

PENRITH CITY COUNCIL

MAJOR ASSESSMENT REPORT

Application number:	DA21/0842
Proposed development:	Demolition of Existing Commercial Building, Reconfiguration of Building Facades and Public Domain at Glenmore Park Shopping Centre (East Side) and Construction of a Single Storey Food and Drink Building, a 3-4 Storey Commercial Building with Basement Parking, Signage, Landscaping and Outdoor Dining
Property address:	9100 Glenmore Parkway, GLENMORE PARK NSW 2745 19 - 31 Town Terrace, GLENMORE PARK NSW 2745 41 Town Terrace, GLENMORE PARK NSW 2745 33 Town Terrace, GLENMORE PARK NSW 2745
Property description:	Lot 9107 DP 1022720 Lot 9100 DP 1022720
Date received:	10 November 2021
Assessing officer	Sandra Fagan
Zoning:	SEPP WSA - Affected by Obstacle Limitation SEPP WSA - Affected by Wildlife Buffer Zone Zone B2 Local Centre - LEP 2010
Class of building:	Class 5 , Class 6 , Class 7a
Recommendations:	Approve

Executive Summary

The proposed development relates to an area of the existing shopping centre known as the Glenmore Park Town Centre. The area of the proposed works is located on the eastern side of the shopping centre, which fronts a public road named Town Terrace. This area also adjoins the public sports field and park operated by Council. The area of the proposed works predominantly comprises publicly accessible areas, including footpaths, ramps, steps, gardens and landscaped beds. These form the pedestrian access areas into and around the eastern side of the shopping centre.

The proposed development includes the demolition of an existing single storey commercial building, and its replacement with a 3-4 storey new commercial building. The proposal also includes reconfiguration of the eastern facing shopfronts, conversion of the eastern outdoor area into an outdoor dining terrace, and construction of a new single storey building at the northern end of the existing terrace area, surrounded by a terrace for additional outdoor dining.

The proposal includes the removal of some existing trees as well as new vegetation and tree planting. The privately owned, but publicly accessible areas will also be reworked to provide steps, plinth style seating, planter boxes, ramps, and vegetation.

The proposal is the result of urban design and pre-lodgement advice carried out prior to the Development Application being lodged with Council. The proposal has also been amended to further address feedback received from Council's Urban Design Review Panel, Council planning staff, and to address referral responses relating to traffic, engineering and water sensitive urban design matters.

In particular, the amended design has removed a previously proposed circuitous access ramp, and in doing so, has preserved and enhances the existing, curvilinear landscaped area surrounding a central Fig tree, that is a focal entrance point to the precinct from the east. The design of the 3-4 storey commercial building has also been amended to provide further facade articulation to the exposed southern wall of the building. In addition, further information was submitted regarding the overall vision for the site so as to provide context for this stage of the proposed works. Other matters relating to water recycling, stormwater discharge, and car parking design have also been satisfactorily addressed through the amended proposal.

A portion of plant and plant screening, located on the roof of the proposed 3-4 storey commercial building is marginally over the Penrith LEP 15m height control, by between 0.4m to 0.8m. Notwithstanding that the original proposal sought to include the non-compliant building elements as 'architectural roof features', Council staff have formed the view that these plant and screen elements are not architectural roof features. Subsequently, the applicant has made a written request pursuant to Clause 4.6 to vary the development standard for building height. The request is acceptable and the breach of the height control can be supported in this instance. The breach is equivalent to approximately 5.3% over the control and therefore does not trigger determination by the Local Planning Panel.

The application was publicly exhibited in the local press and notified to surrounding property owners for the required period in accordance with Council's policy. No submissions were received.

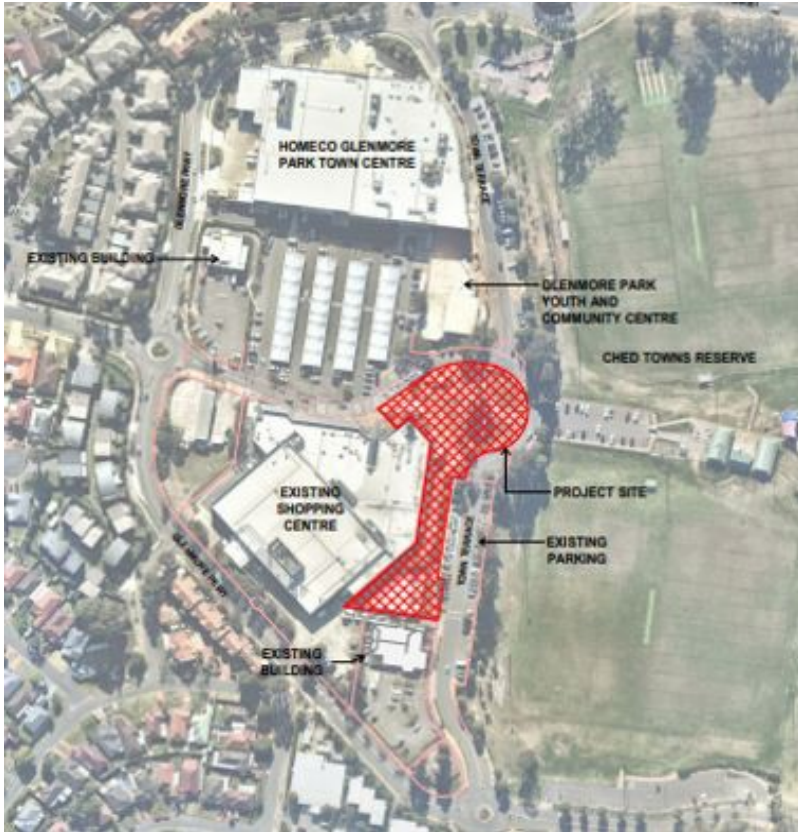
The proposed development, as amended, is recommended for approval subject to conditions.

Site & Surrounds

The site as a whole is known as the Glenmore Park Town Centre. The shopping precinct, which was built in 2005, primarily serves the local residential and workers population of Glenmore Park. Both the shopping precinct and the suburb have been developed over the past 15 years to include more residential development, primarily in the

form of single dwellings. The shopping precinct contains two major supermarkets, at grade parking, public spaces, retail shops and food premises, including some stand-alone fast food restaurants.

The area of the proposed works is on the eastern side of the shopping centre, fronting a public road named Town Terrace. This area also adjoins the public sports field and park operated by Council. The red hatched area in the image below shows the part of the site included in the proposed scope of works under this Development Application. This area is known as Lot 9107 and part-lot 9100, both in Deposited Plan 1022720. The relevant street addresses are 19-31, 33, and 41 Town Terrace.



The photographs below are of different points along the eastern side of the shopping centre, specifically where the proposed works are located. At the southern end of the site there is a single storey commercial building (proposed to be demolished) and a concrete paved loading dock driveway, which is supported by a 3m high masonry wall. At the northern end of the site there is a paved forecourt, with a semi-circular park on the eastern end. This small park area contains two grassed areas, with paving and stairs leading up to Town Terrace and a mature fig tree in a circular garden bed. The middle portion of these two site ends contains a paved ramp leading to a paved terrace area, with a sandstone cobbled retaining wall and shopfronts.







Proposal

The proposed development includes the following:

- Demolition of an existing commercial building, in conjunction with the surrounding ramps, steps and paved areas;
- Construction of a new 3-4 storey, commercial building, with a total gross floor area of 2,454 square metres, in the location of the demolished building referenced above, with basement parking for 13 cars and 12 bicycles. The ground level of this building is likely to contain the shared entry / foyer and a small retail space, while the upper levels may contain offices and a medical centre. The building is primarily 3 storey's in height but because of site levels, also contains a small retail outlet at the ground floor level. Plant will be located on the roof. Some of the plant and screening will breach the 15m LEP height limit by between 0.4 to 0.8m;
- Reconfiguration of the eastern facade of the existing retail shops, and reconfiguration of the adjoining paved terrace areas, to create a new outdoor dining space. The use of the existing retail shops as future food and drink venues will be the subject of separate applications. The Acoustic Report states that the maximum internal capacity of these food outlets will be 120 patrons, and the capacity of the outdoor dining areas will be 160 patrons;
- Construction of a second, new, single-storey building located on the existing paved, open space area near the central landmark tree, which will be used as a future food and drink premises. This building will have a total gross floor area of 250 square metres and an internal capacity of 80 patrons;
- The proposed operating hours for the indoor and outdoor food uses will be between 7am and 10pm every day;
- Works to adjoining paved, publicly accessible areas, including new planting, steps, plinths/bleachers, terraces, paths, ramps, and signage; and
- Changes to the on-street parking arrangement to accommodate the driveway entry to the proposed commercial building, and to relocate equitable parking spaces, as well as a new pedestrian crossing (zebra crossing) on Town Terrace. While most of the proposed works are within the subject site, some of the parking spaces to be removed are located on Council managed (road reserve) land.

The proposal has been amended to respond to concerns raised by staff and the Urban Design Review Panel. The amendments include further articulation on the southern wall of the commercial building, removal of a long access ramp near the central landmark tree, improvements to landscaping in that area, and changes to the stormwater design.

The applicant has stated that the proposal is the first stage of a phased development for the entire site.

Plans that apply

- Local Environmental Plan 2010
- Development Control Plan 2014
- State Environmental Planning Policy (Biodiversity and Conservation) 2021
- State Environmental Planning Policy (Industry and Employment) 2021
- State Environmental Planning Policy (Resilience and Hazards) 2021
- State Environmental Planning Policy (Western Sydney Aerotropolis) 2020

Planning Assessment

- **Section 1.7 - Application of Part 7 of Biodiversity Conservation Act 2016**

The site is not identified on the Biodiversity Values Map as containing vegetation having biodiversity value. Notwithstanding this, Council's Tree Management Officer has reviewed the proposed removal of trees from within the site, and Council's Landscape Team have reviewed the proposal.

10 trees are proposed to be removed from within the subject site. All of the trees to be removed are a White Ash species. Two significant trees, being the central fig tree (Ficus) and a eucalyptus tree near Town Terrace are proposed to be retained and protected. Council's Tree Management Officer has confirmed that the proposed removal of 10 White Ash trees is acceptable as they are not significant enough to warrant retention. Suitable conditions relating to tree protection measures for the central Ficus tree are recommended.

