

PENRITH CITY COUNCIL

MAJOR ASSESSMENT REPORT

Application number:	DA15/0335
Proposed development:	Construction of Three (3) Buildings Straddling Existing Coffee Club Building including Eleven (11) Tenancies for future Restaurant & Cafe Uses & Associated Outdoor Seating Piazza, Car Parking, Landscaping & Stormwater Drainage Works
Property address:	78 - 88 Tench Avenue, JAMISONTOWN NSW 2750
Property description:	Lot 3 DP 30354
Date received:	13 April 2015
Assessing officer	Kate Smith
Zoning:	SP3 Tourist - LEP 2010
Class of building:	Class 6
Recommendations:	Approve

Executive Summary

Council is in receipt of a development application for the construction of three buildings containing eleven tenancies for future restaurant and café uses at 78-88 Tench Avenue, Jamisontown. Under Penrith Local Environmental Plan 2010, the subject site is zoned SP3 Tourist and food and drink premises are permitted with the consent of Council. While the proposal does not detail specific tenancies the layout and configuration of the buildings have been designed to accommodate these uses.

The site is part of the Riverlink Precinct. This precinct has the broad goal of creating a living, entertainment and working hub to link the city to the Nepean River. The Riverlink Precinct is focused around the Nepean River and is bound by Mulgoa Road to the east, the M4 to the south and the western railway line to the north.

Key issues identified for the proposed development and site include:

- pedestrian way finding through the site,
- car parking and traffic generation, and
- connectivity of the development to Tench Reserve and the Nepean River.

The application was advertised the local paper and notified to adjoining and nearby property owners and occupiers between 27 April 2015 and 11 May 2015. Council received 6 submissions in response. One submission was received indicating support for the proposed development, while the other submissions raised concerns with car parking, flooding and noise impacts on existing residential development.

An assessment under Section 79C of the Environmental Planning and Assessment Act 1979 has been undertaken and the application is recommended for approval, subject to recommended conditions.

Site & Surrounds

The subject site is located on the south east side of Tench Avenue. The site is rectangular in shape, has a frontage of 131.16m and is approximately 3.34ha in area. The site is located within the Nepean River floodplain and is predominately flat with a slight fall from the front of the site to the rear.

The site sits directly opposite the boat ramp and associated car parking area which forms part of the larger open space network identified as Tench Reserve. The surrounding land uses are, at present, typically rural-residential on large land holdings.

Vehicular access to the site is provided directly from Tench Avenue. A paper road known as Wilson's lane adjoins the site along the entire rear boundary. There is an existing share path along the frontage of the site providing connections to the Great River Walk for pedestrians and cyclists.

Currently the site contains an existing 400m² building occupied by the 'Coffee Club' café/restaurant franchise. The building is situated in the north west corner of the site and is separated from the front boundary by an existing 41 space car parking area. There is also an overflow car parking area of about 1000m² adjacent to the building. The site has a small strip of landscaping across the front of the car parking area. The remainder of the site is grassed.

Proposal

The proposed development seeks construction of an additional eleven (11) tenancies adjoining the existing coffee club building on either side including an outdoor alfresco dining area, landscaping and additional car parking facilities.

Detailed summary of development

Built form:

- The built form consists of two separate buildings separated by a centrally located 'eat street' which provides pedestrian access through the centre of the site to the car parking area located behind the built form.
- Building 1 (to the south) will contain tenancies 1 - 6. Tenancies 1-4 will address Tench Avenue while Tenancies 5-6 will be internal and face the proposed 'eat street'. The loading dock and waste area facilities are located at the rear of this building with direct access to the back of house for each tenancy. Communal toilet facilities for the entire development are also located at the rear of this building.
- Building 2 (to the north) actually consists of three separate structures under one roof form. This is in order to maintain the existing coffee club building. These tenancies will also address the street frontage with tenancies 8 - 9 facing the eat street. An existing loading dock and other related facilities are contained at the rear of the existing coffee club building and will be utilised by tenancies 7 - 11.
- The majority of the building is single storey, however, tenancy 4 has a small two storey component of approximately 101m² in area with verandah.
- The buildings have a front setback of 20m and side setbacks ranging from 7m - 12m.
- Due to the level changes across the front of the site the
- The front setback contains a 16m landscape area with a 4m wide pedestrian walkway/ outdoor dining strip along the frontage of the buildings.

Landscape:

- The landscape theme for the front setback centers around a dry river bed which runs almost the full extent of the site.
- Planting throughout the remainder of the development consists of avenue style tree planting along the eat street, within the car parking areas and to the boundaries of the development.
- The landscaping treatment provides for a range of vegetation including trees of 10-20m height at maturity as well as shrubs and groundcover.

Car Park & Access:

- Vehicular access is provided via a loop driveway with one-way movement along the northern boundary and two way movement along the southern boundary. The two-way movement has been accommodated to allow adjoining lands access to their existing driveways.

Land Use:

- The proposed buildings have been designed to accommodate a range of restaurant and café style land uses to create a dinning/entertainment precinct along the river. It is expected that each tenancy would be subject to separate approval processes.

No signage is proposed.

