

PENRITH CITY COUNCIL

NOTICE OF DETERMINATION

DESCRIPTION OF DEVELOPMENT

Application number:	DA20/0208
Description of development:	Construction of Log Cabin Hotel including Two (2) Storey Building containing Bar & Dining Areas, Gaming Area, Function Area & Servicing Areas & Related Beer Garden, Children's Playground, At-Grade Car Parking & Site Works including Remediation Works & Road Works
Classification of development:	Class 6 , Class 9b

DETAILS OF THE LAND TO BE DEVELOPED

Legal description:	Lot 21 DP 1236215 Lot 22 DP 1236215
Property address:	20 Memorial Avenue, PENRITH NSW 2750 712 High Street, PENRITH NSW 2750

DETAILS OF THE APPLICANT

Name & Address:	Stimson & Baker Planning PO Box 1912 PENRITH NSW 2751
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DECISION OF CONSENT AUTHORITY

In accordance with Section 2.17 and 4.18(1) (a) of the Environmental Planning and Assessment Act 1979 (as amended), consent is granted subject to the conditions implementation in attachment 1.

Please note that this consent will lapse on the expiry date unless the development has commenced in that time.

Date from which consent operates	27 November 2020
Date the consent expires	27 November 2025
Date of this decision	25 November 2020

POINT OF CONTACT

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

Assessing Officer:	Wendy Connell
Contact telephone number:	+612 4732 7908

NOTES

Reasons

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

Conditions

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

Certification and advisory notes

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

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

Review of determination

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

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

Appeals in the Land and Environment Court

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

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

Designated development

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

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

Sydney Western City Planning Panels

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

OTHER APPROVALS

APPROVAL BODIES

APPROVAL BODY NAME	DATE OF GENERAL TERMS OF APPROVAL	REF. NO.	NO. OF PAGES	RELEVANT LEGISLATION
Natural Resources Access Regulator (NRAR)	10/06/2020	IDAS1125200	3	Water Management Act 2000

The approval bodies listed above have provided General Terms of Approval for this development in accordance with the relevant legislation. A copy of these General Terms of Approval is provided with this development consent notice. Compliance with the relevant State Government departments' General Terms of Approval are required in conjunction with the following conditions listed in Attachment 1: Conditions of Consent issued by Penrith City Council.

ATTACHMENT 1: CONDITIONS OF CONSENT

General

- 1 The development must be consistent with the following approved plans and documents, the application form, and any supporting information received with the application, except as may be amended in red on the approved plans and documents and by the following conditions.

Plan/Report	Description	Prepared by	Version	Date
DA050	Roof Plan	Team 2 Architects	10	21.08.20
DA100	Ground Floor Plan	Team 2 Architects	12	21.08.20
DA101	First Floor Plan	Team 2 Architects	12	21.08.20
DA201	Elevations 01	Team 2 Architects	8	21.08.20
DA202	Elevations 02	Team 2 Architects	8	21.08.20
DA301	Sections	Team 2 Architects	6	21.08.20
DA701	External Finishes Schedule	Team 2 Architects	4	24.08.20
DA702	Signage Details	Team 2 Architects	2	21.08.20
001	Landscape Masterplan	Site Image Landscape Architects	D	21.08.20
102	Landscape Plan	Site Image Landscape Architects		21.08.20
103	Landscape Plan Carpark	Site Image Landscape Architects	D	21.08.20
501	Landscape Details	Site Image Landscape Architects	D	21.08.20
601	Landscape Sections	Site Image Landscape Architects		21.08.20
602	Landscape Sections	Site Image Landscape Architects	A	21.08.20
901	Existing Tree Plan	Site Image Landscape Architects	C	15.04.20
902	Lighting Concept Plan	Site Image Landscape Architects	A	25.08.20
21863-001-C-C100-P-G	General Arrangement Plan	EWWF Consulting Engineers	G	12.10.20
21863-001-C-C200-P-E	Stormwater Layout Plan Lot 21	EWWF Consulting Engineers	E	12.10.20
21863-001-C-C200-P-D	Stormwater Layout Plan Lot 21	EWWF Consulting Engineers	D	12.10.20
21863-001-C-C210-P-B	DRAINS Catchment Plan	EWWF Consulting Engineers	B	12.10.20
C21863-001-C-C21-P-B	Music Catchment Plan	EWWF Consulting Engineers	B	12.10.20

-	Hotel Plan of Management	GJ Consulting	1.1	10.08.20
SY193276	Sustainability Report	Northrop	1	30.03.20
14578/4-AA	Detailed Site Investigation and Remedial Action Plan	Geotechnique Pty Ltd	-	29.09.20
14578/4-AA-L2	Detailed Site Investigation and Remedial Action Plan - Addendum	Geotechnique Pty Ltd	-	26.10.20
21863-001	Concept Civil Engineering Design Report	EWW Pty Ltd	C	12.10.20
-	Statement of Environmental Effects	Stimson & Baker Planning	-	April 2020

2 The proprietor of the food business shall ensure that the requirements of the NSW Food Act 2003, NSW Food Regulation 2010 and the Australian and New Zealand Food Standards Code are met at all times.