The proposal also includes new trees, and planting on structure (planter boxes) that are interspersed between the proposed bench seating, building facades, and retaining walls. In particular, the proposal was amended to remove the access ramp that was previously located to the south of the grassed area near the circular planter containing the Ficus tree. The area previously occupied by the ramp is now retained as a grassed and landscaped area, which is a more suitable design outcome as it preserves the curvilinear feature created by the central Ficus tree.

- **Section 4.15 - Evaluation**

The assessment of the proposal has taken into account the matters for consideration contained at Section 4.15 of the Act. Those matters requiring further discussion are identified throughout this report and further discussed.

- **Section 7.12 - Developer Contributions**

In accordance with Section 7.12 of the Act, Council has adopted a 'Development Contributions Plan for Non-Residential Development' which captures development with a cost of more than \$100,000, that is not otherwise subject to a contribution pursuant to Section 7.11 of the Act. In this case the proposed development, being a commercial development with a cost of more than \$100,000, triggers the ability for Council to impose a condition requiring contributions in accordance with the Plan.

The contribution rate is a fixed levy calculated at 1% of the proposed cost of carrying out that development, including GST. In this case, the contribution required is **\$117,442.00** and a suitable condition is recommended.

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

State Environmental Planning Policy (Biodiversity and Conservation) 2021

Matters relating to biodiversity and tree removal have been discussed above.

With regard to protecting the Hawkesbury-Nepean river system, the proposed development, subject to conditions, will adequately mitigate and manage impacts to the river system.

State Environmental Planning Policy (Industry and Employment) 2021

The provisions for signage are contained in this SEPP. The proposal includes indicative details of signage, including the location, number, and size. Both proposed buildings will host flush wall signs on facades which will serve to identify the building users. The proposed signs are compatible with the character of the retail area and are suitably positioned in terms of building elements and facades. Suitable conditions are recommended, including ensuring that any illumination of the signage is internal and that any illumination of signage located above first floor level is able to be dimmed at night.

The proposal does not include wayfinding and directional signage. A suitable condition is recommended to require that any wayfinding signage is only located on privately owned land, is to only relate to directional and wayfinding (not advertising of users) and is to be designed with a consistent appearance and detailing.

State Environmental Planning Policy (Resilience and Hazards) 2021

This SEPP provides controls at Chapter 4 (Clauses 4.1 - 4.19) that require consideration of whether the land is contaminated, and if it is, whether the land is suitable in its contaminated state (or will be suitable after remediation) for the purpose for which the development is proposed.

The application includes a Preliminary Site Investigation report. This report has assessed the overall potential for contamination at the site and found the risk of contamination to be low. It also recommends some intrusive sampling be undertaken to assess the contamination status of the site as well as provide a waste classification assessment for off-site disposal purposes.

Council's Environmental Management Officer has raised no objections to this and has provided suitable conditions which are included in the recommendation.

State Environmental Planning Policy (Western Sydney Aerotropolis) 2020

The subject site is located **outside** of the Western Sydney Aerotropolis. However, the SEPP contains a Wildlife Buffer Zone Map that shows that the subject site is within a 13 kilometre 'wildlife buffer zone' of the airport. The objective of Clause 21 is to regulate development on land surrounding the Airport where wildlife may present a risk to the operation of the Airport. Certain types of development then trigger the requirements for further consideration under Clause 21. The proposed development, being a form of commercial development, is not one of the types of uses that warrant additional consideration under the SEPP with regard to wildlife and the operation of the Airport.

The subject site is also identified as being located within the Obstacle Limitation Surface Map. Clause 24 of the SEPP relates to development that would penetrate the prescribed airspace for the Airport and be a 'controlled activity'. The proposed development neither penetrates the prescribed airspace, nor is a controlled activity, therefore not triggering any additional considerations under this clause.

Local Environmental Plan 2010

Provision	Compliance
Clause 1.2 Aims of the plan	Complies
Clause 2.3 Permissibility	Complies - See discussion
Clause 2.3 Zone objectives	Complies
Clause 2.7 Demolition requires development consent	Complies
Clause 4.3 Height of buildings	Does not comply - See discussion
Clause 4.6 Exceptions to development standards	Complies - See discussion
Clause 7.1 Earthworks	Complies - See discussion
Clause 7.4 Sustainable development	Complies
Clause 7.6 Salinity	Complies
Clause 7.7 Servicing	Complies

Clause 2.3 Permissibility

The subject site is zoned B2 Local Centre, which permits a range of retail, commercial, community and recreation uses. A small portion of the proposed works is also located on land zoned RE1 Public Recreation. The works in this zone include outdoor paving and landscaping, which is permissible with consent in the zone.

The image below shows the area of the proposed works superimposed on the zoning from the LEP.



Clause 4.3 Height of buildings

The Penrith LEP permits a maximum building height of 15m. The proposed commercial building will breach this height standard by between 0.4 to 0.8m. These breaches only occur at roof level and relate to plant and plant screening.

Clause 4.6 Exceptions to development standards

Clause 4.6 of the Penrith LEP allows the applicant to make a written request to vary the applicable

development standard that is contravened. In this case, it is the development standard relating to maximum building height that is contravened by the proposed development. The development standard is found at Clause 4.3 of the Penrith Local Environmental Plan 2010. The height control in the LEP is written as development standard and can therefore be varied pursuant to Clause 4.6 of the LEP. In addition, Clause 4.6(8) does not exclude the operation of Clause 4.6 from the height development standard.

The LEP has a maximum height limit of 15m and defines height to the topmost part of the building which will include any roof structures such as acoustic screens and plant. Portions of the proposed plant and screens will exceed the 15m height standard by between 0.4m and 0.8m. Therefore, the proposed height of the building will be 15.8m at its highest point. This represents a breach of between approximately 2.67% to 5.3%.

The Development Application includes a written request pursuant to Clause 4.6 of the LEP, seeking a variation of the development standard for maximum building height. The objective of Clause 4.6 is contained at Sub-Clause (1) and is; *"to provide an appropriate degree of flexibility in applying certain standards to particular development"*; and *"to achieve a better outcome for and from the development by allowing flexibility in particular circumstances"*.

Clause 4.6(3) requires the consent authority to consider a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating the following:

- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case; and
- (b) That there are sufficient environmental planning grounds to justify contravening the development standard.

In this regard the applicant has submitted a written request that seeks to justify the contravention and makes statements about why compliance is considered to be unnecessary or unreasonable in this instance. The written request includes the following relevant arguments and statements:

- The proposal provides significant long-term benefits for the growing community of Glenmore Park by providing more employment opportunities and diversifying the range of retailers and restaurants;
- The proposed breach is limited to the small mechanical plant space at the rear of the building's roof space;
- The building is located on sloping land and the section where the building exceeds the height limit by 0.4m to 0.8m is very minor;
- The proposed breach will not be visually discernable from the surrounding area as the context is within other retail and commercial buildings, and there are existing trees in the area which will assist in screening significant views of the building from the east;
- The proposed building exceedance should be considered in the context of the development controls and desired future character of Glenmore Park Town Centre;
- The design of the proposed building has been amended following multiple reviews from Council's Urban Design Review Panel. The resulting building form is a sleek, modern design which is a suitable form and scale for the site and the area;
- The roof design achieves an outcome where the highest point of the building is set back from the primary facades so that the proposed breach is not overbearing from the street;

- The proposed height breach will not result in any unfavourable impacts given its location both on the building and in context;
- Therefore, compliance with the development standard is unnecessary in the circumstances of this case as the objectives of the height control are still met, as outlined in the comments above; and
- There are sufficient environmental planning grounds to justify the contravention as the proposal meets the objectives of both the B2 Local Centre Zone and the Height control, the proposed development is a response to the local area's growing need for additional retail and commercial space and will result in a positive economic impact to the area, and the proposed development will not adversely impact the surrounding locality.

Clause 4.6, Sub-Clause (4) states that development consent must not be granted for development that contravenes a development standard unless the consent authority is satisfied of the following:

- (i) The applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3); and
- (ii) The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

The discussion below is provided to the consent authority so that they may be satisfied that the requirements of Clause 4.6(4) have been met and that development consent can therefore be granted to the proposed development notwithstanding the contravention of the development standard for height.

Has the applicant's written request adequately addressed the matters required to be demonstrated by subclause (3)?

Yes, it is considered that the applicant's request outlined above follows a sound line of argument for justifying why the height control is unreasonable or unnecessary in this particular case. The statement has also outlined what environmental planning grounds they consider relevant for allowing a contravention of the development standard. Therefore, it is considered that the written request is sound and has addressed the relevant matters required by Clause 4.6(3).

Is the proposed development consistent with the objectives for the standard relating to building height contained in the LEP?

Penrith LEP:

The height of buildings control is at Clause 4.3 of the LEP and contains four objectives, being:

- (a) To ensure that buildings are compatible with the height, bulk and scale of the existing and desired future character of the locality;
- (b) To minimise visual impact, disruption of views, loss of privacy and loss of solar access to existing development and to public areas, including parks, streets and lanes;
- (c) To minimise the adverse impact of development on heritage items, heritage conservation areas and areas of scenic or visual importance; and
- (d) To nominate heights that will provide a high quality urban form for all buildings and a transition in built form and land use intensity.

With regard to the above objectives, although the height and bulk of the commercial building will be higher than the existing surrounding buildings at present, the resulting envelope is sleek and contemporary, and

reflects the desired future character of the Town Centre. The proposed elements of the roof top plant that breach the height control are minor in nature and will not result in any additional overshadowing to the street or public spaces. There will be no view loss as a result of the portions of the roof that will breach the height control. The visual impact has been minimised as the rooftop plant has been positioned at the rear of the roof, which adjoins existing service and loading areas. Therefore, it is considered that the proposed development remains consistent with the objectives of the height control.

Is the proposed development consistent with the objectives for development within the B2 - Local Centre zone?

The B2 Local Centre zone has six objectives as follows:

- To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area;
- To encourage employment opportunities in accessible locations;
- To maximise public transport patronage and encourage walking and cycling;
- To provide retail facilities for the local community commensurate with the centre's role in the local and regional retail hierarchy;
- To ensure that future housing does not detract from the economic and employment functions of a centre; and
- To ensure that development reflects the desired future character and dwelling densities of the area.

With regard to the above objectives, it is considered that the proposed development will meet the relevant objectives and not detract from the achievement of those objectives. The proposal will enhance the function of the existing Town Centre precinct by providing good quality buildings for commercial use and improving the existing publicly accessible spaces at the edge of the eastern side of the precinct.

