

# PENRITH CITY COUNCIL

## MAJOR ASSESSMENT REPORT

<b>Application number:</b>	DA16/0739.06
<b>Proposed development:</b>	Section 4.55(1a) Modification to the Overlander Hotel for Conversion of the Existing Managers Residence to a Function Room and Associated Works
<b>Property address:</b>	180 Richmond Road, CAMBRIDGE GARDENS NSW 2747
<b>Property description:</b>	Lot 1 DP 581663
<b>Date received:</b>	10 September 2020
<b>Assessing officer</b>	James Heathcote
<b>Zoning:</b>	Zone B6 Enterprise Corridor - LEP 2010
<b>Class of building:</b>	Class 9b
<b>Recommendations:</b>	Approve

### Executive Summary

Council is in receipt of a Section 4.55(1A) modification to the Overlander Hotel for Retrospective Conversion of the Existing Managers Residence to a Function Room and Associated Works at 180 Richmond Road, Cambridge Gardens NSW 2747.

The proposed modifications include retrospective conversion of the redundant manager's apartment into a function room (88sqm in area), retrospective changes to internal access, including disabled access ramps, entry/exits and facilities for disabled persons, and modification of Condition 1 to reflect amended architectural plans.

The original development through DA16/0739 included extensive exterior and interior alterations and additions to the Overlander Hotel, adding to the existing bar, bistro, dining and gaming areas. Through this modification application, the changes from the managers room into a function room is associated with the overall development and is directly linked to other works within the hotel development. The works associated with the original development application are adjacent to the function room and associated dining areas and therefore the works do not alter the original development and are substantially the same as the original approval.

The application was referred to Council's Building Surveyors, Environmental Management Department, Social Planning Department and Community Safety Officer, who all raised no objection subject to recommended imposed and retained conditions of consent. Notably, Council's Building Surveyors stated that a Building Information Certificate application process is required in ensuring compliance with the Building Code of Australia (BCA) and other relevant requirements.

The proposed modifications have been assessed as not creating any additional amenity issues to neighbouring sites nor any visual impact from the street perspective. No planning concerns are raised regarding the proposed modification, with the proposal being substantially the same as the previously approved Overlander Hotel redevelopment, which included alterations and additions to dining areas in accommodating for the additional congregation of people for the purposes allowed by the existing approved Overlander Hotel development.

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

## Site & Surrounds

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The site includes the Overlander Hotel, which is located on the east side of Richmond Road (A9) in Cambridge Gardens. The site is a rectangular shaped allotment with vehicular access to Boomerang Place and Lewis Road via several entry/exit points. The site is approximately 8931m<sup>2</sup> in size. The site is zoned B6 Enterprise Corridor.

The broader locality includes a shopping centre to the north and surrounding the site is well established low density residential development.