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

A satisfactory inspection from an authorised officer of Council's Environmental Health Department is required prior to the issue of an Occupation Certificate. The occupier is to contact the Environmental Health Department to organise an appointment at least 72 hours prior to the requested inspection time.

4 The business is to be registered with Penrith City Council by completing the "Registration of Premises" form. This form is to be returned to Council prior to the issue of an Occupation Certificate and operation of the business.

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

6 The development must be undertaken in accordance with the General Terms of Approval issued by the Natural Resources Access Regulator in its letter dated 10 June 2020 (Reference No. IDAS1125200).

7 The development must be undertaken in accordance with the conditions of approval issued by Sydney Trains in its letter dated 30 September 2020.

8 The development must be undertaken in accordance with the conditions of approval issued by Endeavour Energy in its letter dated 28 October 2020.

9 Building identification signage on the eastern and northern building facades is approved by this consent. Any further signage is to be subject to a separate application.

10 A courtesy bus shall be available and on call whenever the premises is open for business.

11 **Prior to the issue of a Construction Certificate**, written approval is required from Penrith City Council for the implementation and ongoing maintenance of landscaping works on public land.

12 **Prior to the issue of an Occupation Certificate**, the car park is to be sign posted with a message reminding patrons of the residential surroundings and to remain quiet.

13 **Prior to the issue of an Occupation Certificate**, the Plan of Management for the premises is to be updated to reflect the approved operational aspects of the use and submitted to, and approved by, Council.

The final approved Plan of Management shall be complied with at all times.

- 14 The applicant/operator shall establish a community liaison committee that meets formally at least monthly in the first year of operation. This shall be established after inviting a neighbouring area of at least 200m radius. The purpose of the committee shall be to discuss operational aspects of the premise and how best to balance the impacts on the neighbourhood, seeking to resolve issues in a practical and collaborative way. Minutes shall be kept and a report provided to Council after one year of occupation. Apart from this the operator shall take all reasonable steps to resolve any neighbour issues in a proactive manner.
- 15 The following community safety and crime prevention through environmental design (CPTED) requirements are required to be implemented for the development:

(a) Lighting

- All outdoor/public spaces throughout the development, inclusive of the car park, must be lit to the minimum Australian Standard of AS 1158. Lighting must be consistent in order to reduce the contrast between shadows and illuminated areas and must be designed in accordance with AS 4282 - Control of the obtrusive effects of outdoor lighting.

(b) Car Parking

- A security access control system (e.g. boom gate) shall be installed on all vehicle entry/exit points to the car park to minimise opportunities for unauthorised access and congregation after hours.

(c) Building Security & Access Control

- Intercom, code or card locks or similar must be installed for all restricted entries to and within the building as well as to the broader perimeter of the site.
- Australian Standard 220 door and window locks must be installed throughout the development.
- CCTV is to be provided to cover communal public space areas, including the entry/exit points into the building and the car park. Cameras must be of sufficient standard to be useful for police in the event of criminal investigations. Lighting must be provided to support cameras at night (alternatively infra-red cameras are recommended). Signage must be displayed to indicate that CCTV cameras are in use.

(d) Graffiti/Vandalism

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

(e) Landscaping

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

Heritage/Archaeological relics

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

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

17 **Prior to the issue of a Construction Certificate**, a Heritage Interpretation Strategy is to be prepared and submitted to Penrith City Council for review and approval.

Prior to the issue of an Occupation Certificate, the approved Heritage Interpretation Strategy is to be developed into an Interpretation Plan and implemented on site to the satisfaction of Penrith City Council.

18 A detailed schedule of maintenance and cleaning works to be undertaken on the former pump house to be submitted to the Development Services Manager of Penrith City Council for approval prior to any work commencing on the item.

19 A construction management plan is to be submitted prior to any works commencing on site which includes a description of the former pump house structure's significance and details a protection program for the pump house during the construction phase of the development.

20 A separate development application is required for any future use, treatment or works to the former pump house.

Environmental Matters

21 **Prior to the issue of a Construction Certificate**, an Erosion and Sediment Control Plan is to be submitted to Council for consideration and approval. The Erosion and Sediment Control Plan is to include a specific plan of management for the embankment area that details:

- erosion controls to be implemented prior to, and during, embankment investigation, remediation and validation works;
- erosion controls to be implemented/maintained after remediation is completed and prior to site preparation and development construction works commencing on the remaining portion of the site; and
- erosion controls for the long-term management of the embankment to enable maintenance and prevent erosion, including details of proposed re-vegetation and stabilisation.

Erosion and sediment control measures shall be installed **prior to the commencement of any works** (including approved site investigation and remediation works, site clearing and preparation and construction works). The erosion and sediment control measures are to be installed and maintained in accordance with the Council approved Erosion and Sediment Control Plan and in accordance with the Department of Housing's "Managing Urban Stormwater: Soils and Construction" 2004.