Given that the proposed development is consistent with the objectives for height in the LEP, and also consistent with the objectives for development in the B2 Local Centre zone, it follows, and is considered that, the proposed development will be in the public interest.

Draft Amendments to Clause 4.6 - Explanation of Intended Effect (EIE):

The EIE was exhibited by the Department from 31 March to 12 May 2021. The Department states that the proposed changes to Clause 4.6 aim to clarify the requirements for varying development standards and improve transparency and accountability in the planning system, with a greater focus on improved planning outcomes of proposed development and consistency with the strategic context of sites.

The revised tests will be whether:

- *"the proposed development is consistent with the objectives of the relevant development standard and land use zone; **and***
- *the contravention will result in an improved planning outcome when compared with what would have been achieved if the development standard was not contravened. In deciding whether a contravention of a development standard will result in an improved planning outcome, the consent authority is to consider the public interest, environmental outcomes, social outcomes or economic outcomes; **or***
- *an alternative test may be developed to enable flexibility to be applied in situations where the variation is so minor that it is difficult to demonstrate an improved planning outcome, but the proposed variation is appropriate due to the particular circumstances of the site and the proposal".*

Considering the above, the following statements are made about the proposal:

- the proposed variation is minor in terms of the actual amount of plant and screening that will sit above the 15m height limit, with the proposed breach being between 0.4m and 0.8m;
- the proposed breach only occurs for a small portion of the building, because the rooftop plant is positioned at the rear of the site;
- although the southern edge of the plant will be visible from public vantage points for people approaching the site from the south, in context, the portions that are over 15m will not be distinguishable from the portions of the roof and building that are within the 15m height control;
- the proposed breaches relate to roof plant and screening which are required elements of any commercial building and are a reasonable outcome; and
- the proposed commercial building retains a sleek profile and interesting envelope despite the proposed breach in height.

In addition, Clause 4.6(4)(b) requires the concurrence of the Planning Secretary. In this regard, a standard delegation was issued by the Planning Secretary in Planning Circular 20-0002 issued on 5 May 2020 (this replaces previous circulars relating to concurrence to vary development standards). This Circular provides assumed concurrences. For development that would contravene a standard by less than 10%, the assumed concurrence applies to a delegate of Council. In this case, the delegate is at, or above, the level of Council's Principal Planner, who has the delegation to grant the request to contravene the development standard and determine the application.

Clause 7.1 Earthworks

The eastern side of the existing shopping centre is at various levels, which are currently accessed via ramps and steps. The proposed earthworks to these publicly accessible areas is relatively minor as the existing levels are generally retained. However, there is some fill proposed to create the dining terrace and cafe building. In addition, there is excavation proposed to construct the basement level of the commercial building.

The application includes a geotechnical assessment which outlines the likely geotechnical conditions of the site and makes recommendations. In particular, the report states that groundwater is unlikely to be encountered, and makes recommendations for excavation methods and support of surrounding structures, such as existing retaining walls and the loading dock. A suitable condition of consent is recommended to require that this report is adhered to.

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

Development Control Plan 2014

Provision	Compliance
DCP Principles	Complies
C1 Site Planning and Design Principles	Complies
C2 Vegetation Management	Complies
C3 Water Management	Complies
C4 Land Management	Complies
C5 Waste Management	Does not comply - see Appendix - Development Control Plan Compliance
C6 Landscape Design	Complies
C7 Culture and Heritage	N/A
C8 Public Domain	Complies
C9 Advertising and Signage	Complies
C10 Transport, Access and Parking	Does not comply - see Appendix - Development Control Plan Compliance
C11 Subdivision	N/A
C12 Noise and Vibration	Complies
C13 Infrastructure and Services	Complies
E7 Glenmore Park controls	Does not comply - see Appendix - Development Control Plan Compliance

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

The relevant requirements of the Regulations are, and can be, met subject to conditions.

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

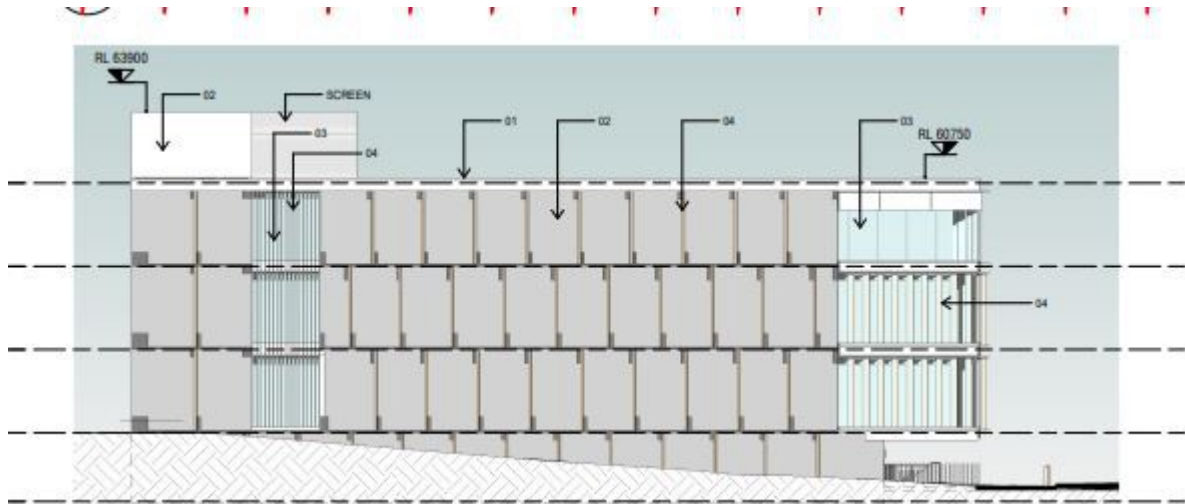
Urban Design:

The applicant engaged in Council's Pre-Application and Urban Design Review Panel (UDRP) process. In particular, the scheme was reviewed by Council's UDRP twice at pre-lodgement stage, and one further time after DA lodgement. After each of these UDRP reviews, the applicant made changes to the proposed design of both the commercial buildings and the surrounding publicly accessible spaces (the bench seating, stairs, planters etc). In addition, the proposal was reviewed by Council's Landscape Design Team, who also attended the UDRP meetings.

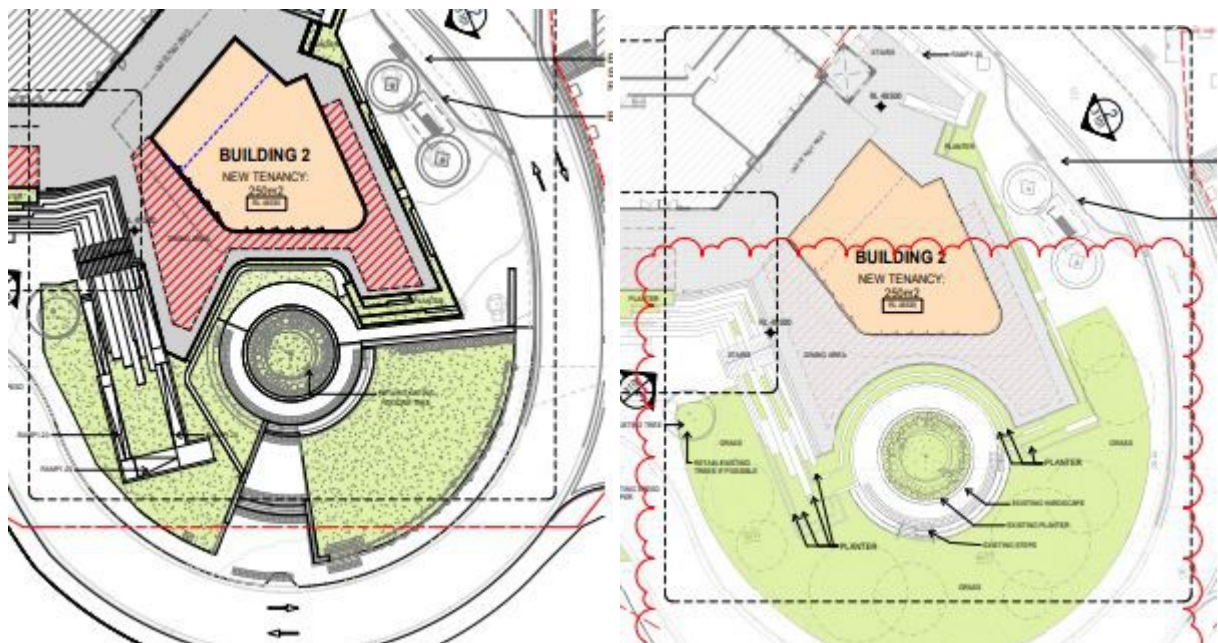
In summary, the UDRP had no significant concern with the proposal, but advised that refinements were needed. These have now been addressed satisfactorily as follows:

- The southern, exposed elevation of the commercial building required more thought to its materiality and presentation. The image below shows the amended southern elevation, which has now expressed the concrete panel joints using aluminium fins with a timber look finish. The southern elevation also

contains fixed glazing. This has satisfactorily addressed the design comment made.



- The convoluted access ramp located at the northern end of the site has been removed. This ramp was considered to be awkward in shape, position, and length and poorly dissected the existing landscape features of the site. Its removal has improved the appearance and usability of the open space near the centrally located fig tree which forms an entry point into the Town Centre. The amended proposal included further advice from the applicant's Access Consultant to confirm that adequate accessible access is maintained via the passenger lift at the entrance of the proposed commercial building, and the ramp at the northern end of the proposed site works.
- Consider further emphasis of the curvilinear landscape forms and edging treatments in the landscape design, instead of the geometrical hard retaining wall lines, particularly at the outdoor terrace area around the proposed cafe building. The two images below show a detail of the original (left image) and proposed (right image) open space area adjoining Building 2. The images show how the convoluted access ramp has been removed, that additional landscaping has been included in its place, and how the edges around the raised terrace include curvilinear forms.