### Consent History for the Subject Site:

- DA16/0739.07 - Modification to the Existing Overlander Hotel to construct an Outdoor Deck to the North, Redesign of the eastern entry and reduction of parking spaces from 166 – 155 spaces #Withdrawn
- DA16/0739.06 - **Subject Application.**
- DA16/0739.05 - Modification to Development Consent for the Overlander Hotel. Changes to Exit Door, Storm Water Drainage and Construction of New Verandah Deck to North-West Corner #Approved.
- DA16/0739.04 - Modification to approved Alterations and Additions to the Overlander Hotel, proposed amendments to wording of conditions 1, 37, 43, 44 and 46 #Approved.
- CCP19/0086 - Alterations and additions to the Overlander Hotel inc. associated advertising signage, car parking, landscaping and drainage works.
- DA16/0739.03 - Modification to existing development consent for the Overlander Hotel inc. associated advertising signage, car parking, landscaping and drainage works #Approved.
- DA16/0739.02 - Extension of consent #Approved.
- DA16/0739.01 - Modifications to external materials and finishes, signage details, and internal layout arrangements #Approved.
- DA16/0739 - Alterations and additions to the Overlander Hotel inc. associated advertising signage, car parking, landscaping and drainage works #Approved.
- PL16/0022 - Alterations and additions to the Overlander Hotel.
- DA10/0492 - Alterations and additions to the Overlander Hotel-Motel.
- CC07/0513 - Overlander Hotel - Alterations and additions.
- DA07/0990 - Overlander Hotel - Alterations and additions.
- DA05/1801 - Hotel addition and alterations.
- DA03/2737 - Additions to Hotel.
- DA02/0029 - Change of hours of operation.
- DA01/1480 - Multi purpose light pole with telecommunication facilities.
- DA00/5665 - Addition of new tab agency to existing premises hotel.
- CC06/0388 - Hotel addition and alterations.
- CC04/0664 - Additions to hotel.
- CC01/0969 - Addition of a tab agency to the existing hotel.
- DA994259 - Enclosing existing beer garden.
- DA980243 - Additional 12 hotel rooms.
- DA970335 - Upgrading existing hotel (interior refurbishment, new beer garden, car park rearrangement).
- BA981757 - Additions Overlander hotel.
- BA97/3038 - Upgrading and refurbishment of hotel.
- DA61/71 - A hotel/motel [Determination date: 14/09/1971].

### Background:

- Regarding the Occupation Certificate status for works relating to DA16/0739 (as modified), the applicant advised on 15 September outstanding items being the replacement of 6 trees and 20 shrubs, completion of the S138 Roads Act approval and completion of a walkway wall to the underside of the roof.
- The applicant advised the delay of these works relate to recent COVID lockdowns.
- The applicant has acknowledged the requirement for a Building Information Certificate process required following determination of the subject application.

## Proposal

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The proposed modification application relates to the following works:

- Retrospective conversion of the redundant manager's apartment into a function room (88sqm in area),
- Retrospective changes to internal access, including disabled access ramps, entry/exits and facilities for disabled persons,
- Modification of Condition 1 to reflect amended architectural plans.
- Modification of Conditions 8, 19, 21 to reflect recommended conditions from internal department referrals.

The purposes of the modifications are:

- To make efficient use of existing premises through conversion of the redundant manager's apartment associated with the hotel into a function room;
- To improve access facilities for persons with a disability;
- To improve access and weather protection for people using the motel units and function room/dining area; and
- To increase opportunities for social distancing in the Overlander Hotel's facilities in a COVID-19 environment.

The development, as modified, remains substantially the same development as approved by development consent no. DA16/0739, being alterations and additions to the Overlander Hotel.

## Plans that apply

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### Planning Assessment

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- **Section 4.15 - Evaluation**
- **Section 4.55(1A) - Modifications involving minimal environmental impact**

The development has been assessed in accordance with the matters for consideration under Section 4.15 and Section 4.55(1A) of the Environmental Planning and Assessment Act 1979, and having regard to those matters, the following issues have been identified for further consideration.

- The original development through DA16/0739 included extensive exterior and interior alterations and additions to the Overlander Hotel, adding to the existing bar, bistro, dining and gaming areas. Through this modification application, the changes from the managers room into a function room is associated with the overall development and is directly linked to other works within the hotel development. The works associated with the original development application are adjacent to the function room and associated dining areas and therefore the works do not alter the original development and are substantially the same as the original approval.
- Referral to Council's Building Surveyor, Environmental Management Department, Social Planning Department and Community Safety Officer raised no objections, subject to recommended conditioning. As such, the proposed modifications have been assessed as having minimal environmental impact.

In accordance with Section 4.55(3), consideration has been given to the matters referred to in Section 4.15(1) that are of relevance to the development subject of this application.

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

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

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

### Context and Setting

The proposed modifications will not significantly impact upon the established Overlander Hotel development site, with proposed modifications occurring within the existing building only.