The approved sediment and erosion control measures are to be maintained until completion of the development, including landscaping, and until the land, that was subject to works, has been stabilised.

22 Dust suppression techniques are to be employed during site investigation, remediation and construction works to reduce any potential nuisances to surrounding properties.

23 Site remediation works shall be carried out generally in accordance with the:

- *'Detailed Site Investigation and Remedial Action Plan Lots 21 & 22 in DP1236215 Memorial Avenue, Penrith'* (Report No. 14578/4-AA) prepared by Geotechnique Pty Ltd and dated 29 September 2020,
- *'Detailed Site Investigation & Remedial Action Plan - Addendum'* (Ref. 14578/4-AA-L2) prepared by Geotechnique Pty Ltd and dated 26 October 2020,

as well as Penrith Development Control Plan, applicable NSW Environment Protection Authority Guidelines and the National Environment Protection (Assessment of Site Contamination) Measure (1999) [NEPM 2013].

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

- Written notification that all site remediation works have been completed is to be submitted within 30 days that the said works have been completed.
- A validation report, prepared by an appropriately qualified person, is to be submitted before any building work can commence on the remediated site. The report shall certify that the remediation works have been carried out in accordance with the approved Remedial Action Plan (including Council approved Addendum/s), relevant NSW Environment Protection Authority guidelines and requirements, NEPM 2013 and Penrith Development Control Plan.

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

- 24 Mud and soil from vehicular movements to and from the site must not be deposited on the road during works.
- 25 All waste materials stored on site that are associated with the construction phase of the development are to be contained within a designated area to ensure that no waste materials are allowed to enter the stormwater system or neighbouring properties. The designated waste storage area(s) shall be fully enclosed when the site is unattended.
- 26 All excavated material and other construction 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.

- 27 Noise levels from the premises shall not exceed the relevant noise criteria detailed in Section 4.5 of the Council approved *'Development Application Acoustic Assessment'* prepared by Acoustic Logic and dated 6/10/2020. The recommendations provided in Section 6 of the Acoustic Assessment shall be:
 - incorporated into the design and construction of the development;
 - shown on plans accompanying the Construction Certificate application; and
 - implemented throughout the operation of the development.

A Compliance Certificate is to be obtained from a suitably 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 and be approved by Penrith City Council 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.

28 Only clean and unpolluted water is to be discharged into Penrith City Council's stormwater drainage system.

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

30 The approved operating hours are as follows:

- Monday to Wednesday, 5am to 12am (midnight);
- Thursday to Saturday, 5am to 2am;
- Sunday, 10am to 10pm.

Subject to management measures in the Hotel Plan of Management by GJ Consulting, dated 10 August 2020.

31 Delivery and service vehicles associated with and generated by the development are limited to the hours of

7am through to 6pm, Monday to Friday.

32 Site investigation, remediation and construction works are 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.

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

Construction works shall be carried out in accordance with the NSW Department of Environment and Climate Change's "Interim Construction Noise Guideline" 2009.

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

33 All mechanical plant and equipment is to comply with the noise criteria outlined in the Council approved '*Development Application Acoustic Assessment*' prepared by Acoustic Logic and dated 6/10/2020.

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

Prior to the issue of an Occupation Certificate, a Compliance Certificate is to be submitted to and approved by Council. The certificate is to be prepared by a suitably qualified acoustic consultant and is to certify and demonstrate that all plant and equipment has been installed to comply with the above information and the established noise criteria.

34 An appropriately qualified person/s shall:

- (a) Supervise the remediation works.
- (b) Supply Penrith City Council with a copy of any relevant documentation for further testing carried out during further investigation works and the remediation works.
- (c) Address off site impacts and proposed management strategies, where relevant.
- (d) After completion of works, certify by way of a Validation Report that remediation works have been carried out in accordance with all conditions of this consent and that the site, including the embankment, will not pose an unacceptable risk to human health or the environment. A copy of the Validation Report is to be submitted to the Principal Certifying Authority (PCA) and Penrith City Council if it is not the PCA.

35 The recommendations detailed in Section 6 of the approved '*Development Application Acoustic Assessment*' prepared by Acoustic Logic and dated 6/10/2020 shall be implemented and adhered to at all times, including, but not limited to, the following:

- The car park is to be sign posted with a maximum speed limit of 20km/hour.
- Background music (amplified music) is to be played at background noise levels (sound pressure level of 70dB(A)L10).
- Background music (amplified music) is prohibited in external areas after midnight and before 7am.

- Live music is prohibited in external areas at all times.
- After midnight patron numbers are limited to:
 - 80 - beer garden,
 - 20 - ground floor external deck, and
 - 20 - level 1 external deck.
- After midnight all entry/exit doors are to remain closed, with the exception of ingress and egress.

36 In the event of noise complaints relating to the development being received by Council, the owner and/or occupier of the development may be required by Council to obtain the services of a suitably qualified acoustic consultant to undertake a noise impact assessment on the development to address the concerns of the community. The noise impact assessment report is to be prepared and provided to Council within 45 days of being requested. The assessment report is to be approved by Council, with any recommendations being implemented in accordance with the approved assessment report.