- The applicant has provided details of their draft masterplan to explain why the paved area to the north

of the scope of works (near the existing bus stop) has been excluded from the current application. The concern raised related to the interim juxtaposition of new paving adjoining existing (old) paving, and to ensure that the works proposed in this application will not detract from the future Stage 2 works envisaged in the applicant's masterplan. This also included information relating to pedestrian connectivity throughout the site, particularly the Coles redevelopment. The applicant has clarified that their intention is to continue redeveloping the town centre, and that discussions are being held in this regard. The landowners masterplan acknowledges that the current site is disjointed, particularly in the middle between the existing Coles and Woolworths shops. The proposed development of the eastern side of the Town Centre is consistent with what the applicant's masterplan shows. In particular, it envisages a commercial building at the southern end (where the commercial building is proposed), a type of 'mini High Street' (where the long outdoor terrace dining area is proposed) and a built form edge (where the single storey food building is proposed). In terms of the concern raised, it is acknowledged that for a period of time, there will be areas that are not 'new'. However, that delineation must be made somewhere across the site and it is in the interests of the town centre operators to ensure that the site remains visually pleasing and usable. It is expected that the next stage of development would include the east-west link up through Town Terrace, as the masterplan shows additional landscaping along this thoroughfare and a built form to sleeve the existing at-grade parking in front of Coles.

- The applicant clarified the intent and use of the existing loading bay access lane which is located to the rear of the proposed new commercial building. This access lane appears to be used informally as a pedestrian short-cut from Glenmore Parkway into the site. The applicant has confirmed that the informal passageway serves as a building separation space, which is required from a fire engineering perspective, and that this leaves an informal passageway that customers can access. This existing arrangement will not be changed as a result of the proposed development.

Council's Access Committee:

The application is accompanied by an Access Report prepared by suitably qualified consultants. To respond to some concerns raised by Council staff and the Urban Design Review Panel, further information was submitted with the amended proposal.

The proposal and Access Report were presented to Council's Access Committee on 16 March 2022. The following matters were raised by the Access Committee for consideration:

Adult change facility: The Committee wanted to pursue the possibility of requiring an adult change facility in the proposed development, using the entirety of the site and retail floor space or number of customers as a trigger to provide the facility. Council staff discussed this with the applicant. However, the applicant was not willing to amend the drawings to provide an adult change facility within either of the new commercial buildings. Council's DCP at Clause 1.2.7 contains triggers for when adult change facilities are required. They include "*new or redeveloped development types*". The development types include "*shopping centres with a design capacity of greater than 3,000 people*". Although the Glenmore Park Town Centre may be a shopping centre with a design capacity greater than 3,000 people, the proposed development is not considered to constitute 'new' or 'redeveloped' to the extent that the DCP clause is trying to capture. The proposed commercial building replaces an existing commercial building (albeit larger) and the proposed single storey building is a relatively small proposed increase in floor area across the site. Further, an adult change facility would be better suited within the main retail portion of the shopping centre.

Second passenger lift: The Committee agreed that the access ramp that was to be removed was too long and convoluted and that a disabled user may experience fatigue when using the ramp. Therefore, there was no objection raised to its removal. However, the Committee wanted to pursue providing a second passenger lift in lieu of the ramp, given that the area of the proposed works could only be accessed from either the southern end (at the proposed commercial building) or the northern end (beyond the bus stop).

The question of providing a second lift was discussed with the applicant. The applicant responded by stating that the passenger lift provided at the southern end relates to, and is integrated with, the new commercial building. It appears and functions as an entry to that building and therefore also an entry to the outdoor dining from that end. In addition, the applicant has amended the position of the disabled parking space to be near this southern lift. The applicant has stated that they are unwilling to provide a second passenger lift towards the northern end of the site as such a lift would be located in isolation and would not be part of a structure or building. In this location, the applicant has advised that the lift may be regularly vandalised and require maintenance.

Prior to removing the convoluted access ramp, Council staff requested further advice from the applicant's Access Consultant with regard to whether the ramp was required for compliance with Australian Standards. The amended proposal includes a letter from the Access Consultant confirming that the removal of the ramp "*will not affect compliance from an accessibility point of view in accordance with Disability Premises Standards 2010, BCA (Part D3) and Australian Standards (AS 1428.1 - 2009)*". However, the letter goes on to state that there may be a DDA issue and that they would advise to retain the ramp, given that a wheelchair user will have to commute 56m to the nearest accessible entry (via the lift) to provide access to and from the upper floor. They state that the client is to exercise their level of risk in this regard.

Given that the amended proposal remains compliant with the BCA and Australian Standards, as confirmed by the applicant's access consultant, it is the applicant's choice as to whether to provide a second lift or not. Council staff raised the issue of a lift with the applicant, but the applicant has not amended the proposal to provide one. On planning grounds, the application could not be refused on these grounds given that the proposal remains compliant with the BCA and Australian Standards.

Handrail details: The Committee requested a double hand-rail for the main stair on the northern side of the site, leading up to the proposed single storey building. This was to assist people using the stairs and needing to hold the hand-rail in the situation where you have someone coming up the stairs at the same time as someone coming down the stairs. A suitable condition to this effect is included in the recommendation.

General arrangement of parking in Town Terrace: The Committee acknowledged that the existing street parking in Town Terrace was awkward and that the proposed pedestrian crossing was welcomed. General comments about possibilities of improving the on-street parking were also discussed, in terms of slowing vehicles down and improving sight lines. In response to this, it is confirmed that the on-street parking located in front of the subject site on Town Terrace is Council owned and operated land. The application does involve changes to the on-street parking arrangement. This includes removal of some parking spaces, to accommodate the proposed driveway to the new commercial building, relocation of the disabled parking space to be closer to the proposed lift, and a new pedestrian crossing. Council's Traffic and Engineering Teams have raised no objection to these changes. Other works which might be deemed suitable to the public road would be for Council as the landowner to investigate.

Nosing strips: The Committee requested that nosing strips be installed on the edge of all bench seating. A suitable condition is recommended.

Bus stops and general movement around site: The Committee commented on the overall movement pattern for pedestrians around the whole shopping centre site and made reference to the disused bus stop at the northern end of the site. The area of the existing bus stop is not part of this current application, although the applicant has provided their overall Masterplan to show the context of the site and overall future upgrade. It is expected that matters relating to the overall movement of people around and through the site will be further considered as the precinct is developed. For the purpose of this specific application, the proposed changes to the eastern side of the site and the parking on Town Terrace represents an improvement to the existing arrangement of publicly accessible spaces.

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

The site is suitable for the following reasons:

- The site is zoned B2 Local Centre which permits commercial uses to serve the local community;
- The proposed works are within an established retail and community precinct, and the proposal improves the retail offering provided at Glenmore Park Town Centre;
- The site is close to bus routes linking the area to Penrith and Emu Plains;
- The use and building form are compatible with surrounding and adjoining land uses;
- The various grades of the site have been suitably addressed through a designed response including ramps, stairs, benching and lifts; and
- The site is able to drain to Council's satisfaction.

Section 4.15(1)(d) Any Submissions

Community Consultation

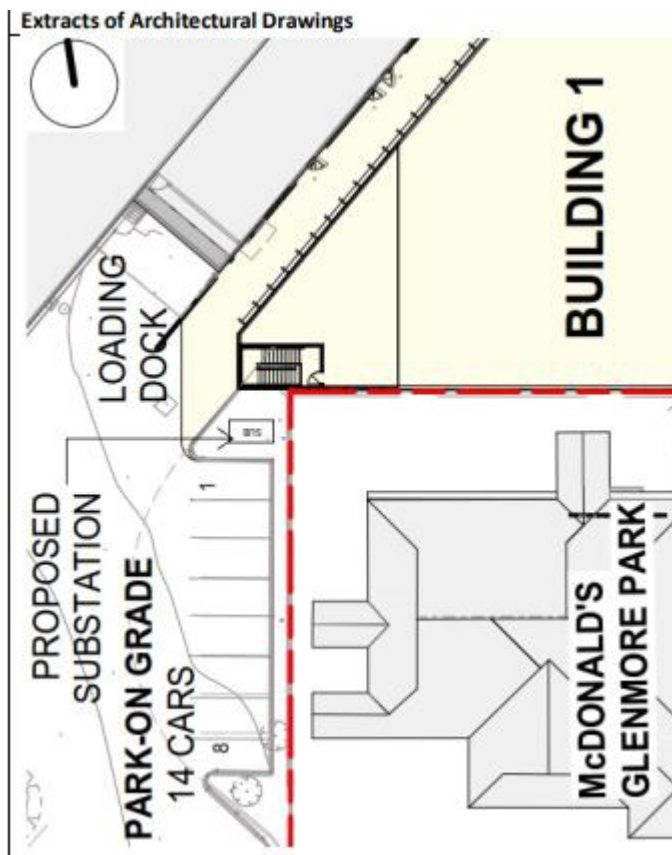
Public Exhibition

The application was publicly exhibited and notified to surrounding landowners in accordance with Council's community consultation policy. No submissions have been received. The application was lodged with a letter of support from a local member.

External Referral

Endeavour Energy provided a referral response dated 7 December 2021. That response provided advice, and only requested one specific condition related to demand for electricity. This condition is included in the recommendation, as well as a general condition making reference to the advice of the utility provider and referral response.

In addition, Endeavour Energy made specific comments about the proposed substation which is located in a rear corner of the commercial building. They stated that the proposed location may have issues with access and the restriction for fire rating required. The matter of easy access was raised with the applicant, who responded to clarify that an easement for access would be granted to Endeavour Energy. The applicant also submitted additional information, including a letter from Endeavour Energy dated 21 December 2021, and a draft Section 88B Instrument outlining an easement for access to a substation. This planning assessment has not considered whether the easement is suitable as this is a matter between the landowner and the utility provider. However, a suitable condition to require an easement is recommended. With regard to fire rating, it is likely that the substation may require a blast wall. However, given the proposed position of the substation, being at the rear of the commercial building and not within a visible or publicly accessible area, this aspect is acceptable.



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
Environmental - Environmental management	No objections - subject to conditions
Environmental - Waterways	No objections - subject to conditions
Environmental - Public Health	No objections - subject to conditions
Waste Services	Not supported
Traffic Engineer	No objection subject to conditions

Traffic Engineer

Council's Traffic Engineer reviewed both the original proposal and then the amendments. Although the Traffic Engineer has concluded by raising no objections, subject to conditions, it is relevant to review the comments made.

The comments are summarised as follows:

- There is a shortfall of 56 car parking spaces using the DCP rates as the applicant only proposes 13 spaces. Nevertheless, the DCP states that Council has the discretion to waiver or reduce the number of car spaces required if the reduced provision can be justified in a traffic impact statement, in terms of; proximity to public transport nodes; opportunity to share parking with another use; or an empirical assessment car parking. The applicant adequately addresses all of the above justifications in the application. This is discussed further in the DCP section of this report.
- The loss of some existing on-street parking is acceptable. There is opportunity for the parking needs to be dispersed across the site based on surveys provided in the Traffic Impact Assessment.
- The requested swept paths demonstrating access and manoeuvring throughout the site has now been provided and are acceptable.
- The blind aisle extension at the northern end of the basement car park is obstructed by a service/store room on the plans. This shall be amended to extend the full width of the aisle to assist reverse manoeuvres out of the end space, in accordance with AS 2890.1. The amendments made now show compliance.
- It is expected that traffic generation can be accommodated within the surrounding road network.