Plans that apply

- Local Environmental Plan 2010 (Amendment 4)
- Development Control Plan 2014
- State Environmental Planning Policy (Infrastructure) 2007
- State Environmental Planning Policy No 55—Remediation of Land
- Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

• Section 79C - Evaluation

The development has been assessed in accordance with the matters for consideration under Section 79C of the Environmental Planning and Assessment Act 1979, and having regard to those matters, the following issues have been identified for further consideration:

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

State Environmental Planning Policy (Infrastructure) 2007

Clause 104 of State Environmental Planning Policy (Infrastructure) 2007 states that any development that meets or exceeds the thresholds in Schedule 3 is required to be referred to Roads and Maritime Services (RMS) for comment. Schedule 3 states that any development having ancillary parking accommodation for 200 or more vehicles constitutes 'traffic generating development'. The proposed development provides for 285 formal and informal car parking spaces and as such will require referral to the RMS in accordance with clause.

The RMS raised no objection to the proposed development in a letter dated 15 June 2015.

The RMS provided the following comments for Council's consideration:

- The proposed driveways shall be designed and constructed to Council's satisfaction
- The layout of the proposed car parking area associated with the subject development (including driveways, grades, turn paths, sight distance requirements in relation to landscaping and/or fencing, aisle widths, aisle lengths and parking bay dimensions) should be in accordance with AS 2890.01-2004, AS2890.6-2009 and AS2890.2-2002 for heavy vehicle usage.
- A Construction Traffic Management Plan detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control should be submitted to Council for approval prior to the issue of a construction certificate.

These aspects will be considered by Council's development & traffic engineers and incorporated into the development through relevant conditions of consent.

State Environmental Planning Policy No 55—Remediation of Land

State Environmental Planning Policy (SEPP) No. 55 - Remediation of Land aims to provide a statewide approach to contaminated land remediation. SEPP 55 applies where consent is sought for works on potentially contaminated land. Clause 7 of SEPP 55 requires Council to consider prior to determination whether the land is contaminated, if the land is contaminated, it is satisfied that the land is suitable in its contaminated state and if the land requires remediation, the land will be made suitable for its purpose.

In this instance there is no known contamination of the site. The site has not been subject to any contaminating activities as it has been used as a restaurant/café since the 1970's. Therefore, the site is considered suitable for the proposed use and a contamination investigation report is not required in this instance.

Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

Sydney Regional Environmental Plan No 20 – Hawkesbury-Nepean River (No. 2 – 1997) (SREP 20) integrates planning with catchment management to protect the Hawkesbury-Nepean river system, requiring the impact of future land use to be considered in a regional context. The plan covers water quality and quantity, environmentally sensitive areas, riverine scenic quality, agriculture and urban and rural-residential development. It controls development that has the potential to impact on the river environment. The plan applies to all parts of the catchment in the Sydney region (15 local government areas), except for land covered by Sydney Regional Environmental Plan No. 11 - Penrith Lakes Scheme (SREP 11).

The following specific strategy is the most relevant to the proposed development:

Clause 6 (11) Recreation and tourism

Policy: The value of the riverine corridor as a significant recreational and tourist asset must be protected.

Note. Refer also to items (1)–(7) and (12) for relevant strategies.

Strategies:

- (a) Provide a wide range of recreational opportunities along the river which are consistent with conserving the river's natural values and character.
- (b) Plan and manage recreational and tourist developments, and associated access points, cycleways and footpaths, so as to minimise any adverse environmental impacts on the river. Locate them where river banks are stable, away from river shallows, major beds of attached aquatic plants or fish breeding areas, where the proposed activities do not conflict with surrounding recreational activities and where significant flora and fauna habitats will not be adversely affected. The upgrading of existing public access to the river is to be preferred over the creation of new access points.
- (c) Minimise conflicts between recreational uses.
- (d) Consider the availability of, or need to provide, land for vehicle parking and for suitable access (including access for cars and buses), for boat service areas and for water, electricity and sewage disposal.
- (e) Consider the environmental impact of ancillary services for recreation and tourist developments, such as amenities blocks and vehicle parking.
- (f) Consider the visual impact of development on the surrounding area.

The proposed development will support the recreational needs of the community by affording a variety of food and drink related premises within an area of the river precinct which experiences a high volume of pedestrian and recreational activity. The development will accommodate car parking and suitable access to the site with appropriate facilities to ensure the development minimises conflicts between other recreational land uses in the locality. The development is situated on land opposite the Nepean River and will not impact on the rivers natural values and character. The buildings architecture is low lying and will sit well into the landscape setting. Patrons will be afforded views to the Nepean River and Blue Mountains escarpment which will enhance the views to and from the site. Council's Development Engineers and Waterways Team have reviewed the application and subject to recommended conditions relating to stormwater and flooding have raised no objections to the proposed development.

Overall, the proposed development is consistent with the relevant planning policies and strategies of SREP 20.

Local Environmental Plan 2010 (Amendment 4)

Provision	Compliance
Clause 2.3 Permissibility	Complies - See discussion
Clause 2.3 Zone objectives	Complies
Clause 7.2 Flood planning	Complies - See discussion
Clause 7.5 Protection of scenic character and landscape values	Complies - See discussion

Clause 2.3 Permissibility

The site is zoned SP3 Tourist under Penrith Local Environmental Plan (LEP) 2010. In this zone, food and drink premises are permitted with the consent of Council. While the development does not detail the specific operator for each tenancy, it is anticipated that the development will be occupied by a variety of food and drink related businesses. It is noted that the layout and configuration of the proposed development and tenancies has been designed to accommodate these uses.