37 **Prior to the issue of a Construction Certificate**, details of the design and construction of the acoustic balustrade that is required along the full length of the southern end of the external deck (as detailed in the Council approved Acoustic Assessment prepared by Acoustic Logic and dated 6 October 2020) are to be submitted to Penrith City Council for consideration and approval. Accompanying data/statement (prepared by a suitably qualified acoustic consultant) is to be provided with the design and construction details that demonstrates the balustrade will comply with the required noise criteria.

38 **Prior to the issue of an Occupation Certificate**, an Environmental Management Plan (prepared by an appropriately qualified person) for the embankment area is to be submitted to Penrith City Council for consideration and approval. A copy of Council's approval is to be provided to the Principal Certifying Authority (PCA) prior to issue of an Occupation Certificate.

The Environmental Management Plan (EMP) is to clearly outline the environmental safeguards, occupational health and safety measures and general maintenance requirements and any site limitations/restrictions required to be implemented to ensure the ongoing safety and suitability of the embankment area for the proposed use and to ensure all future interested parties are adequately informed with regard to site management practices, if required.

The provisions of the Council approved EMP are to be complied with at all times.

Should it be identified as part of the EMP preparation process that a restriction as to user is required to be registered for the property, then the applicant shall, prior to the issue of an Occupation Certificate, register a restriction as to user with NSW Land Registry Services relating to the EMP, with Council being the beneficiary. The restriction as to user shall contain wording as approved by Council and shall make reference to the Council approved EMP under DA20/0208.

This condition does not provide approval for the retainment of contaminated material on site in any area. Should the further investigation and remediation works identify that an amended remedial strategy is required, a further addendum(s) is to be submitted to Penrith City Council for consideration and approval prior to amended remediation works being carried out.

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

BCA Issues

- 39 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.
- 40 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.
- 41 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.

- 42 The external walls of the building including attachments must comply with the relevant requirements of the National Construction Code (NCC). Prior to the issue of a Construction Certificate and Occupation Certificate, the Certifying Authority and Principal Certifying Authority must:
- (a) Be satisfied that suitable evidence is provided to demonstrate that the products and systems proposed for use or used in the construction of external walls including finishes and claddings such as synthetic or aluminium composite panels comply with the relevant requirements of the NCC; and
 - (b) Ensure that the documentation relied upon in the approval processes includes an appropriate level of detail to demonstrate compliance with the NCC as proposed and as built.

Health Matters and OSSM installations

- 43 The construction, fit out and finishes of the food premises must comply with Standard 3.2.3 of the Australian and New Zealand Food Standards Code and AS 4674-2004 *Design, Construction and Fitout of Food Premises*.
- 44 The rainwater tank must be maintained so as not to create a nuisance and it must be protected against mosquito infestation.
- 45 Cooking appliances which exceed a total maximum power input of 8kw for electrical, or a total gas input of 29MJ/h for a gas appliance, are required to have a kitchen exhaust system installed in accordance with Clause F4.12 of the Building Code of Australia and AS 1668, Parts 1 & 2.

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

The exhaust hood must completely cover the equipment to be ventilated and extended at least 200mm beyond the perimeter of the equipment. The exhaust hood must be provided with a condensation gutter around its base. The gutter must be at least 50mm wide by 25mm deep. Where abutting walls are located, the hood must be constructed so as to finish flat against the wall surface.

The low edge of a canopy type exhaust hood must be at least 2000mm above floor level.

Prior to the issue of an Occupational Certificate, and operation of the business, the exhaust system shall be certified by an appropriately qualified person to comply with the Building Code of Australia and AS 1668, Parts 1 & 2. A copy of the certification and supporting documentation must be provided to Council's Environmental Health Department if Council is not the Principal Certifying Authority.

- 46 A Food Safety Supervisor, with a current Food Safety Supervisor Certificate recognised by the NSW Food Authority, must be appointed by the business prior to commencement of the business.
- 47 Details of the kitchen, bar and food preparation and storage areas must be prepared by a suitably qualified person and certified in accordance with Standard 3.2.3 of the Australian and New Zealand Food Standards Code and AS 4674-2004 *Design, Construction and Fitout of Food Premises* to the satisfaction of the Certifying Authority prior to a Construction Certificate being issued.
- 48 Hand basins (including all hand wash basins in toilets) must be serviced with hot and cold water through a single outlet, able to be mixed at a temperature of at least 40°C and fitted with a hands free operation. Where sensor taps are installed, the basin must not be more than 6 metres from the hot water system. Disposable paper hand towels and soap must be provided and serviced from a dispenser adjacent to each hand basin.
- 49 Approved, recessed coving must be provided at all intersections of the floor with the walls within all food preparation, service, storage and scullery areas. All coving must have a minimum concave radius of 25mm and be installed so as to be integral to the surface finish of both the floor and wall in such a manner as to form a continuous, uninterrupted surface.
- 50 The walls of the food preparation area must be of solid construction and finished with glazed ceramic tiles or other approved material to a height of 2 metres. The intersection of tiles and render must have a flush finish, or be splayed at a 45 degree angle to eliminate a ledge that would allow dust and grease to accumulate.