Waste Services

Council's Waste Team have raised the following concerns with the proposal:

- vehicle reversing movements not supported;
- no swept paths for waste vehicles provided;
- Waste Management Plan does not include waste vehicle specifications;
- no dedicated waste room provided;
- basement entry has insufficient height clearance for a standard waste vehicle;

- no bin cleaning area nominated;
- 360L bins nominated for general waste is not suitable;
- individual tenancies storage and collection of recyclables from individual tenancies is not suitable;
- no details for interim storage of waste and recyclables within tenancies for both buildings;
- No Plan of Operations for both buildings or litter management plan for public domain areas;
- The Waste Management Plan does not clearly indicate building management responsibilities or tenant responsibilities.

The original application included a Waste Management Plan. To respond to issues raised by Council staff, the applicant also submitted an amended Waste Management Plan and a Loading Bay Management plan, to further explain the proposed waste servicing of the site.

The Waste Management Plan identifies that the proposed commercial use will generate 245 litres of waste per week and 245 litres of recycling waste. The proposed cafe spaces will generate 939 litres of waste per week and 626 litres of recycling waste. To accommodate this, the proposal includes an area for 4 bins being two x 360 litre bins and two x 660 litre bins. The two recycling bins will be collected once a week. The two general waste bins will also be collected once a week, although the larger 660 litre waste bin (that relates to the cafe uses) will be collected twice a week.

The proposed commercial building includes one basement level for car parking (13 spaces) which is accessed from Town Terrace. This basement has an area for waste bins to be stored, although this is not a dedicated room. The bin storage area is located near the driveway. It is proposed that this waste area is shared by all the users of the commercial building as well as the proposed new cafe building.

Although there is an existing service / loading area for the larger, existing retail shops, this is located behind the proposed building and positioned at a higher level. It is therefore not accessible to the proposed commercial building. Further, the proposed basement of the commercial building is not large enough to accommodate a waste truck (both height clearance and swept paths, to exit in a forward direction), noting that being a non-residential development, waste will be carried out by the landowner under a private contract.

Therefore, the proposed waste collection will be carried out using the driveway of the building, where the waste vehicle will remain stationary while the waste is transferred. The vehicle will then need to reverse out of the driveway into Town Terrace (a Council owned public road), or the vehicle movement can occur vice-versa, with the truck reversing into the driveway and then leaving in a forward direction. It is acknowledged that this is not an ideal situation and reversing movements for Council waste vehicles would generally not be supported. The applicant was asked to provide more information about the proposed waste collection.

The applicant submitted a Loading Bay Management Plan to respond to this concern. The Plan states the following:

- The entrance to the office car park has been designed with a significant setback from Town Terrace which can accommodate loading vehicles;
- Swept path diagrams demonstrate access to and from the loading area using an 8.8m medium rigid vehicle;
- Therefore, vehicles up to a MRV can suitably prop in the office car park setback while allowing for a vehicle to enter or exit the car park, noting that the arrangement will occur infrequently;
- The truck could make both movements (either reverse into the loading area and drive out in a forward direction, or vice-versa);
- Deliveries that occur with vehicles larger than a standard size van should be scheduled with the building operator and all delivery drivers will be instructed on how to use the loading area;
- Any deliveries using a vehicle larger than a 6.4m truck should ensure that a spotter assists with any

- reversing movement;
- Waste collection will be scheduled outside of office business hours to ensure that the pedestrian and vehicular traffic to and from the basement are low at the time of collection;
- The waste contractor should travel with an assistant that will act as the spotter for any reversing movements;
- The implementation of the Loading Management Plan is the responsibility of the site operator, and should be a dynamic document, reflecting changes in on-site conditions. Therefore, the plan should be periodically revisited and amended when necessary.

Although the proposed waste infrastructure and vehicle movement does not strictly comply with Council's guidelines for commercial developments, the following points have been considered:

- Servicing of the building will be carried out by a private contractor engaged by the landowner / building manager. Council's waste services are not required given the use is commercial;
- The footprint of the proposed commercial building is too small to accommodate a waste vehicle. The truck could neither turn around within the basement, nor would a turntable fit within the space;
- The generation of waste is relatively small, with 4 bins able to be accommodated within the basement;
- The frequency of collection is relatively low, with all recyclable waste collected once a week, all general waste also collected once a week, and one additional collection per week when needed for the cafe waste;
- Town Terrace is a relatively slow moving street as the street has parking spaces on either (opposite) sides. Cars entering the street tend to slow down as vehicles are either looking for a parking spot or are aware that parked vehicles are exiting parking spaces. Further, the street contains speed humps and a zebra crossing, which all result in slowing the movement of traffic; and
- The applicant has submitted a Loading Bay Management Plan and conditions are recommended to require this to be implemented by the future users of both buildings.

Section 4.15(1)(e)The public interest

The proposal is considered to be in the public interest as it will provide an increased supply of suitable commercial and food related uses which will enhance the diversity and vitality of the existing shopping precinct.

Conclusion

The proposed development focuses on the eastern side of the existing Glenmore Park Town Centre shopping precinct. The proposed works include 2 new buildings, one being primarily for office space and a medical centre, and the other being a new food and drink tenancy. The existing hardstand, terraced, and landscaped areas forming part of the eastern side are also proposed to be embellished. The changes will result in level terrace spaces which will be for outdoor dining associated with the adjoining retail tenancies, as well as improvements to the publicly accessible spaces that form part of the site. This includes new bench seating, stairs, planter boxes, and landscaping. Significant trees, including the Ficus tree which is a focal point, will be retained and new trees and landscaping form part of the works.

The proposal has been amended to address design and engineering issues, such as improving facade articulation, removing excess hardstand ramps, introducing curvilinear edges to the landscape design, and complying with stormwater requirements.

The proposal seeks a 5.3% breach of the height control to accommodate rooftop plant and screens for the commercial building. The written request pursuant to Clause 4.6 of the Penrith LEP is sound and the variation can be supported in this instance.

The proposed works, as amended, will enhance the existing shopping centre and provide a more attractive, usable, and diverse space for residents and workers to use.

Recommendation

It is recommended that:

1. The request made pursuant to Clause 4.6 of the Penrith LEP 2010 to vary the development standard for maximum building height, at Clause 4.3 of the Penrith LEP, be supported; and
2. Development Application DA21/0842 for works to Glenmore Park Town Centre at 19-31, 33, and 41 Town Terrace, Glenmore Park, be approved subject to conditions.

CONDITIONS

General

1 [A001 - Approved plans table](#)

The development must be implemented substantially in accordance with the following plans stamped approved by Council, the application form, and the following supporting documents submitted with the application (except as may be amended by the conditions of this consent):

- Noise Impact Assessment (Ref: 610.30579-R01), prepared by SLR Consulting Australia Pty Ltd, revision -v1.0, dated 20 October 2021;
- Transport Impact Assessment, prepared by OneMileGrid, dated 24 February 2022;
- Report on Preliminary Site Investigation (Contamination), project 208929.00, prepared by Douglas Partners, revision R.001.Rev), dated 20 September 2021;
- Waste Management Plan, prepared by OneMileGrid, dated 24 February 2022;
- Loading Management Plan, prepared by OneMileGrid, dated 24 February 2022;
- Access Review - DA Final v2, prepared by Morris Goding Access Consultants, dated 29 October 2021;
- Geotechnical Assessment prepared by JK Geotechnics, reference 34445Brpt, dated 30 September 2021;
- Regulatory Compliance Report prepared by McKenzie Group, Revision A, dated 22 September 2021; and
- Consulting Aboricultural Assessment Report for DA, prepared by elke Landscape Architect and Consulting Arborist, revision A, dated 17 October 2021.

Drawing Title	Drawing No.	Revision Number	Prepared By	Dated
<u>Architectural Drawings</u>				
Title Sheet	A-DA-0000	F	Buchan	02.03.2022
Location Plan	A-DA-0100	E	Buchan	28.10.2021
Overall Site Plan	A-DA-0100-1	F	Buchan	02.03.2022
Proposed Site Plan	A-DA-0101	K	Buchan	02.03.2022
Site Analysis	DA-A-0102	B	Buchan	02.03.2022
Existing/Demo Floor Plan	A-DA-0200	F	Buchan	02.03.2022
Existing/Demo East Elevation	A-DA-0300	A	Buchan	28.10.2021
Commercial Building - Basement Level Plan	A-DA-1010	K	Buchan	02.03.2022
Commercial Building 1 - Level 1	A-DA-1011	I	Buchan	04.02.2022

Commercial Building - Level 2	A-DA-1012	F	Buchan	28.10.2021
Commercial Building - Level 3	A-DA-1013	F	Buchan	28.10.2022
Commercial Building - Level 4 Roof	A-DA-1014	E	Buchan	28.10.2022
Overall Proposed Roof Plan	A-DA-1015	E	Buchan	28.10.2022
Dining Precinct Building 2 - Plans 1	A-DA-1020	G	Buchan	02.03.2022
Dining Precinct Building 2 - Plans 2	A-DA-1021	G	Buchan	02.03.2022
Section	A-DA-2000	F	Buchan	28.10.2022
Commercial Building Elevations 1	A-DA-3100	G	Buchan	02.03.2022
Commercial Building Elevations 2	A-DA-3101	G	Buchan	02.03.2022
Sun Study Diagrams	A-DA-3301	C	Buchan	02.03.2022
Dining Precinct Details	A-DA-4001	E	Buchan	02.03.2022
Dining Precinct Details	A-DA-4002	D	Buchan	28.10.2022
Dining Precinct Details	A-DA-4003	E	Buchan	02.03.2022
Dining Precinct Details	A-DA-4004	C	Buchan	02.03.2022
Dining Precinct Details	A-DA-4005	A	Buchan	28.10.2022
3D Views	A-DA-6000	F	Buchan	28.10.2022
3D Views 2	A-DA-6001	C	Buchan	02.03.2022
3D Views 3	A-DA-6002	F	Buchan	02.03.2022
Rendered Views	A-DA-6003	B	Buchan	02.03.2022
Rendered Views	A-DA-6004	B	Buchan	02.03.2022
Rendered Views	A-DA-6005	B	Buchan	02.03.2022