A **food and drink premises** is defined under the LEP as premises that are used for the preparation and retail sale of food or drink (or both) for immediate consumption on or off the premises, and includes any of the following:

(a) a restaurant or cafe,

(b) take away food and drink premises,

(c) a pub,

(d) a small bar.

Clause 7.2 Flood planning

The site is affected by mainstream flooding from the Nepean River as well as local overland flow flooding from Peachtree Creek. It is noted that the proposed buildings are above the 1:100 year flood level and the development itself sits outside the flooding from Peachtree Creek at the rear of the site.

Recommended conditions of consent will require a flood evacuation and management plan to ensure that the development has appropriate measures in place to respond to the flooding characteristics of the site.

Clause 7.5 Protection of scenic character and landscape values

A portion at the front and rear of the site is identified as having scenic and landscape values. Both these areas fall outside of the building footprint and will remain largely untouched by the proposed development. Notwithstanding, the built form is of a sleek, low lying design with a large front landscape setback which will contribute positively to the future landscape character of the area.

Section 79C(1)(a)(iii) The provisions of any development control plan

Development Control Plan 2014

Provision	Compliance
DCP Principles	Complies
E13 Riverlink Precinct controls	Complies - see Appendix - Development Control Plan Compliance

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

The application has been referred to Council's Building Surveyors for assessment and no objections have been raised subject to relevant construction conditions being imposed on the consent.

The proposal was advertised, notified and exhibited from 27 April 2015 to 11 May 2015 in accordance with Clause 89(3) of the EP&A Regulation 2000.

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

Car Parking

The proposed development is required to provide: *1 car parking space per 5.5m² of seating area or 1 per 4 seats, whichever is the greater plus 1 space per employee.*

In applying the above rates, the proposed development is required to provide a total of 340 car parking spaces.

The development does not comply with this requirement and provides a total of 285 car parking spaces which is comprised of 193 spaces within the formalised car parking area and 92 over flow. It is acknowledged that a shortfall in car parking exists however, on balance, the shortfall is acceptable given the nature and location of the development and proximity of the development to other recreational areas and public car parking areas. Given the popularity of the river it is safe to assume that people also visit the area by walking and cycling which will reduce the dependency of car parking in the area. Further, it is considered that a larger expanse of car parking would detract from the scenic qualities of the river environment.

Council's Traffic Engineers have reviewed the proposed development and despite the increase in traffic generated and short fall in car parking, the local road network has the capacity to cater for the additional traffic volumes. It is acknowledged that the site has a sufficient area to accommodate further overflow car parking on the site. A recommended condition of consent will require the owners to provide a plan of management for any overflow car parking which may be required in the future.

Works on Council's Road Reserve

The proposed landscape plan indicates that an area of Council's road reserve will form part of the landscape scheme for the development. At present, this area is used informally for overflow car parking required to cater for visitors of both the existing coffee club development and surrounding recreation areas. Once the crossover and driveway access for the site is completed this area will be unable to be utilized for the purpose of car parking. A recommended condition of consent will require that the land will be return to a landscaped verge consisting of a turfed surface. The use of this section of road reserve for the continuation of the development's landscape scheme is not supported.

Noise

The application was accompanied by an Operational Noise Impact Assessment prepared by Rodney Stevens Acoustics Pty Ltd. Based on the predicted operational noise impact exceedances the following noise management and control measures are recommended to ensure that the precinct operates in a compliant manner:

- the hours of the proposed restaurant and café precinct be restricted to 7am to 10pm. The operator of the precinct should also ensure that the car park only operates during the above specified hours.
- an electronic frequency dependent limiting device should be installed to the sound system to ensure that the amplified background music is set to the limit the background music levels set out in table 8-1 of the report. The speakers should be arranged to face into the precinct and should not face other residential properties.

The report concludes that if the above measures are implemented the development would achieve compliance with the NSW EPA Industrial Noise Policy.

Council's Environment Team have reviewed the above information and have raised no objections in relation to this aspect of the proposal. Questions were raised regarding whether or not the future operators would want to close their business at 10 pm, given restaurants usually extend until midnight, however, should extended hours be sought in the future a further noise assessment would be required and assessed at that time. As there are no specific tenancies proposed at this stage, limiting the operation hours is considered an appropriate way of managing potential noise impacts from the site.

Flooding/Stormwater Drainage

The original application was accompanied by a stormwater drainage plan which were superceded by virtue of changes in the architectural plans and increased car parking areas. Council's Development Engineers have reviewed the revised development proposal and have raised no objections in relation to flooding and stormwater management. Recommended conditions of consent will require a revised stormwater concept

and water sensitive urban design strategy. Minor earthworks are required to achieve final floor levels, however, will not impact on the flooding or drainage characteristics of the site.