- 51 The walls at the rear of cooking appliances must be surfaced with an impervious material, such as stainless steel, which extends from the canopy to the floor. Where a cooking appliance is sealed to the wall, the material must be lapped over the top edge of the appliance to provide a grease and vermin proof seal. Cooking appliances must only be sealed to walls made of a non-combustible material.
- 52 The ceiling in the preparation, service and scullery areas must be constructed with a rigid, non-absorbent, smooth faced material free from open joints, cracks and crevices and be painted with a light coloured washable paint. The intersection of the walls and ceiling must be tight jointed, sealed and dust proofed. Drop-in panel style ceilings are not permitted.
- 53 Service pipes, electrical conduits and refrigeration condensate pipes shall be enclosed or chased into walls, floors or plinths. Where it can be demonstrated that this is not feasible, pipes and conduits fixed on brackets, providing a minimum of 25mm clearance from the adjacent wall and 100mm from the floor or adjacent horizontal surface, can be used. All openings in walls, floors and ceilings, through which service pipes and conduits pass, must be vermin proof.
- 54 Appliances used to store potentially hazardous food must have a capacity to keep foods hotter than 60°C, refrigerated foods less than 5°C, and frozen foods less than -18°C and be provided with a digital thermometer, accurate to 1°C that can be easily observed from outside the appliance.
- 55 Details of the dishwashing/glass washing machines must be submitted to Council and approved prior to installation. All utensils and equipment must undergo a washing, sanitising and rinsing cycle. The sanitising rinse cycle must achieve a water temperature of 80°C for 2 minutes or 75°C for 10 minutes.
- 56 The double bowl sink must be constructed of stainless steel, have a minimum bowl size of 450mm x 300mm x 300mm to enable cleaning of large pots and equipment, be fitted with a draining area at each end, and have a splash back as part of the unit at least 300mm up the wall.
- 57 The food preparation sink must be separated from all other sinks by a minimum distance of 2 metres or have an approved form of physical barrier that separates the sink.
- 58 The cleaner's sink must be serviced with hot and cold water through taps fitted with hose connectors. Cleaner's sinks must be located outside of areas where open food is handled.
- 59 All fixtures, fittings and equipment must be provided with smooth and impervious surfaces, free from cracks and crevices to enable easy cleaning.

All fittings and fixtures must be built into the wall and floor so as to be free from joints, gaps and cavities to enable easy cleaning or alternatively, supported on one of the following:

- (a) Plinths – Plinths must be an integral part of the floor, constructed of solid materials similar to the floor at least 75mm in height and coved at the intersection with the floor. All plinths must have a smooth and impervious finish. All fittings and fixtures must be properly sealed to the plinth so to be free from gaps, cracks and cavities.
- (b) Wheels or castors – Fittings and fixtures can be supported on wheels or castors. The wheels and castors must be capable of supporting and easily moving a full loaded fitting. All wheels and castors must be provided with a restraining device.
- (c) Legs – Fittings and fixtures can be supported on legs but must be constructed of a non-corrosive, smooth metal or molded plastic. All legs must be free from cracks and crevices. All legs must have a clearance space between the floor and the underside of the fitting of at least 200mm.

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

- 60 Light bulbs or tubes are to be shatterproof or fitted with approved light diffusers (covers or shields) to prevent contamination of food by glass from a broken light globe or tube. Light fittings must be free from any feature that would collect dirt or dust, harbour insects or make the fitting difficult to clean. Light fittings must be recessed into ceilings or equipment where possible. Heat lamps must be protected against breakage by a shield extending beyond the bulb.
- 61 The coolroom and/or freezer room floor must be finished with a smooth even surface and graded to the door. A sanitary floor waste must be located outside the coolroom and freezer adjacent to the door. All metal work in the coolroom and freezer room must be treated to resist corrosion.
- 62 Condensation from coolrooms and refrigeration motors must discharge to the sewer via a tundish with air gap separation in accordance with Sydney Water requirements.
- 63 Sufficient lockers must be provided in the food preparation area or store room specifically for the storage of cleaning materials, employees' clothing and personal belongings.
- 64 Waste bins must be cleaned regularly to remove the food scraps stuck on the bin surface and to minimise the emission of odour that attracts insects and vermin. Bins may be cleaned either by the rubbish collecting contractors or inside a rubbish room constructed to the above specifications.