Rendered Views	A-DA-6006	A	Buchan	28.10.2022
Rendered Views	A-DA-6007	A	Buchan	02.03.2022
Rendered Views	A-DA-6008	A	Buchan	02.03.2022
Rendered Views	A-DA-6009	A	Buchan	02.03.2022
<u>Landscape Drawings*</u>				
Coversheet and Site Plan - 2109_b*	L_100	B	elke	1 November 2021
Southern Zone - 2109_b*	L_101	B	elke	1 November 2021
Middle Terraces Zone - 2109_b*	L_102	B	elke	1 November 2021
Northern Lawn Zone - 2109_b*	L_103	B	elke	1 November 2021
DA Details and Planting Schedule - 2109_b*	L_501	A	elke	14 October 2021
Consulting Arboricultural Tree Retention Rating Plan	Arb_601	B	elke	15 October 2021
Consulting Arboricultural Tree Impact Plan	Arb_602	B	elke	15 October 2021
<u>Civil Drawings</u>				
Cover Sheet, Drawing Schedule, Notes and Locality Sketch	21Q16_DA_C000	02	Buchan	04 February 2022
General Arrangement Plan	21Q16_DA_C100	04	Buchan	18 March 2022
Basement Arrangement Plan	21Q16_DA_C101	02	Buchan	02 November 2021

Stormwater Miscellaneous Details and Pit Lid Schedule	21Q16_DA_C200	04	Buchan	18 March 2022
Pump Out Pit Details	21Q16_DA_C201	01	Buchan	29 September 2021
OSD Tank Plan, Section and Details	21Q16_DA_C202	02	Buchan	18 March 2022
Stormwater Catchment Plan	21Q16_DA_C250	02	Buchan	01 November 2021
Stormwater Detail Catchment Plan	21Q16_DA_C251	01	Buchan	04 February 2022
Sediment and Erosion Control Plan	21Q16_DA_SE01	01	Buchan	20 October 2021
Sediment and Erosion Control Typical Sections and Details	21Q16_DA_SE02	01	Buchan	20 October 2021
Bulk Earthworks Cut and Fill Plan	21Q16_DA_BE00	02	Buchan	02 November 2021

* The approved Landscape Drawings referenced in the table above are required to be amended to reflect the amended Architectural Drawings approved by this Development Consent

2 [A014 - LOT CONSOLIDATION](#)

Prior to the issue of any Occupation Certificate, evidence of lot consolidation and plan registration with NSW Land Registry Services is to be provided to the Certifying Authority and Penrith City Council.

3 [A021 - Business Registration](#)

Prior to the issuing of the Occupation Certificate and commencement of trade, the occupier must register their food business with Penrith City Council by completing Council's "Registration of Premises - Food" Form.

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

To assist persons with disabilities, the following changes are required to be submitted with the Construction Certificate application, to the satisfaction of the Principal Certifier and the Access Consultant:

- The main stair located at the northern end of the site which provides access to and from the single storey pavilion building, is to include two handrails positioned in the middle of those stairs. The purpose of the double hand rail is to assist people in the situation when you have the stairs being used by two persons at the same time, ascending and descending;
- The lifts required to provide equitable access to the building/s and publicly accessible areas are to be designed to provide the relevant and suitable equitable access; and
- The plinths (bleachers / bench seating) is to include nosing strips to assist persons using that area.

5 **A Special (BLANK)**

The use of the indoor and outdoor dining areas are to be managed and operated in accordance with the approved Acoustic Report referenced at Condition 1, including the following:

- Operating hours for patrons are between 7am and 10pm, every day;
- The maximum internal capacity of the single storey pavilion building is limited to 80 patrons;
- The maximum internal capacity of the reconfigured multiple occupancies is limited to 120 patrons; and
- The maximum capacity of the outdoor dining areas is limited to 160 patrons.

The landowner / operator of the premises must adopt a Plan of Management, prior to the issue of an Occupation Certificate, relating to the use, management, and operation of the indoor and outdoor dining areas in accordance with this Condition and the approved Acoustic Report. The Plan of Management can be amended / updated periodically and when required so as to address or improve management practices.

6 **A Special (BLANK)**

The indoor and outdoor food and drink spaces approved by this Development Consent permit restaurant and cafe type food and drink uses. Any future liquor licence must be relevant to a restaurant or cafe use. Consent is not granted for a pub or small bar use.

7 **A Special (BLANK)**

The multi-storey commercial building approved by this Development Consent has been approved for commercial uses, including a retail shop at ground floor, and offices on upper floors, as well as a medical centre on one floor. Should the use relate to a medical centre or professional health consulting rooms, the applicant is to ensure that the future fit-out complies with all of the relevant building and health regulations. The floors to be used as a medical centre also have development consent to be used as offices.

8 **A Special (BLANK)**

The signage shown on the approved architectural drawings referenced at Condition 1 are to be flush wall signs that only display occupiers of the host building/s. No part of the signage shall protrude beyond the facade elements of the host building on which the sign is installed. Any illumination is to be incorporated into the signage (internally illuminated) and the lighting of any signage located above the first floor level is to be designed to be able to be dimmed at night time.

The works are to also include relevant and suitable wayfinding signage, that must only be located on the privately owned portions of the subject site, and must only relate to directional and wayfinding (not advertising of users). All wayfinding signage is to be designed with a consistent appearance and detailing and is to be constructed of high quality and durable material.

9 **A Special (BLANK)**

Details of lighting is to be submitted with, and form part of, the Construction Certificate application, for approval. Lighting is to be included in and around all publicly accessible spaces and building entries. The Private Certifier shall ensure that all lighting has been installed and is operational prior to the release of any Occupation Certificate.

10 **A Special (BLANK)**

Prior to the issue of any Occupation Certificate, the Private Certifier is to ensure that a Loading Management Plan is in place for both approved buildings.

During the use of the buildings, the Loading Management Plan is to be adhered to. It is the responsibility of each tenant and the building manager to ensure that all deliveries, servicing and waste collection from Building 1 is carried out in accordance with the Loading Management Plan, particularly in relation to using 'spotters' prior and while any vehicles over 6.4m in length are carrying out a reverse movement.

It is the responsibility of the building manager and Town Centre operator (applicant) to ensure that the Loading Management Plan is reviewed periodically (minimum of annually) and updated to reflect any required improvements to the operation of the loading area. The Loading Management Plan is not permitted to be amended in a manner that dilutes or removes the need for a 'spotter' as referred to in the current Loading Management Plan, referenced at Condition 1.

11 **A special BLANK**

The future fit-out of the retail tenancies for a food and drink use will require a Complying Development Certificate. Such an application should be accompanied by detailed plans showing compliance with the Food Act 2003, Food Regulation 2015, the Australian New Zealand Food Standards Code, Food Safety Standard 3.2.3 "Food Premises and Equipment" and the AS 4674 – 2004 "Design, Construction and Fit Out of Food Premises". The Private Certifier is to ensure that such relevant standards are met for the future fit-out of the food and drink related premises.

Demolition

12 **B002 - AS FOR DEMOLITION AND DISPOSAL TO APPROVED LANDFILL SITE**

All demolition works are to be conducted in accordance with *AS 2601-2001 - The Demolition of Structures*.

SafeWork NSW requirements apply to demolition work and compliance with those requirements, including the *SafeWork NSW Code of Practice Demolition Work August 2019*, is required.

Prior to demolition, all services shall be suitably disconnected and capped off or sealed to the satisfaction of the relevant service authority requirements.

13 **B003 - ASBESTOS**

Regulatory obligations (including licensing and notification requirements) for the management, control and removal of asbestos are prescribed in the following:

- Work Health and Safety Act 2011,
- Work Health and Safety Regulation 2017,
- SafeWork NSW Code of Practice How to Manage and Control Asbestos in the Workplace August 2019,
- SafeWork NSW Code of Practice How to Safely Remove Asbestos August 2019, and
- Australian Standard AS2601-2001 - The Demolition of Structures.

Compliance with the above legislation is required and reference should be made to SafeWork NSW and to the Asbestos Policy, Penrith City Council, 2014.

All asbestos laden waste must be disposed of at a waste management facility licensed by the NSW Environment Protection Authority to receive asbestos waste.

Environmental Matters

14 **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 certificate demonstrating that the material is suitable has been submitted to, considered and approved by Council. This certificate may be in the form of a validation certificate, waste classification, or appropriate resource recovery order/exemption. A copy of a report forming the basis for the validation is also to be provided. The certification shall:

- be prepared by an appropriately qualified person with consideration of all relevant guidelines, standards, planning instruments and legislation (e.g. EPA, NEPM, ANZECC, NH&MRC),
- clearly state the legal property description of the fill material source site and the total amount of fill tested,
- 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 NSW Environment Protection Authority's "Waste Classification Guidelines" 2014, 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

If the Principal Certifier or Penrith City Council is not satisfied that suitable fill materials have been used on the site, further site investigations or remediation work 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."

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

All demolition and construction 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 are to be fully enclosed when the site is unattended.

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

Waste materials associated with the demolition and construction phase of the development are to be classified and disposed of at a lawful waste facility, or, if suitable, re-used or recycled in accordance with the approved Waste Management Plan. 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.

17 **D013 - Approved noise level 1**

The design and construction recommendations provided in the Noise Impact Assessment prepared by SLR dated October 2021 shall be implemented and incorporated into the design and construction of the development, and shall be shown on plans accompanying the Construction Certificate application.

18 **D014 - Plant and equipment noise**

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

19 **D034- Noise Construction Noise**

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

20 [D035- CEMP](#)

Prior to the issue of the Construction Certificate, a Construction Environmental Management Plan (CEMP) is to be prepared by a suitably experienced / qualified person and submitted to Penrith City Council for approval. If Council is not the certifying authority, a copy of Council's approval is to be provided to the Principal Certifying Authority. The CEMP is to address the environmental aspects of the construction phase of the development and is to include details on the environmental management practices and controls to be implemented on the site.

The CEMP is to address, but is not limited to the following:

- Water quality management,
- Noise control and hours of operation, Dust suppression,
- Waste management (including solid and liquid waste),
- Erosion and sediment control,
- Air quality including odour and dust control.

All construction activities on the site are to be implemented and carried out in accordance with the Council approved CEMP.