Future Road Alignments

Council is currently in the process of preparing a detailed Masterplan for the boat ramp and surrounding area which will assist in improving traffic conditions and enhance this section of the river precinct. The draft materplan indicates the provision of a round-about at the intersection of Tench Avenue, the southern boat ramp driveway and the driveway location of this proposal. Council's Traffic Engineers have reviewed the proposed development and provided recommended conditions requiring the provision that the above mentioned round-about be constructed as a result of the intensification of the site.

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

The site is suitable for the proposed development for a number of reasons including:

- the proposed development aligns with the strategic direction for the area;
- the site is well located for the proposed uses given its proximity to and location along the Nepean River;
- the proposal will contribute to pedestrian activation along this section of the Riverlink Precinct;
- the development has been designed in keeping with the natural constraints of the site; and
- the buildings and associated infrastructure are of a scale and form that ensure important views to the Nepean River and Blue Mountains Escarpment are maintained and enhance.

Section 79C(1)(d) Any Submissions

Community Consultation

Community consultation

In accordance with Appendix F4 of Penrith Development Control Plan 2010, the proposed development was notified to nearby and adjoining residents and advertised in the local paper. Council notified 11 residences in the area. The application was exhibited between 27 April 2015 and 11 May 2015 and 6 submissions were received in response. One submission supported the proposed development while the other submissions

Submissions

The following issues were raised in the submissions received and have formed part of the assessment.

<i>Issue Raised</i>	<i>Comments</i>
<i>Flooding / Earthworks</i>	Council's Development Engineers have reviewed the proposed development and have raised no objections in relation to flooding and stormwater management. Recommended conditions of consent will require the stormwater to be managed onsite. Minor earthworks are required to achieve final floor levels, however, will not impact on the flooding or drainage characteristics of the site. In addition, the development is required to provide water sensitive urban design measures.

<i>Car parking</i>	The proposed development has increased car parking onsite to achieve a total of 285 car parking spaces. It is acknowledged that a shortfall in car parking still exists however, on balance, the shortfall is acceptable given the nature and location of the development and proximity to other recreational areas. Council's Traffic Engineers have reviewed the proposed development and despite the increase in traffic generated, the local road network has the capacity to cater for the additional traffic volumes. Council is currently in the process of preparing a masterplan for the boat ramp and surrounding area which will assist in improving traffic conditions in this location.
<i>Noise</i>	Council's Environment Team have reviewed the Operational Noise Impact Assessment and raised no objections to the proposed development subject to the implementation of the recommended noise control and management measures. The measures involve restricting the hours of operation between 7am and 10pm and the installation of an electronic frequency device for any proposed amplified sound system. Based on the predicted operational noise impacts the proposed measures will ensure that the precinct operates in a compliant manner.
<i>Political Donations</i>	The disclosure statement has been made available on Council's Development Application tracker site. Visit the Penrith City Council website and follow the links to 'Track a DA'. Enter DA15/0335 as your application number under the Applications tab.
<i>Driveway configuration</i>	The proposed development will provide formalised two-way access from Tench Avenue into the development site adjacent to the location of your driveway. The informal car parking area that currently exists across the front of the site will be removed and re-landscaped. Council's Traffic Engineers have reviewed the proposed configuration and raise no objections to the proposed driveway configuration. A plan detailing the driveway configuration is attached for your reference.
<i>Views from property</i>	The development incorporates enclosed waste storage areas and provides sufficient landscape planting throughout the car parking area to minimise the visual impacts.

Notwithstanding the concerns raised in the submissions received, the proposed development, on balance, is considered to be satisfactory.

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	Not supported
Environmental - Environmental management	No objections - subject to conditions
Environmental - Waterways	Not supported
Environmental - Public Health	No objections - subject to conditions
Traffic Engineer	No objection subject to conditions
Community Safety Officer	No objections - subject to conditions

Environmental - Waterways

Council's Waterways Team required amended plans given the layout of the car parking area has changed since their initial review of the application. A number of conditions have been provided by the Waterways Team to facilitate the determination of the application. The conditions relate to amended plans which are to be submitted and approved by Council prior to the issue of a Construction Certificate.

Landscape Architect

The revised design needs to address the following:

- A simple landscape approach
- The landscape character for the precinct
- Spatially and visually connected across the road or 'stitched' to the park
- Respond to a views analysis
- Provide improved open and connected interfaces between the raised dining terraces and the landscape setback
- Provide a 'heart' within the space
- Provide improved circulation and connections, including accessibility
- recognise the detailed landscape masterplan for Tench Reserve (in development and nearing completion)(includes materials and planting palettes)
- respond to a shade analysis (summer and winter)
- improve southern boundary amenity / future road reserve

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

The development is permissible in the zone and aligns with the strategic vision and direction for the area. The development will contribute to activating the Nepean River and Tench Reserve which is a key focus of the Riverlink Precinct. The coffee club development currently experiences high popularity, the proposal will afford the precinct with a variety of complimentary food and drink related businesses. Notwithstanding the concerns and matters raised in public submissions, it is considered that the proposal will add to the overall creation of a destination within Penrith and is therefore considered to be in the interest of the public.

Conclusion

Recommendation

1. That DA15/0335 for the construction of an additional eleven (11) tenancies adjoining the existing coffee club building at 78-88 Tench Avenue, Jamisontown be approved subject to the attached conditions; and
2. That those making submissions are notified of the determination.