Bins, hoppers and other containers used for storing garbage or recyclable material shall:

- a) be constructed of impervious material such as metal or plastic;
 - b) have tight fitting lids; and
 - c) bins that cannot be lifted for draining after cleaning shall have drainage bungs at the base.
- 65 The grease arrestor must not be installed in any kitchen, food preparation or food storage area. The grease arrestor shall be installed in accordance with Sydney Water's requirements.
- 66 **Prior to the issue of a Construction Certificate**, detailed plans of the fit out of all kitchen and bar areas, including the details below, must be submitted to and approved by Council:
- Details of the finish of the walls and ceilings, including in any storage areas;
 - Details and location of coving to all floor and wall joins;
 - Details and location of shelving to the storeroom and storage areas;
 - Construction material of shelving indicating the lowest shelf at least 150mm above ground level;
 - Reference to the construction of the premises being in accordance with the Australian New Zealand Food Standards Code, Food Safety Standards 3.3.3 "Food Premises and Equipment" and the AS 4674-2004 "Design, Construction and Fit Out of Food Premises";
 - Location of separate hand wash basins (taps must be hands free operated and indicated as such on the plan);
 - Location of double bowl sink and any food preparation sinks;
 - Location of floor waste drains and / or cleaner's sinks;
 - Details and location of all equipment in the kitchen including, but not limited to, ovens, fridges, freezers, dishwasher, etc;
 - Details of any hot or cold food storage;
 - Detailed plans of the cool room construction indicating the position of motors and compressors;
 - Information on how windows / doors will be vermin proofed - e.g. fly-screens, air curtains, insect devices, etc;
 - Any fluorescent light fittings being fitted with a smooth faced diffuser and indicated on the plans; and
 - Location and information of mechanical ventilation for any proposed dishwashing machines in

accordance with Section 2.2.5 of AS 4674 - 2004 "Design, Construction and Fit Out of Food Premises".

It should be noted that no authority to commence any fit out works on the site will be granted until the above plans have been submitted to Council, and Council has advised the Certifying Authority in writing that a Construction Certificate can be issued.

- 67 The refuse room 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. Access doors to the refuse room shall be tight fitting solid core or of non-combustible construction.
- 68 The development shall be serviced by a private waste refuse contractor.

Utility Services

- 69 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.

- 70 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.

- 71 **Prior to the issue of a Construction Certificate**, the Principal Certifying Authority shall be satisfied that telecommunications infrastructure may be installed to service the premises which complies with the following:
- The requirements of the Telecommunications Act 1997;
 - For a fibre ready facility, the NBN Co's standard specifications current at the time of installation; and
 - For a line that is to connect a lot to telecommunications infrastructure external to the premises, the line shall be located underground.

Unless otherwise stipulated by telecommunications legislation at the time of construction, the development must be provided with all necessary pits and pipes, and conduits to accommodate the future connection of optic fibre technology telecommunications.

Prior to the issue of an Occupation Certificate, written certification from all relevant service providers that the telecommunications infrastructure is installed in accordance with the requirements above and the applicable legislation at the time of construction, must be submitted to the Principal Certifying Authority.

Construction

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

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

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

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

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

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

73 Prior to the commencement of construction works:

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

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

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

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

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

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

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

Engineering

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

- 75 An Infrastructure Restoration Bond is to be lodged with Penrith City Council for development involving works around Penrith City Council's Public Infrastructure Assets. The bond is to be lodged with Penrith City Council prior to commencement of any works on site or prior to the issue of any Construction Certificate and Subdivision Works Certificate, whichever occurs first. The bond and applicable fees are in accordance with Council's adopted Fees and Charges.

An application form together with an information sheet and conditions are available on Council's website.

Contact Penrith City Council's City Works Department on 4732 7777 or visit Penrith City Council's website for more information.

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

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

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

Contact Penrith City Council's City Assets Department on 4732 7777 or visit Penrith City Council's website for more information.

Note:

- Where Penrith City Council is the Certifying Authority for the development, the Roads Act approval for the above works may be issued concurrently with the Construction Certificate or Subdivision Works Certificate.
- Separate approvals may also be required from the Roads and Maritime Services 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.
- 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.

- 77 Prior to the issue of any Construction Certificate or Subdivision Works Certificate, the Certifying Authority shall ensure that a Section 138 Roads Act application, including payment of application and inspection fees, has been lodged with and approved by Penrith City Council (being the Roads Authority under the Roads Act), for provision of all civil and landscaping works within the road reserve areas of Memorial Avenue and High Street. It is recommended that separate applications be made for the civil works (road, drainage and path paving works) and the landscaping works.

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

- Memorial Avenue is to be designed as an 11m wide road.
- A pavement design report for the pavement in Memorial Avenue, is to be prepared and certified by a suitably qualified geotechnical engineer and shall accompany the application for a Roads Act approval. The pavement shall be designed to accommodate an ESA traffic loading of 5×10^5 .
- The raised pedestrian threshold in Memorial Avenue is to be replaced with a pedestrian refuge island.
- The cul-de-sac at the northern end of Memorial Avenue is to be designed to accommodate a 12.5m heavy rigid vehicle - turn paths are to be provided.
- The design of the cul-de-sac in Memorial Avenue shall incorporate the Council approved flood evacuation access at the northern end of Memorial Avenue linking through to High Street. Please contact Council's Major Projects Team on 4732 7777 and request a copy of Council design plan no. AM191, dated 17 August 2020.
- A heavy industrial layback and driveway are to be provided in Memorial Avenue at the electricity easement to accommodate service vehicles accessing the electrical assets owned by Endeavour Energy and Sydney Trains.
- Any batters within the road reserve are to be a maximum of 1 in 5 (vertical to horizontal). Any retaining walls shall be located within private land and not within the the road reserve.
- All public domain areas including road verge areas are to be designed in accordance with the Penrith CBD Public Domain Technical Manual.