21 [D037- Construction Waste](#)

Prior to the issue of the Construction Certificate, a Construction Waste Management Plan is to be submitted to Council for approval. This Plan is to address all waste materials generated during the construction phase of the development, including details of the proposed waste volumes, on site storage and management, designated waste contractors and waste facilities.

The Council approved Waste Management Plan must be implemented and adhered to on site, with supporting documentation / receipts retained in order to verify the disposal of materials in accordance with the approved Plan.

22 [D038- Noise Construction Noise](#)

Prior to the issue of the Construction Certificate, a Construction Noise Impact Assessment and Management Plan, prepared by a suitably qualified acoustic consultant, is to be prepared and submitted to Penrith City Council for approval. This assessment is to consider (at minimum) the noise impacts associated with the construction phase, as well as details of the construction program, construction methods, equipment and vehicles in association with the NSW Department of Environment and Climate Change's "Interim Construction Noise Guideline" 2009.

The recommendations of the Council approved Management Plan are to be implemented and adhered to during the construction phase of the development.

23 [D040- Noise No Amplified Sound](#)

Amplified music from the development is not to be audible at the boundaries of the property. No amplified music is to be used externally, including in the car park. The provisions of the Protection of the Environment Operations Act 1997 apply to the development, in terms of regulating offensive noise.

24 [D044— Noise Mechanical Plant & Equipment](#)

Prior to the issue of the Occupation Certificate, a Compliance Certificate, prepared by a suitably qualified acoustic consultant, is to be submitted to the Principal Certifying Authority and be approved by Penrith City Council. The Certificate is to demonstrate that all plant and equipment has been installed to comply with the established noise criteria.

25 [D048- Offensive Odours/Air Emissions](#)

Offensive odours are not to be emitted from the site. Vapours, fumes, gases, particles or any other substance that are considered to be harmful to human health or the environment or impact unreasonably on a person outside of the premises are not to be emitted from the site.

26 [D058 - Wastewater from garbage bin washing](#)

Wastewater from the washing of garbage bins and vehicles is not to enter the stormwater system.

27 **D082 – Contamination – If unexpected finds occur during works**

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

All remediation works within the Penrith Local Government Area are considered to be Category 1 works under State Environmental Planning Policy (Resilience and Hazards) 2021. Should any contamination be found during development works and should remediation works be required, development consent is to be sought from Penrith City Council before the remediation works commence.

28 **D087 –Contamination further investigation required**

Following demolition works and prior to the commencement of any other works, a further assessment of contamination by an appropriately qualified person is to be undertaken. This assessment is to supplement the Report on Preliminary Site Investigation (Contamination) prepared by Douglas Partners dated September 2021 and is to be undertaken in accordance with relevant NSW Environment Protection Authority Guidelines, the National Environment Protection (Assessment of Site Contamination) Measure 1999 [NEPC2013] and Penrith Development Control Plan.

The assessment is to include (but not be limited to) further sampling to be undertaken as recommended in the Report on Preliminary Site Investigation (Contamination) prepared by Douglas Partners, dated September 2021, and is to be such that the assessment provides confidence that it can determine the state of the land.

The assessment is to be provided to Penrith City Council for approval. If Penrith City Council is not the certifying authority, a copy of Council's approval is to be submitted to the Private Certifying Authority. No works are to commence until the assessment has been submitted and approved by Penrith City Council.

Should it be identified in the assessment that remediation works are required to be undertaken on the site, a separate development application is to be submitted to Council for this work. No work on the current development is to proceed until such time as this new application has been approved by Council, and Council has approved the Validation Report associated with the remediation works.

29 **D131 - Approved noise level 2**

Noise levels from the premises shall not exceed the relevant noise criteria detailed in Noise Impact Assessment prepared by SLR dated October 2021. The provisions of the Protection of the Environment Operations Act 1997 apply to the development, in terms of regulating offensive noise.

BCA Issues

30 **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.

31 E Special (BLANK)

The Construction Certificate application is to include details demonstrating compliance with the recommendations and requirements of the Access Review Report, prepared by Morris Goding, referenced at Condition 1. The Private Certifier is to be satisfied that access and facilities for persons with a disability is provided. This is to include all tenancies of the buildings approved and the outdoor dining areas, with adequate connections to public streets and the car park area on Town Terrace.

Utility Services

32 G002 - Section 73 (not for

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

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

33 G004 - Integral Energy

Prior to the issue of a Construction Certificate, a written clearance is to be obtained from Endeavour Energy stating that electrical services have been made available to the development or that arrangements have been entered into for the provision of services to the development. This includes any easement for access that is required by Endeavour Energy in relation to the substation or utility infrastructure. The Private Certifier is to ensure that any required easement is registered on title prior to the release of any Occupation Certificate for the 3-4 storey commercial building, known as Building 1.

34 G Special 1

The applicant is to take into account the advice provided by Endeavour Energy in their referral response by letter dated 7 December 2021.

35 G Special 2

The substation is only approved in the position shown on the architectural drawings referenced at Condition 1. Any relocation of the substation to any area of the site which is either visible to the public or on a property boundary facing a public space (including a street or road) is not approved and shall require a modification of this development consent, or written approval by Council staff for the relocated position.

36 G Special 3

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

37 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 on site, and
- in a prominent position on the work site and in a manner that can be easily read by pedestrian traffic.

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

38 H002 - All forms of construction

Prior to the commencement of construction works:

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

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

(b) All excavations and back filling 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.

39 [H004 - Dust](#)

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

40 [H005 - Mud/Soil](#)

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

41 [H006 - Hours of work](#)

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

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

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

Engineering

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

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

43 [K201 - Infrastructure Bond](#)

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

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

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

44 [K202 - S138 Roads Act - Minor Works in the Public Road](#)

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

- a) Vehicular crossings (including kerb reinstatement of redundant vehicular crossings)
- b) Road opening for utilities and stormwater (including stormwater connection to Penrith City Council roads and other Penrith City Council owned drainage)
- c) Road occupancy or road closures (including temporary construction work zones and tower crane operation)
- d) The placement of hoardings, structures, containers, waste skips, signs, etc in the road reserve
- e) Temporary construction access
- f) Temporary ground anchors (for basement construction)
- g) Relocation of existing accessible parking spaces within Town Terrace

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

Note:

- Where Penrith City Council is the Certifier for the development, the Roads Act approval for the above works may be issued concurrently with the Construction Certificate or Subdivision Works Certificate.
- Separate approval may be required from Transport for NSW 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.

45 [K210 - Stormwater Management](#)

The stormwater management system shall be consistent with the plan/s lodged for development approval, prepared by Henry & Hymas, reference number 21Q16_DA_C100, revision 04, dated 18/03/2022 and 21Q16_DA_C101, revision 02, dated 02/11/2021.

Prior to the issue of any Construction Certificate, the Certifier shall ensure that the proposed swale and drainage line P-3 to P-1 is relocated out of the Town Terrace road reserve and wholly contained within the development site.

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

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

46 [K211 - Stormwater Discharge - Basement Car Parks](#)

Prior to the issue of any Construction Certificate, the Certifier shall ensure that the stormwater drainage system for the basement car park has been designed in accordance with the requirements for pumped systems in AS 3500.3 Plumbing and Drainage - Stormwater Drainage.

47 [K222 - Access, Car Parking and Manoeuvring - General](#)

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

48 [K224 - Construction Traffic Management Plan](#)

Prior to the commencement of any works on-site (including demolition works) or prior to the issue of any Construction Certificate, whichever occurs first, a Construction Traffic Management Plan (CTMP) shall be submitted to Penrith City Council's Asset Management Department for endorsement. The CTMP shall be prepared by a suitably qualified consultant with appropriate training and certification from Transport for NSW. The CTMP shall include details of any required road closures, work zones, loading zones and the like. Approval of the CTMP may require approval of the Local Traffic Committee. Please contact Council's Asset Management Department on 4732 7777 and refer to Council's website for a copy of the Temporary Road Reserve Occupancy Application Form.

49 [K301 - Sediment & Erosion Control](#)

Prior to commencement of works sediment and erosion control measures shall be installed in accordance with the approved Construction Certificate and to ensure compliance with the Protection of the Environment Operations Act 1997. The erosion and sediment control measures shall remain in place and be maintained until all disturbed areas have been rehabilitated and stabilised.

50 [K302 - Traffic Control Plan](#)

Prior to commencement of any works associated with the development, a Traffic Guidance Scheme, including details for pedestrian management, shall be prepared in accordance with AS 1742.3 Traffic Control Devices for Works on Roads and the Transport for NSW (TfNSW) publication Traffic Control at Worksites Technical Manual, and certified by an appropriately accredited TfNSW 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 Guidance Scheme 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 any Construction Certificate or Subdivision Works Certificate.

51 [K405 - Turf to Verge](#)

Upon completion of all works in the road reserve, all verge areas fronting 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.

52 [K501 - Penrith City Council Clearance - Roads Act / Local Government Act](#)

Prior to the issue of any Occupation Certificate, the Principal Certifier shall ensure that all works associated with a Section 138 Roads Act approval have been inspected and signed off by Penrith City Council.

53 [K503 - Works As Executed - Stormwater Management](#)

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

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 Penrith City Council is not the Principal Certifier.

54 [K504 - Stormwater Compliance](#)

Prior to the issue of any Occupation Certificate, the Principal Certifier shall ensure that the:

- a) Stormwater management systems (water quality device)
- 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, and;
 - any remedial works required to be undertaken have been satisfactorily completed.

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

55 [K505 - Restriction on the Use of Land and Positive Covenant](#)

Prior to the issue of any Occupation Certificate, a restriction on the use of land and positive covenant relating to the:

- a) Stormwater management systems (water quality device)

shall be registered on the title of the property. The restriction on the use of land and positive covenant shall be in Penrith City Council's standard wording as detailed in Council's Stormwater Specification for Building Developments - Appendix F.

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

The stormwater management system shall continue to be operated and maintained in perpetuity for the life of the development in accordance with the final operation and maintenance management plan.

Regular inspection records are required to be maintained and made available to Penrith City Council on request. All necessary improvements are required to be made immediately upon awareness of any deficiencies in the stormwater management systems.

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

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

58 **K Special (BLANK)**

Prior to the issue of any Construction Certificate, the Certifier shall ensure that the required sightlines around the basement entrance are not compromised by landscaping, fencing, signage or other obstructions.