General

1 A001

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

Drawing	Drawing Ref	Revision	Prepared By	Dated
Site Plan Analysis	DA01	A	Morson Group	1/12/2015
Site Plan	DA02	A	Morson Group	1/12/2015
Ground Floor Plan	DA10	A	Morson Group	1/12/2015
Upper Floor Plan	DA11	A	Morson Group	1/12/2015
Car Parking Layout	DA12	A	Morson Group	1/12/2015
Elevations	DA20	A	Morson Group	1/12/2015
Perspectives	DA25 & DA26	A	Morson Group	1/12/2015

2 A002 - Obtain Construction Certificate before commencement of works

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

3 A004 - DA STAGING

Prior to the issue of a Construction Certificate, a staging strategy for the construction of the development shall be submitted to and approved by Council

4 A019 - OCCUPATION CERTIFICATE (ALWAYS APPLY)

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

5 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.

6 A029 - HOURS OF OPERATION AND DELIVERY TIMES

The approved operating hours for the site are limited to 7am to 10pm, Monday to Sunday. Delivery and service vehicles generated by the development shall be limited to 7am to 5pm, Monday to Friday.

7 A030 - Graffiti

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

8 A030 - No retail sales

The premises shall be serviced by a private waste refuse contractor. Suitable arrangements in this regard shall be made **prior to the occupation of the building.**

9 A036 - Baby care room

Prior to the issue of a Construction Certificate, the plans shall be amended to incorporate a 20m² parenting room and parent friendly accessible toilet. The parenting room must be designed to comply with the requirements of Section 2 and 4 of Chapter 5.5 Parent Friendly Amenities of Penrith Development Control Plan 2014.

10 A038 - LIGHTING LOCATIONS

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

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

Prior to the issue of a Construction Certificate, a schedule of external materials and material sample board for the development, including pavement treatments (for pedestrian walkways, vehicular access, manoeuvring and parking) shall be submitted to and approved by Council.

To ensure the large expanse of roof and car parking area does not detract from the surrounding landscape setting when viewed from the M4 Motorway, an alternative roof colour shall be selected. In addition, the development shall not use plain finished concrete for the car parking area.

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

Prior to the issue of an Occupation Certificate, a security plan of management shall be submitted and approved addressing the following matters:

- The provision of security personnel, the hours security patrols are likely to be undertaken and the circumstances in which security personnel will be engaged.
- Management of loitering and anti-social behaviour. In this regard, specific strategies shall be detailed to manage loitering, particularly in the car parking area and outdoor terrace area, and also in the immediate vicinity of the site.
- All incidents of crime and anti-social behaviour shall be reported to the police. An on-site log book shall be established to document any occurrences of anti-social behaviour, to ensure that the relevant authority is informed and to record what action was taken to prevent reoccurrence of the incident.

The land owner and restaurant management shall be available at a mutually convenient time, at the invitation of Penrith City Council and/or the NSW Police, to discuss and action agreed community safety or security issues in conjunction with other local stakeholders in the area should the need arise. The security plan of management may consequently require future review as part of this process.

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

The **Construction Certificate** plans shall incorporate the recommendations and requirements of the Access Report prepared by iaccess Consultants, dated 12 March 2015 and all works shall be certified accordingly by a suitably qualified access consultant **prior to the issue of an Occupation Certificate**.

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

This consent does not endorse or approved the use of any unsealed portion of the site for overflow car parking. Should the need arise in the future for overflow car parking a separate approval shall be sought. Overflow car parking is to be limited to the areas defined on the stamped approved plans.

Environmental Matters

15 [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.

16 [D002 Spraygrass](#)

All land that has been disturbed by earthworks is to be spray grassed or similarly treated to establish a grass cover.

17 **D006 - No filling without prior approval (Use always, except for bulk earthworks/ major fill 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, considered and approved by Council. The Validation Certificate shall:

- state the legal property description of the fill material source site,
- be prepared by an appropriately qualified person (as defined in 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.

{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, soil science, eco-toxicology, sampling and analytical procedures, risk evaluation and remediation technologies. In addition, the person will be required to have appropriate professional indemnity and public risk insurance."}.

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.

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

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

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 **D013 - Approved noise level 1**

Noise levels from the premises shall not exceed the relevant noise criteria detailed in the Noise Impact Assessment prepared by Rodney Stevens and dated 31 October 2014. 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.

21 D026 - Liquid wastes

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

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

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

BCA Issues

22 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.

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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.

23 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

24 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*.

Utility Services

25 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.

26 **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.

27 **G Special (BLANK)**

All servicing and/or infrastructure requirements shall be discreetly located and integrated with the building design. Penrith Council should be consulted **prior to the issue of a Construction Certificate**, over the location and position of any services that may impact on the driveway, landscaping or building design.

Construction

28 **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.

29 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.

30 H006 - Submission of and implement waste management plan

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

The waste management plan shall be prepared in accordance with Penrith Development Control Plan 2014 and shall address all waste materials likely to result from 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 waste management plan shall also detail the nature of the underground tank located along the north eastern property boundary to ensure that its demolition/disposal is appropriately addressed.