### Building Code of Australia (BCA) Compliance

Given the retrospective nature of the proposal and its associated works, a site inspection was conducted and the application was referred to Council's Building Surveyors, who raised no objections subject to recommended conditions (including retention of conditions) and the requirement for a Building Information Certificate being lodged by the applicant to ensure BCA compliance. See discussion under the Building Surveyor Referral section of this report for more information.

### Acoustic Amenity Impact

Given the activities to occur within the former manager's residence, an acoustical assessment was requested to address any nearby sensitive receivers. The applicant submitted an Acoustic Report, which addressed measures in place that reduce acoustic impacts. This was referred to Council's Environmental Management Department, who raised no objections subject to recommended conditions of consent. See discussion under the Environmental Management Referral section of this report for more information.

### On-site Car Parking

On-site car parking provision is unchanged as a result of the proposed modifications.

### Landscaped Area

Landscaped areas are unchanged as a result of the proposed modifications.

## Section 4.15(1)(d) Any Submissions

### Community Consultation

In accordance with Council's Community Engagement Strategy, the proposed development was notified to nearby and adjoining residents between 21 September 2020 to 5 October 2020. Council notified 22 neighbouring properties and did not receive any submissions in response.

### Referrals

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

Referral Body	Comments Received
Building Surveyor	No objections - subject to conditions
Development Engineer	No objections - subject to conditions
Landscape Architect	No objections - subject to conditions
Environmental - Environmental management	No objections - subject to conditions
Environmental - Waterways	No objections
Traffic Engineer	No objection subject to conditions
Community Safety Officer	No objections
Tree Management Officer	No objections - subject to conditions
Social Planning	No objections

### Building Surveyor

The application was referred to Council's Building Surveyor's, who noted the following:

- The works proposed by the subject modification application have already been completed, and as such this application seeks retrospective approval.
- A Building Information Certificate (BIC) will be required, where requirements for structural and Building Code of Australia compliance will be addressed.
- Confirmation has been received by Council's Building Certification and Fire Safety Coordinator

regarding the above course of action.

Given the above, no objections were raised by Council's Building Surveyors subject to recommended conditions of consent (including retention of conditions from the original application).

#### **Community Safety Officer**

The application was referred to Council's Community Safety Officer, who raised no objections subject to recommended conditioning relating to Crime Prevention Through Environmental Design (CPTED) measures. However, CPTED measures already apply for the development and negate the need for additional conditioning.

#### **Development Engineer**

Referral to Council's Development Engineering Department occurred in a previous application process. Conditions of consent have been retained through this consent.

#### **Environmental - Environmental management**

During assessment of the application, the applicant was requested to address the following:

- Penrith Development Control Plan 2014, 12.4 Industrial and Commercial Development, Clause C(1)(a)(v) states that Council will not grant consent to any noise generating industrial development, commercial development or licensed premises unless it can be demonstrated that the development does not adversely impact on the amenity of the area or cause sleep disturbance.
- This section further states that all applications where the above controls are relevant are required to provide a Noise Impact Statement (NIS) prepared by a qualified acoustic consultant. The NIS should demonstrate acoustic protection measures necessary to achieve an indoor environment meeting residential standards, in accordance with relevant noise criteria, as well as relevant Australian Standards.
- Given the above, concern was raised regarding potential sleep disturbance to those residing in the motel as the proposed function room will generate noise that it did not before. As such, the applicant was requested to provide an acoustic assessment to address the above, including consideration also residential receivers along Lewis Road.