59 **K Special (BLANK)**

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

60 **K Special (BLANK)**

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

Landscaping

61 **L001 - General**

All landscape works are to be constructed in accordance with the stamped approved plans and the Arborist Report referenced at Condition 1 and Penrith Council's Development Control Plan.

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.

62 **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.

63 **L010 - Retain existing trees (no tree bond required)**

The trees identified for retention in the Arborist Report, Landscape Plans, and Architectural Drawings, all referenced at Condition 1 shall be retained and duly protected during the construction of the development.

Should the tree marked on the Architectural Drawings as being "*retain existing trees if possible*" be removed, replacement tree/s shall be planted in its place and in approximately a similar position, or a suitable position to provide shade to the grassed area.

Tree protection measures shall:

- include information relating to the proposed hardstand structures to be placed near the central Ficus Tree with regard to ensuring that the structures are robust enough to withstand growth of the tree roots of this tree, with an emphasis on protecting the tree, and its future normal growth, and
- be installed before any works can commence on site including the clearing of site vegetation, and
- comply with the standards prescribed by the Tree Management Plan, and
- be certified by the author of the Arborist Report before any works can commence on site. The certification is to be a Compliance Certificate or other written document certifying that the tree protection measures have been installed in accordance with the recommendations in the approved Arborist Report and/or Tree Management Plan. The Compliance Certificate or other suitable documentation shall be submitted to the Principal Certifier a minimum 2 days prior to the commencement of site works. A copy of the Compliance Certificate or written documentation is to be submitted to Council with the "Notice of Commencement".

64 **L Special (BLANK)**

Any sandstone removed during the works is to be retained, cleaned, and reused in the proposed new works, as far as reasonably practical.

Development Contributions

65 **N001a - Section 7.11 contribution (apply separate condition for each Contribution Plan)**

This condition is imposed in accordance with Penrith City Council's Section 7.12 Contributions Plan for Non-Residential Development. Based on the current rates detailed in the accompanying schedule attached to this Notice, **\$117,442.00 is to be paid to Council prior to a Construction Certificate being issued for this development** (the rates are subject to quarterly reviews). If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted Section 7.12 Contributions Plan. The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule.

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

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

66 **Q01E - Obtain Construction Certificate before commencement of works**

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

67 **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 Certifier 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.

68 **Q05F - Certification**

An Occupation Certificate is to be obtained from the Principal Certifier on completion of all works and prior to the occupation of any of the buildings approved by this Development Consent.

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. This includes all works shown on publicly accessible areas, such as landscaping, parking, bench seating, stairs, lighting, and the like.

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 Certifier.

Appendix - Development Control Plan Compliance

Development Control Plan 2014

Part C - City-wide Controls

C5 - Waste Management

Matters relating to waste management have been discussed in the body of the report.

C10 - Traffic, Access and Parking

The proposed commercial building will include parking for 13 cars within a basement level. However, the proposed works to create the access to the basement, will also involve the removal of 8 on-street parking spaces from Town Terrace. An additional 3 on-street parking spaces will also be removed to accommodate the new pedestrian crossing and shared zone.

The Penrith DCP requires 1 car space per 40 square metres of office space and 1 car space per 30 square metres of retail space. Based on these rates, the proposed development would require 72 parking spaces to strictly comply with the DCP. The shortfall is therefore 59 spaces, based on the uses being office and retail. However, the applicant has indicated that at least one floor of the commercial building may be a medical centre. The Penrith DCP has different car parking rates for medical centres, based on the number of staff (which is not yet known). Further, the RMS guide for medical centres is 4 spaces per 100sqm, which in this case would mean a greater parking non-compliance than if the whole space was office. If the RMS guideline was used and if one floor was a medical centre, the overall proposal would require 84 parking spaces.

Nevertheless, the DCP also allows Council to waiver or reduce the number of car spaces required if the non-compliance can be justified. Considerations include; proximity to public transport; opportunity to share parking with another use; and an empirical assessment of existing car parking.

The application is accompanied by a Transport Impact Assessment. This report states the following as a means of justifying the parking shortfall:

- The Glenmore Park Town Centre is serviced by bus routes 794, 797, and 799 which provide access to the Penrith CBD and surrounding suburbs;
- There will be 59 on-street parking spaces retained on Town Terrace directly outside the proposed development, and 84 parking spaces are available on Council owned land to the north;
- Employees and customers will also be able to use the existing 283 spaces in the at-grade parking area and the 374 under cover spaces provided in the Town Centre;
- Patrons are likely to come to the town centre for more than one reason and therefore will 'share' spaces; and
- The existing building to be demolished represents 425sqm of office space and has no on-site parking, so a credit for 11 spaces could be considered.

Council's Traffic Engineer has raised no objection to the number of car parking spaces provided, nor those proposed to be removed on Town Terrace. On planning grounds, the applicant's justification for the non-compliance is sound. Therefore, the non-compliance with the DCP parking rates is acceptable in this instance.

E7 Glenmore Park

This Chapter of the DCP is divided into Glenmore Park - Stage 1 and Glenmore Park - Stage 2. The subject site falls within the Stage 1 section of the DCP Chapter and specifically within Glenmore Park Local Centre (Figure E7.2). The objectives for the Glenmore Park Local Centre include contributing to the growth and character of the centre, encouraging high quality design, enhancing the public domain, and ensuring that future redevelopment integrates with existing access paths for pedestrians and cyclists.

In addition, the DCP outlines six main principles for the Glenmore Park Local Centre. These include; the desire for a Town Centre with a "heart"; the Town Centre having its own identity; being a hub/focus for the community; having an attractive, safe 'main street' character; and providing sufficient facilities to serve the local residents and the entire community of Glenmore Park.

The area of the proposed works is also identified in the DCP as the "Town Terrace East/West Spine Road". The desired future character is to provide an active shopping street to function as a 'main street' and provide convenience to shoppers, in a setting for both retail and commercial services.

With regard to the general and specific objectives above, as well as the character statements, it is considered that the proposed development as amended meets these objectives. The inclusion of office space instead of more retail shops is supported as it will provide a variety of support services to the centre, allowing residents to carry out other functions as well as general shopping for food and groceries. The inclusion of a likely medical centre also offers a variety of uses. The proposed food related new building and changes to provide outdoor dining, will aesthetically enhance the appearance of the eastern side of the Town Centre, creating a destination location to eat and shop. The proposed changes to the publicly accessible areas on private land, including new vegetation, trees, bench seating, plinths, and stairs, will improve the current appearance of the area and provide spaces for passive recreation (such as sitting outdoors and casual eating).

With regard to specific and DA relevant controls in Chapter E7 the following points are made:

- *7.2.4 - a) Development along the Main Street should have active retail permises on the ground floor such as cafe, restaurants and shopfronts, d) The Main Street is to be a high quality vibrant pedestrian orientated street:* **Complies**, the majority of the eastern facade will contain publicly accessible bench seating in front of cafe uses. The proposed single storey building will be food related uses. Changes to shopfronts along the eastern facade are included in this application, although future fit-outs and uses will likely occur via the Complying Development Certificate process.
- *7.2.5.3 - Setbacks are to be generally consistent with Figure E7.5:* **Does not Comply**, This figure (and others in the DCP Chapter) show that the area on which the proposed single storey food-related building is to be located, as an open "East Terrace" which provides a gateway entrance into the Town Square portion of the site. This matter was discussed at the Urban Design Review Panel and Pre-lodgement meetings. Although the DCP did not anticipate a building located on part of what is shown as the East Terrace, it was considered on balance, that the proposed single storey building, offering a food use with a connection to an outdoor dining terrace, was a desirable outcome. This design provides an attractive focal point and destination when approaching the site from the east and responds to the position of the gateway entry to the Town Centre from the adjoining

park and sporting fields. Further, the proposed building is single storey, and has curved facades which respond to the circular landscaped tree feature forming an entrance to the site from the east.

- *7.2.5.4 - New Buildings should comply with the maximum heights as shown on Figure E7.7 (this being 10 metres for the eastern portion of the subject site), with other elements such as plant and roof treatments able to exceed this height control: **Does not Comply**, While the proposed single storey food-related building complies with this control, the proposed 3-4 storey commercial building at the southern end of the eastern side sits at between 15.4-15.8 metres. As discussed in this report, the Penrith LEP permits a maximum height of 15 metres at the site, with the LEP being the statutory development standard. It is therefore unclear why the DCP would reference a maximum height that is less than that permitted by the LEP. Notwithstanding this, it is considered that the form, scale and bulk of the proposed commercial building is suitable in context and will add interest and vitality to the area.*
- *7.2.5.5 - Articulate exterior facades to provide visual interest, avoid large expanses of any single material, break glazing into modulated rhythmic sections, incorporate design treatments to reduce visual mass, roof forms to be visually interesting: **Complies**, The proposal was reviewed three times by Council's Urban Design Review Panel, both prior to, and after DA lodgement. As a result of these reviews, the applicant made amendments to the proposal to address design matters relating to the proposed commercial building. The most recent amendments including the addition of glazing elements to the exposed southern facade of the building. Overall, the proposed facade design, materials and articulation of both proposed building is acceptable.*
- *7.2.5.7 - New development along external boundaries shall incorporate landscaping that softens building elements and spaces, landscaping treatments along with improved pedestrian amenity shall be integrated into the design of new entry points, street furniture and other public domain elements are integrated into the design of all public spaces, minimise changes in levels and enhance access for those who may be disabled: **Complies**, Council's Urban Design Review Panel provided detailed advice about how landscaping, equitable access and movement, and public domain design should be addressed in the proposal. As a result, the proposed design includes a series of plinths or benches that serve to provide informal seating areas which are available to the public (without the need to consume food/drink purchased on-site). The bench seating includes stairs for easy access that at certain points also provide same level access to some of the bench seats. Landscaping in planter boxes is also interspersed with the bench seating. Equitable access has been discussed in the body in the report, specifically in response to the review of the proposal by Council's Access Committee.*

In addition, Chapter E7 of the DCP contains objectives and controls relating to parking design, public domain design, servicing, traffic calming devices along Town Terrace, and sustainable design. In general, these matters have been discussed throughout this Report and have formed part of the assessment of the application. In particular, the proposal includes some changes to Town Terrace such as relocating disabled parking spaces to be closer to the building entry, providing a pedestrian crossing, and retaining the existing speed humps. Matters relating to water management and reuse have been discussed with Council's Engineer and Waterways Officer and amendments have been made to the proposal to ensure that water reuse is addressed.