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

31 H022 - Survey

The development shall be set out by a registered surveyor. A Survey Certificate shall be undertaken and submitted to the Principal Certifying Authority when the building is constructed to ground floor slab level and at completion of the building works.

32 H025 - Construction of garbage rooms

Prior to the issue of a Construction Certificate, the following garbage room details shall be shown on the architectural plans:

- the garbage rooms within buildings shall have masonry walls with smooth face cement rendering to the full height internally and be provided with a smooth concrete floor;
- the floor shall be graded and drained to a floor waste connected to the sewer that shall be charged with a suitably located cold water hose cock; and
- access doors to the garbage store shall be tight fitting solid core or of non-combustible construction.
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33 [H041 - Hours of work \(other devt\)](#)

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

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

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

Engineering

34 [K101 - Works at no cost to Council](#)

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

35 [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 S138 Roads Act application/s, including payment of fees shall be lodged with Penrith City Council. Penrith City Council is the Roads Authority for any works required in a public road.

These works may include but are not limited to the following:

- Vehicular crossings (including kerb reinstatement of redundant vehicular crossings)
- Concrete footpath or cycleways
- Road opening for utilities and stormwater (including stormwater connection to Penrith City Council roads and other Penrith City Council owned drainage)
- Road occupancy or road closures
- The placement of hoardings, structures, containers, waster skips, signs etc. on the road reserve

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

Note: Where Penrith City Council is the Certifying Authority for the development the Roads Act approval for the above works may be issued concurrently with the Construction Certificate. Separate Approvals may also be required from the Roads and Maritime Service for classified roads. All works associated with the Roads Act approval must be completed prior to the issue of an Occupation Certificate or Subdivision Certificate as applicable. On completion of any awning over the road reserve a certificate from a practising structural engineer certifying to 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

36 [K202A - Infrastructure Bond](#)

An Infrastructure Restoration Bond is to be lodged with Penrith City Council for development involving works around Council's Public Infrastructure Assets. The bond is to be lodged with Council **prior to the issue of a Construction Certificate**. The bond shall be determined accordance with Council's adopted Fees and Charges.

The bond is refundable once a final inspection has been carried out by Council's City Works Department and the works have been completed to Council's satisfaction. The bond may be used to repair or reinstate any damage that occurs to Council's Public Infrastructure Assets as a result of the development works.

Contact Council's City Works Department on 4732 7777 or visit Council's website to obtain the form and request for final inspection.

37 [K203 - Section 138 Roads Act \(roadworks requiring approval of civil drawings\)](#)

Prior to the issue of a Construction Certificate, for building or subdivision works the Certifying Authority shall ensure that a S138 Roads Act application, including the payment of application and inspection fees, has been lodged with, and approved by Penrith City Council (being the Roads Authority under the Roads Act), for provision of landscaping works within the road reserve area of Tench Avenue.

Note: Where Penrith City Council is the Certifying Authority for the development the Roads Act approval for the above works may be issued concurrently with the Construction Certificate. Contact Penrith City Council's **Engineering Services Department** on (02) 4732 7777 to ascertain applicable fees.

38 [K209 - Stormwater Concept Plan](#)

Prior to the issue of a Construction Certificate, a detailed Water Sensitive Urban Design (WSUD) Strategy including detailed construction drawings and supporting MUSIC stormwater quality modelling shall be submitted to Council for consideration and approval. The WSUD Strategy shall demonstrate compliance with Council's Water Sensitive Urban (WSUD) Policy 2013.

The WSUD Strategy must be prepared by a suitably qualified engineer in accordance with Council's Water Sensitive Urban Design (WSUD) Policy 2013 and associated WSUD Technical Guidelines (Version 3) and shall be supported by MUSIC modelling and include detailed stormwater treatment designs.

A Draft Operation and Maintenance Manual for the proposed stormwater treatment measures must also be submitted to Council for consideration and approval. The manual shall include details on the cleaning / maintenance requirements as well as provide details on the estimated annual and lifecycle costs associated with the proposed treatment measures.

The manual shall include details on the following:

- i. Site description (area, imperviousness, land use, annual rainfall, topography etc)
- ii. Site access description
- iii. Likely pollutant types, sources and estimated loads
- iv. Locations, types and descriptions of measures proposed
- v. Operation and maintenance responsibility
- vi. Inspection methods (including inspection checklists)
- vii. Maintenance methods (frequency, equipment and personnel requirements);
- viii. Landscape and weed control requirements
- ix. Operation and maintenance costs;
- x. Waste management and disposal options; and
- xi. Reporting.

39 [K210 - Stormwater Management](#)

Prior to the issue of any Construction Certificate, a revised stormwater drainage plan shall be submitted to Penrith City Council for approval. The revised plan shall demonstrate that all stormwater discharge from the site:

- shall be limited to pre-developed flows;
- shall be via a level spreader type system discharged towards the centre of the eastern property boundary. Discharge towards the adjoining property to the south is not supported;
- shall not have an adverse impact upon adjoining properties by the diversion, damming or concentration of flows;
- shall comply with Council's Water Sensitive Urban Design (WSUD) Policy; and
- shall comply with Council's Stormwater Drainage for Building Developments Policy.