Upon request from Council, the applicant submitted an Acoustic Assessment, prepared by The Acoustic Group (Consulting Acoustical and Vibration Engineers) reference 51.4616.R3:MSC and dated 3 June 2021. The report was referred to Council's Environmental Management Department, whose assessment included the following:

- The report identified lower background noise levels during the current COVID lock-down period and referred to previous acoustic assessments conducted at the site, providing a thorough a representative background noise levels and on-site monitoring conducted in February 2021 during the operation of the Overlander Hotel.
- On-site monitoring confirmed that mechanical plant and equipment in place on the premises are in compliance with relevant requirements, that being no greater than 5dBA (a-weighted decibels) above background noise levels at the nearest receiver.
- The existing Overlander Hotel development is subject to noise limitations imposed by Liquor and Gaming NSW, which applies to the proposal. On site monitoring demonstrated compliance with the set criteria, and the above report includes measurements that predict the function room will not give rise to any measurable increase of noise above ambient background levels at nearest residential receivers.
- Importantly, the report includes the following noise control measures: internal noise limit of 96dBA, all amplification in the function room controlled by a noise cut to a set threshold and certification of appropriate limited setting to confirm and maintain compliance.

Given the above, Council's Environmental Management Department raised no objections subject to recommended conditions of consent, including retention of relevant conditions from the original application. New recommended conditions include:

- Compliance with recommendations of the above-mentioned report,
- Compliance monitoring and reporting requirements,
- Stipulating the use of the function room to cease at 12:00am midnight.

#### **Environmental - Waterways**

Referral to Council's Waterways Department occurred in a previous application process. Conditions of

consent have been retained through this consent.

**Landscape Architect**

Referral to Council's Landscape Architect occurred in a previous application process. Conditions of consent have been retained through this consent.

**Social Planning**

The application was referred to Council's Social Planning Department, who raised no objections. Commentary given referred to the legibility of disabled access/signage and CPTED measures, which are addressed through conditions.

**Traffic Engineer**

Referral to Council's Traffic Engineering Department occurred in a previous application process. Conditions of consent have been retained through this consent.

**Tree Management Officer**

Referral to Council's Tree Management Officer occurred in a previous application process. Conditions of consent have been retained through this consent.

**Section 4.15(1)(e)The public interest**

The proposed modifications improve access and facilities for the existing Overlander Hotel and as such will not generate any significant issues of public interest.

**Conclusion**

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Council is able to modify a previously issued development consent involving minimal environmental impacts. There being no outstanding planning considerations, the Section 4.55(1A) application is considered to be worthy of Council's support.

**Recommendation**

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That DA16/0739.06 for Section 4.55(1a) Modification to the Overlander Hotel for Retrospective Conversion of the Existing Managers Residence to a Function Room and Associated Works at 180 Richmond Road, Cambridge Gardens NSW 2747, be approved subject to the recommended modified conditions.

# CONDITIONS

## General

### 1 A001

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

Drawing Title	Project No.	Drawing	Prepared By	Dated
Site Plan	1025	1.1(02)	Simon Wells Architect	27/06/2016
Traffic Plan	1025	1.2(02)	Simon Wells Architect	27/06/2016
Elevations	1025	4.1(02)	Simon Wells Architect	27/06/2016
Access Toilet	1025	8.1(02)	Simon Wells Architect	18/07/2016
Ground Floor	1025	2.1(02)	Simon Wells Architect	18/07/2016
Sections	1025	5.1(02)	Simon Wells Architect	27/06/2016
Sections	1025	5.2(02)	Simon Wells Architect	27/06/2016
Landscape Concept	4487		Monaco Designs PL	14/06/2016
Sediment and Erosion Control Plan		80216097-CI-1005 Revision 2	Cardno	July 2016
Drainage Detail Plan		80216097-CI-1010 Revision 2	Cardno	July 2016
Detention Tank and Drainage Details		80216097-CI-1015 Revision 2	Cardno	July 2016
Catchment Plan		80216097-CI-1020 Revision 2	Cardno	July 2016
Spel Filter System		SP16-SF1130-S	Spel Environmental Integrated Water Solutions	29/01/2016

and as amended by the following plans numbered:

Description	Plan No	Revision	Prepared By	Date
Site Plan	1.1(09)	8	Simon Wells Architect	17.09.19
Ground Floor	2.1(08)	6	Simon Wells Architect	05.12.18
Elevations	4.1(09)	8	Simon Wells Architect	17.09.19
Sections	5.1(09)	8	Simon Wells Architect	10.09.19
Sections	5.2(09)	8	Simon Wells Architect	17.09.19
Sediment & Erosion Control Plan	80216097-CI-1005	5	Cardno Pty Ltd	11.04.19
Drainage Detail Plan	80216097-CI-1010	6	Cardno Pty Ltd	17.09.19
Catchment Plan	80216097-CI-1020	5	Cardno Pty Ltd	11.04.19

and further amended as follows:

Description	Plan No	Revision	Prepared By	Date
Ground Floor	Project No: 1025 2.1(11)	11	Simon Wells Architect	30.01.20
Elevations W,N,E & Sections C,G,K,M,N,O	Project No: 1025 5.3(11)	11	Simon Wells Architect	30.01.20
First Floor	Project No: 1025 2.2(08)	5	Simon Wells Architect	30.01.19

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 55-Remediation of Land. 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.

**As amended on 29 March 2018, 20 March 2019, 30 May 2019, 30 October 2019 and 4 November 2021 under Section 4.55(1a) of the Environmental Planning Assessment Act, 1979.**

2 [A019 - OCCUPATION CERTIFICATE \(ALWAYS APPLY\)](#)

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

3 [A046 - Obtain Construction Certificate before commencement of works](#)

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

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

Hotel security personnel shall be responsible for the dispersal of hotel patrons in a quiet and orderly manner from the car park after closing.

Appropriate signage shall be installed in the car park area instructing hotel patrons to consider the comfort of neighbours and exit the car park in a quiet manner prior to the issue of an Occupation Certificate.

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

Club Management shall be available at a mutually convenient time, at the invitation of Penrith City Council, and/or the NSW Police, to discuss and action agreed community safety, security or Responsible Service of Alcohol issues in conjunction with other local stakeholders in the area should the need arise.

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

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

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

The pylon sign nominated on the Elevations Plan Drawing No. 4.1(02) dated 27/06/2016 is to be located within the property boundary of 180 Richmond Road, Cambridge Gardens. Details of the location is to be submitted to Council for approval prior to the issue of a construction certificate.

8 [A special BLANK](#)

Use of the external deck area is to be in accordance with the 'Noise Management Report For Proposed External Deck at Overlander Hotel 180 Richmond Road Cambridge Gardens' prepared by Simon Wells Architects and dated 21 October 2019.

All noise generated from the use of the smoker's verandah and deck area is not to be audible at the property boundaries.

The use of the Function Room is to cease at 12:00am (midnight) each night.

**As amended on 4 November 2021 in accordance with Section 4.55(1a) of the Environmental Planning and Assessment Act, 1979.**

## Demolition

9 [B002 - AS FOR DEMOLITION AND DISPOSAL TO APPROVED LANDFILL SITE](#)

All demolition works are to be conducted in accordance with the provisions of AS 2601-1991 "The Demolition of Structures". **Prior to demolition**, all services shall be suitably disconnected and capped off or sealed to the satisfaction of the relevant service authority requirements.

All demolition and excavated material shall be disposed of at a Council approved site or waste facility. Details of the proposed disposal location(s) of all excavated material from the development site shall be provided to the Principal Certifying Authority **prior to commencement of demolition**.



#### 10 B003 - ASBESTOS

You should read Council's Fact Sheet titled "Handling and Disposal of Fibrous Cement Products" **before any demolition works commence on the site.**

**Prior to commencement of demolition works on site**, a portaloos with appropriate washing facilities shall be located on the site and the Principal Certifying Authority is to be satisfied that:

- Measures are in place so as to comply with the WorkCover Authority's "Short Guide to Working with Asbestos Cement" and
- The person employed to undertake the works is a licensed asbestos removal contractor and is holder of a current WorkCover Asbestos Licence.