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

Note:

- Where Penrith City Council is the Certifying Authority for the development, the Roads Act approval for the above works may be issued concurrently with the Construction Certificate or Subdivision Works Certificate.
- Separate approvals may also be required from the Roads and Maritime Services 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.

78 The stormwater management system shall be consistent with plans lodged for development approval, prepared by EFWW Consulting Engineers, reference number 21863-001-C-C100-P-G, revision G, dated 12.10.2020.

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 or Subdivision Works Certificate.

Prior to the issue of any Construction Certificate or Subdivision Works 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.

79 Prior to the issue of any Construction Certificate, the Certifying Authority shall ensure that the proposed development is compatible with the recommendations of the Flood Assessment Report prepared by EFWW Consulting Engineers, reference number 21863.001.R003, revision B, dated 10.08.2020.

- 80 Prior to the issue of any Construction Certificate or Subdivision Works Certificate, the Certifying Authority shall ensure that vehicular access, circulation, manoeuvring and pedestrian and parking areas associated with the subject development are in accordance with AS 2890.1, AS 2890.2, AS 2890.6 and Penrith Development Control Plan.
- 81 Prior to the commencement of any works on-site (including demolition works) or prior to the issue of any Construction Certificate or Subdivision Works Certificate, whichever occurs first, a Construction Traffic Management Plan (CTMP) shall be submitted to Council's City Assets Department for endorsement. The CTMP shall be prepared by a suitably qualified consultant with appropriate training and certification from the Roads & Maritime Services (RMS). The CTMP shall include details of any required road closures, work zones, loading zones and the like. Approval of the CTMP may require approval of the Local Traffic Committee. Please contact Council's City Assets Department on 4732 7777 and refer to Council's website for a copy of the Temporary Road Reserve Occupancy Application Form.
- 82 Prior to the issue of a Roads Act Approval, a Performance Bond is to be lodged with Penrith City Council for all civil works within the road reserve of Memorial Avenue..

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

Note:

- Contact Penrith City Council's Development Engineering Department on 4732 7777 for further information relating to bond requirements.
- 83 The developer shall prepare a dilapidation report for all surrounding buildings and Council owned infrastructure that confirms that no damage occurs due to the excavations associated with the development. If Council is not the Certifying Authority, the dilapidation report shall be submitted to Council prior to Construction Certificate or Subdivision Works Certificate issue and then updated and submitted prior to any Occupation Certificate issue confirming no damage has occurred.
- 84 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 or Subdivision Works 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.

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

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

Note:

- A copy of the Traffic Control Plan shall accompany the Notice of Commencement to Penrith City Council.
- Traffic control measures may require road occupancy / road closure approvals issued under Section 138

of the Roads Act by Penrith City Council prior to the issue of a Construction Certificate or Subdivision Works Certificate.

86 Street lighting is to be provided for all new and existing streets to Penrith City Council's standards.

87 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.

88 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.

89 Prior to the issue of any Occupation Certificate or Subdivision 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.

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

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

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

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

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

92 Prior to the issue of any Occupation Certificate, a restriction as to user and positive covenant relating to the stormwater management systems (including on-site detention and water sensitive urban design) shall be registered on the title of the property. The restriction as to user and positive covenant shall be in Penrith City Council's standard wording as detailed in Penrith City Council's Stormwater and Drainage for Building Developments Policy.

93 The installation of any regulatory / advisory line marking and signage in Memorial Avenue, detailed signs and line marking plans are to be lodged with Penrith City Council and approved by the Local Traffic Committee. All approved roadworks shall be implemented at the full cost of the applicant, prior to the issue of an Occupation Certificate.

Note:

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

94 Prior to the issue of any Occupation Certificate, flood warning signage shall be provided within the car park advising motorists that the car park may be inundated by floodwaters in extreme rainfall and flood events. Full details shall be submitted to Penrith City Council for approval.

95 Prior to the issue of any Occupation Certificate, a Maintenance Bond is to be lodged with Penrith City Council for all civil works within the road reserve of Memorial Avenue.

