (a) Relevant levels, surface materials and finishes;
- (b) Location of pram ramps, crossings and signage;
- (c) Paving, kerbs and gutters;
- (d) Landscape details including tree, shrub and ground cover species.

Engineering

41 [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.

42 [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.

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

Prior to the issue of any Construction Certificate, a Section 138 Roads Act applications, including payment of application and inspection fees, shall be lodged and approved by Penrith City Council (being the Roads Authority for any works required in a public road). These works may include but are not limited to the following:

- a) Vehicular crossings (including kerb reinstatement of redundant vehicular crossings)
- b) Concrete footpaths and or cycleways
- c) Road opening for utilities and stormwater (including stormwater connection to Penrith City Council roads and other Penrith City Council owned drainage)
- d) Road occupancy or road closures
- e) The placement of hoardings, structures, containers, waster skips, signs etc. in the road reserve
- f) Temporary construction access

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

Contact Penrith City Council's City Works 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) Separate approvals may also be required from the Roads and Maritime Services for classified roads.
- c) All works associated with the Roads Act approval must be completed prior to the issue of any Occupation Certificate or Subdivision Certificate as applicable.
- d) On completion of any awning over the road reserve, a certificate from a practising structural engineer certifying the structural adequacy of the awning is to be submitted to Council before Council will inspect the works and issue its final approval under the Roads Act

44 **K209 - Stormwater Discharge – Minor Development**

Stormwater drainage from the site shall be discharged to the:

- a) Street drainage system

The proposed development and stormwater drainage system shall be designed to ensure no adverse impact on adjoining properties by the diversion, damming or concentration of stormwater flows.

The proposed method of stormwater discharge shall be detailed in the Construction Certificate issued by the Certifying Authority.

45 **K209A - Special Condition (Management Strat & WSUD Policy)**

A detailed Management Strategy is to be submitted at **Construction Certificate** that details how the community style wetland and central water feature will be protected from pollutants and sediment during the serviced apartment building construction stages.

Prior to the issue of Construction Certificate additional details regarding the requirements of Section 3.1 of Councils WSUD Policy which relates to the use of efficient (WELS) rated fittings and rainwater harvesting and reuse must be submitted to Council for review.

46 **K210 - Stormwater Management**

The stormwater management system shall be provided generally in accordance with the concept plan/s lodged for development approval, prepared by IGS, reference number EN-N15_78, revision 01, dated 11/04/2016.

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

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

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

Deleted on 3 February 2017 under Section 96(1A) of the Environmental Planning and Assessment Act 1979.

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

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

49 **K301 - Sediment & Erosion Control**

Prior to commencement of any works associated with the development, sediment and erosion control measures shall be installed in accordance with the approved Construction Certificate and to ensure compliance with the Protection of the Environment Operations Act 1997 and Managing Urban Stormwater series from the Office of Environment and Heritage.

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

50 **K302 - Traffic Control Plan**

Prior to commencement of any works associated with the development, a Traffic Control Plan, including details for pedestrian management, shall be prepared in accordance with AS1742.3 "Traffic Control Devices for Works on Roads" and the Roads and Maritime Services' publication "Traffic Control at Worksites" and certified by an appropriately accredited Roads and Maritime Services Traffic Controller.

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

Note:

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

51 **K403 - Major Filling/ Earthworks**

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

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

52 **K405 - Turf to Verge**

Upon completion of all works in the road reserve, all verge areas fronting and within the development are to be turfed. The turf shall extend from the back of kerb to the property boundary, with the exception of concrete footpaths, service lids or other infrastructure which is not to be turfed over. Turf laid up to concrete footpaths, service lids or other infrastructure shall finish flush with the edge.

53 **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.

54 **K511 - Directional signage**

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

55 **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.

56 **K Special (BLANK)**

All deliveries and service vehicles (other than waste service vehicles) accessing the site (including deliveries to the internal gym and café) shall be accommodated by a dedicated off-street service /delivery vehicle parking space.

57 **K Special (BLANK)**

The rear laneway adjacent to the entry/exit driveway and ramp shall be signposted as full time No Stopping zone. Vehicles are not permitted to wait in this area.

58 **K Special (BLANK)**

A valet parking service to be operated by hotel management is to be provided for access to all stacked parking areas.

59 **K Special (BLANK)**

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

60 **K Special (BLANK)**

The required sight lines around the driveway entrances are not to be compromised by fixtures, fencing or signage and all vehicles are to enter/exit the site in a forwards direction.

Landscaping

61 **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.

62 **L007 - Tree protection measures—no TMP with DA**

All street trees located along Lord Sheffield Circuit and Engineers Place are to be retained and protected throughout the site preparation and construction phases.

Certification

63 **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/tenancy 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.

64 [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.