Engineering plans and supporting calculations for the stormwater management systems are to be prepared by a suitably qualified person and shall accompany the revised drainage plan.

40 [K214 - Flooding – Floor levels](#)

Prior to the issue of any Construction Certificate, the Certifying Authority shall ensure that all habitable floor levels are in accordance with the stamped approved plans with a minimum floor level of RL 28.8m AHD (standard flood level + 0.5m).

41 [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, AS2890.2, AS2890.6 and Penrith City Council's Development Control Plan.

42 [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 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, parking management for patrons. The CTMP shall be certified by an appropriately accredited person and/or Roads and Traffic Authority Traffic Controller. The CTMP shall ensure that adequate parking is provided for the development and not severely impacted by the construction of this development.

The plan shall be prepared in accordance with AS1742.3 "Traffic Control Devices for Works on Roads" and the Roads and Maritime Service's publication "Traffic Control at Worksites" and certified by an appropriately accredited Roads and Maritime Services Traffic Controller.

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

Note: A copy of the Traffic Control Plan shall accompany the Notice of Commencement to Penrith City Council.

43 [K401 - Flooding – Surveyor Verification of floor levels](#)

A certificate by a registered surveyor verifying that all habitable floor levels are at or above RL 28.8m AHD (standard flood level + 0.5m) 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.

44 [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.

45 [K405 - Turf to Verge](#)

Upon completion of all works in the road reserve, all verge areas fronting the development site are to be turfed. The turf shall extend from 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.

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

Prior to the issue of an Occupation Certificate, the Principal Certifying Authority shall ensure that all works associated with a S138 Roads Act approval or S68 Local Government Act approval have been inspected and signed off by Penrith City Council.

47 [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.

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.

48 [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)
 - b) Overland flowpath works
 - c) Flood control works
- 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 been undertaken have been satisfactorily completed.

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

49 [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)
- b) Overland flowpath works
- c) Flood control works

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.

50 [K511 - Directional signage](#)

Prior to the issue of an 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.

51 [K - Waterways - Stormwater Management system operation and maintenance](#)

The stormwater management systems shall continue to be operated and maintained in perpetuity to the satisfaction of Council in accordance with the final operation and maintenance management plan. Regular inspection records are required to be maintained and made available to Council upon request. All necessary improvements are required to be made immediately upon awareness of any deficiencies in the treatment measure/s

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

Prior to the issue of any Construction Certificate, the Certifying Authority shall ensure that a S138 Roads Act application, including the payment of application and inspection fees, has been lodged with, and approved by Penrith City Council (being the Roads Authority under the Roads Act), for the provision of civil works in Tench Avenue, Jamisontown as follows:

- A single lane roundabout, minimum 8m diameter, at southern driveway entrance/exit aligning with the Tench Reserve driveway, providing for minimum turning paths of service vehicles to the development, buses, cars/boats, including splitter islands for pedestrian movement.
- Pedestrian refuge at the northern driveway entrance aligning with pedestrian desire lines to/from the development, as informed by the amended landscape plan.

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

The engineering plans are to be endorsed by Council's Local Traffic Committee and adopted by Council prior to construction. Contact Penrith City Council's Development Engineering Department on 4732 7777 or visit Penrith City Council's website for more information.

Note. Council's Local Traffic Committee convenes once per month which may delay finalization of engineering plans. Submissions to the Local Traffic Committee are required 2 weeks prior to the meeting to allow report preparation. 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. Separate Approvals may also be required from the Roads and Maritime Service for classified roads. All works associated with the Roads Act approval must be completed prior to the issue of any Occupation Certificate or Subdivision Certificate as applicable.

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

Prior to the issue of an Occupation Certificate, the internal aisles are to be signposted as a 10km/hr pedestrian shared zone, and incorporate physical features to differentiate it as such. The shared zone is to be reinforced with raised pedestrian platforms / thresholds in a distinctive surface/ wavy profile speed humps to address the pedestrian and vehicle interaction. Appropriate signage and arrows are to be displayed to reinforce designated vehicle circulation and parking arrangements.

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

Prior to the issue of an Occupation Certificate, all car spaces are to be sealed and line marked and dedicated for the parking of vehicles only and not be used for storage of materials/products/waste materials etc

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

Prior to the issue of an Occupation Certificate, secure bicycle parking is to be provided at convenient location(s) in accordance with AS2890.3:2015 Bicycle Parking Facilities

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

Prior to the issue of an Occupation Certificate, the following warning signs are to be installed to indicate the presence of bikes crossing the driveways.

- two warning signs (W8-200 bike path turn warning) are to be installed north facing in Tench Avenue, on approach to the driveway entrances.
- one warning sign (W6-9 shared path warning and W8-23 double arrow) is to be installed in the exit driveway, on approach to Tench Avenue.

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

Prior to the issue of an Occupation Certificate, the entry and exit driveways to the car park are to be linemarked in such a way to highlight the right-of-way for pedestrians and cyclists on the shared-use path in Tench Avenue.

58 [K Special Condition BLANK](#)

Prior to the release of the Construction Certificate, a flood evacuation and flood management plan is to be submitted to and approved by Council.