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

Note:

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

96 Prior to the issue of an Occupation Certificate, the following compliance documentation shall be submitted to the Principal Certifying Authority. A copy of the following documentation shall be provided to Penrith City Council where Penrith City Council is not the Principal Certifying Authority:

a) Works-as-executed (WAE) drawings of all civil works within the road reserve areas of Memorial Avenue and High Street. The WAE drawings shall be marked in red on copies of the stamped Roads Act approval drawings signed, certified and dated by a registered surveyor or the design engineer. The WAE drawings shall be prepared in accordance with Penrith City Council's Engineering Construction Specification for Civil Works.

b) The WAE drawings shall clearly indicate the 1% Annual Exceedance Probability flood lines (local and mainstream flooding).

c) The WAE drawings shall be accompanied by plans indicating the depth of cut / fill for the entire development site. The survey information is required to show surface levels and site contours at 0.5m intervals. All levels are to be shown to AHD.

d) CCTV footage in DVD format to Penrith City Council's requirements and a report in "SEWRAT" format for all drainage as identified as Council's future assets. Any damage that is identified is to be rectified in consultation with Penrith City Council.

e) A copy of all documentation, reports and manuals required by Section 2.6 of Penrith City Council's WSUD Technical Guidelines for handover of stormwater management facilities to Penrith City Council.

f) Surveyor's Certificate certifying that all pipes and services are located wholly within the property or within appropriate easements and that no services encroach boundaries, private or public lands.

g) Documentation for all road pavement materials used demonstrating compliance with Penrith City Council's Engineering Construction Specification for Civil Works.

h) A Geotechnical Report certifying that all earthworks and road formation have been completed in accordance with AS 3798 and Penrith City Council's Design Guidelines and Construction specifications. The report shall include:

- Compaction reports for road pavement construction.
- Compaction reports for bulk earthworks and lot regarding.
- Statement of Compliance.

97 The stormwater management system 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 on request. All necessary improvements are required to be made immediately upon awareness of any deficiencies in the treatment measures.

98 Prior to the issue of a Construction Certificate, a Flood Emergency Response Plan and report is to be prepared and submitted to Penrith City Council. The plan shall detail the emergency response and evacuation measures of the development site with consideration given to the daily operations and procedures.

99 Prior to the issue of an Occupation Certificate, the Principal Certifier shall ensure that lot consolidation and/or a restriction on the title of Lot 22 is registered to ensure car parking for the development is provided on Lot 22 for the life of the development on Lot 21.

100 Prior to the issue of a Construction Certificate, the Principal Certifier shall ensure that the filling and final height of the car park within the area below RL 25.8m AHD, is designed to match with existing ground levels to minimise the impact on flood flow conveyance and flood heights. Full details are to be submitted with the application for a Construction Certificate.

Landscaping

101 All landscape works are to be constructed in accordance with the stamped approved plans. Landscaping shall be maintained:

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

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

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

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

i. Implementation Report

Upon completion of the landscape works associated with the development and **prior to the issue of an Occupation Certificate** for the development, an Implementation Report must be submitted to the Principal

Certifying Authority attesting to the satisfactory completion of the landscaping works for the development. The report is to be prepared by a suitably qualified and experienced landscape professional.

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

ii. Maintenance Report

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

- 104 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.
- 105 All trees that are required to be retained as part of the development are to be protected in accordance with the minimum tree protection standards prescribed in Penrith Development Control Plan.
- 106 No trees are to be removed, ringbarked, cut, topped or lopped or wilfully destroyed (other than those within the proposed building footprint or as shown on the approved plans) without the prior consent of Penrith City Council and in accordance with Council's Tree Preservation Order and Policy.
- 107 **Prior to the issue of a Construction Certificate**, an amended landscape plan is to be submitted and approved by the Development Services Manager of Penrith City Council. The amended plan must provide a detailed design and specific planting schedule for the following areas:
- Revised car park layout and cul-de-sac configuration, to ensure alignment of all approved documentation;
 - Car park perimeter planting on all boundaries to provide a visual screen, physical barrier, and shade trees;
 - Memorial Avenue street tree planting behind kerb;
 - A revised design of the stormwater basin in the car park to ensure existing trees are retained;
 - Planting within the car park area including additional canopy trees to provide shade, and engineered tree pit solutions for good tree health and growth;
 - Retention of the existing palm tree on the embankment, and planting of additional trees of the same species;
 - Embankment area planting with trees, shrubs, and understorey in accordance with the Nepean River 'Our River' Riparian Vegetation Management Plan;
 - Deletion or reduction to the number of the pergolas within the playground area, and replacement with shade trees; and
 - Inclusion of a vegetated buffer including small trees and shrubs along the northern boundary of the playground enabled by the relocation of the retaining wall by a distance of 1.5m to the south.

Section 94

108 This condition is imposed in accordance with the Penrith City Centre Civic Improvement Plan. Based on the current rates detailed in the accompanying schedule attached to this Notice, \$34,188.00 is to be paid to Penrith City Council prior to a Construction Certificate being issued for this development (the rates are subject to quarterly reviews). If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted contributions plan.

The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule. Council should be contacted prior to payment to ascertain the rate for the current quarterly period. The Section 7.11 invoice accompanying this consent should accompany the contribution payment. The Penrith City Centre Civic Improvement Plan may be inspected at Council's Civic Centre, 601 High Street, Penrith.

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

Certification

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

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

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

Notice of Commencement

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

110 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/or if the development does not comply with the provisions of the Environmental Planning and Assessment Act and Regulation.

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

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

SIGNATURE

Name:	Wendy Connell
Signature:	

For the Development Services Manager