59 [K Special Condition BLANK](#)

Prior to the issue of a Construction Certificate, the Certifying Authority shall ensure that the nominated overflow car parking area towards the rear of the development is to be constructed so that scouring and dust is minimized by the use of surface materials that will not deteriorate due to weathering and use. Full details are to be submitted to and approved by prior to the issue of a Construction Certificate.

Landscaping

60 L001 - General

Prior to the issue of a Construction Certificate, an amended landscape plan shall be submitted to and approved by Council.

The revised design shall ensure that the development responds to the Landscape Masterplan for Tench Reserve and shall address the following matters:

- a more simple landscape approach;
- the landscape character of the area;
- the visual connections between the site and Tench Reserve;
- improve connections between the raised terraces and the front landscape setback;
- all landscaping treatments shall be contained within the property boundaries and shall not extend into the road reserve;
- improve pedestrian connectivity across the front of the site by consolidating walkways and paths leading into the development; and
- respond to shade analysis through the incorporation of canopy trees and shade structures within the front setback.

Note: Consultation on the landscape design shall be undertaken with Council's Landscape Architect.

61 L002 - Landscape construction

The approved landscaping for the site must be constructed by an appropriately qualified landscape professional. 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

62 L003 - Report requirement

All landscape works are to be constructed in accordance with the plans approved by Council in accordance with Condition 60.

Landscaping shall be maintained:

- in accordance with the approved plan, 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.

63 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.

Payment of Fees

64 P001 - Costs

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

Certification

65 **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.

66 **Q05F - Occupation Certificate for Class10**

An Occupation Certificate is to be obtained from the Principal Certifying Authority on completion of all works and prior to the occupation of the building.

The Certificate shall not be issued if any conditions of this consent, but not the conditions relating to the operation of the development, are outstanding.

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

Appendix - Development Control Plan Compliance

Development Control Plan 2014

E13 Riverlink Precinct

The subject site is identified within the Riverlink Precinct. The precinct is located with 2km of the city centre and is focused around the Nepean River. The precinct is bound by Mulgoa Road to the west, the embankment of the Nepean River to the east, the M4 Motorway to the south and western rail line to the north.

The vision for the precinct is to provide a leisure and entertainment hub with a key focus on the Nepean River. This section of the DCP provides specific controls relating to the development of this precinct.

Connectivity

The proposed development maintains connections to the existing pedestrian and cycle network across the frontage of the site which links into the Great River Walk and connects both along and across to the Nepean River. The development provides vehicular and pedestrian access at the front of the development site, recommended conditions of consent will require signage to be installed at these access points to direct access in and around the development.

Built Form

The development maintains setbacks consistent with the minimum requirements identified for the precinct. The design of the buildings ensure that the outlook and presentation of the development is toward the Nepean River and Blue Mountains Escarpment. The front setback will be heavily landscaped and provide opportunities for outdoor dining and other social interactions. The entries for each of the tenancies are primarily located across the front of the site which will enhance the streetscape and assist in ensuring that the activity remains at the street edge.

The car parking area will be located at the rear of the site to enhance the developments frontage and connections to Tench Reserve. Pedestrian access from the car park is centrally located to direct pedestrians through the site and across to other recreational opportunities at the Nepean River edge.

Tourism and Recreation Sub-Precinct

Due to the size of the Riverlink Precinct, specific design principles have been identified for sub-precincts. As such, this site sits within the Tourism and Recreation sub-precinct which has an emphasis on recreational activities both on and off the River. Many of the controls within this sub-precinct directly relate to the architecture of the building and urban design related elements. In this instance, the application has undergone a review by Council's external Urban Design Consultant. Much of the conversation centered on way finding and pedestrian amenity as well as providing better integration of the coffee club building into development.

Following these discussions the proposal was amended to provide a central walkway from the car parking through the site. This provides for more direct paths of travel from the car parking area and gives the development a more even split of tenancies on each side of the walkway. The amended design now incorporates tenancies on either side of the coffee club building which ensures that the development does not appear to be a stand alone structure. An awning has also been provided which extends across the front of the coffee club building connecting it with the tenancies on either side. These amendments have resulted in a more streamline design.

Further, Council's Design and Project team (landscape architect) have provided comments on the development and its relationship to proposed upgrade works currently being prepared for the boat ramp and surrounds, which are situated directly opposite the subject site. Concerns raised by the project team center on the amended landscape plan provided for the development. In considering the works on the opposite side of the street, it is considered that the current landscape design is disconnected to the works being undertaken on the Tench Reserve site and an amended concept should be provided. A recommended condition of consent will require the applicant to address a variety of landscaping issues which involve a

more simpler landscape approach

Issues regarding future road alignments (Figure E13.8, page 19 of Chapter 13.4.2 of DCP 2014) through the development site have also been raised by the Design and Project team and this aspect was discussed with Council's strategic planning team in terms of funding and legislation which may enable this process to occur. The advice provided indicated that the current planning legislation did not have any mechanisms in place (either through a Section 94 Plan or acquisition clause in the LEP) which could be used to require the development to provide or allow for this infrastructure through the subject site. In response to this issue, the proposed development provides a perimeter driveway and sufficient building setbacks along the southern boundary to enable a future road conversion should Council pursue this option with the land owners in the future.