Any demolition works involving the removal of all asbestos shall only be carried out by a licensed asbestos removal contractor who has a current WorkCover Asbestos Licence.

All asbestos laden waste, including asbestos cement flat and corrugated sheeting must be disposed of at a tipping facility licensed by the Environmental Protection Authority to receive asbestos wastes.

#### 11 B004 - Dust

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

#### 12 B005 - Mud/Soil

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

#### 13 B006 - Hours of work

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

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

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

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

## Environmental Matters

#### 14 D001 - Implement approved sediment& erosion control measures

Erosion and sediment control measures shall be installed **prior to the commencement of works on site** including approved clearing of site vegetation. The erosion and sediment control measures are to be maintained in accordance with the approved erosion and sediment control plan(s) for the development and the Department of Housing's "Managing Urban Stormwater: Soils and Construction" 2004.

(Note: To obtain a copy of the publication, you should contact Landcom on (02) 98418600).

The approved sediment and erosion control measures are to be installed **prior to and maintained throughout the construction phase of the development until the landscaping, driveway and on-site parking areas have been completed for the development.** These measures shall ensure that mud and soil from vehicular movements to and from the site does not occur during the construction of the development.

#### 15 D005 – No filling without prior approval (may need to add D006)

No fill material is to be imported to the site without the prior approval of Penrith City Council in accordance with Sydney Regional Environmental Plan No.20 (Hawkesbury- Nepean River) (No.2-1997). No recycling of material for use as fill material shall be carried out on the site without the prior approval of Council.

16 **D006 - No filling without prior approval (Use always, except for bulk earthworks/ major fill operations)**

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

The Validation Certificate shall:

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

{Note: Penrith Contaminated Land Development Control Plan defines an appropriately qualified person as "a person who, in the opinion of Council, has a demonstrated experience, or access to experience in hydrology, environmental chemistry, soil science, eco-toxicology, sampling and analytical procedures, risk evaluation and remediation technologies. In addition, the person will be required to have appropriate professional indemnity and public risk insurance."}.

If the Principal Certifying Authority or Penrith City Council is not satisfied that suitable fill materials have been used on the site, further site investigations or remediation works may be requested. In these circumstances the works shall be carried out prior to any further approved works.

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

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

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

All excavated material and other wastes generated as a result of the development are to be re-used, recycled or disposed of in accordance with the approved waste management plan.

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

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

#### 19 [D014 - Plant and equipment noise](#)

In accordance with the Acoustic Assessment Proposed Function Room Overlander Hotel 180 Richmond Road Cambridge Gardens prepared by The Acoustic Group and dated 3 June 2021 (Ref: 51.4616.R3:MSC):

- o Noise levels within the Function Room shall not exceed the internal noise limit of 96dB(A)
- o All amplification occurring in the function room is to be controlled by a noise cut out where the threshold level is related to a noise level of 96 dB(A) at a location at the northern end of the function room (but south of the verandah) where the trigger limit should be on the basis of fast response and a two second exceeds all the limit.

Within six (6) months of the commencement of use of the Function Room, compliance monitoring is to be undertaken and a Compliance Report demonstrating compliance with the acoustic criteria established in the approved Acoustic Assessment (Ref:51.4616.R3:MSC) is to be submitted to Penrith City Council. The compliance monitoring and associated report is to be completed by a suitably qualified acoustic consultant.

Should the Compliance Report identify any non-compliance issues, the Report is to provide suitable recommendations for the mitigation of those issues. Any mitigation works are to be undertaken within thirty (30) days from the date of notice from Council, unless otherwise specified.

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.

**As amended on 4 November 2021 in accordance with Section 4.55(1a) of the Environmental Planning and Assessment Act 1979.**

### **BCA Issues**

#### 20 [E009 - Annual fire safety-essential fire safety \(Class 2-9 buildings\)](#)

The owner of a building, to which an essential fire safety measure is applicable, shall provide Penrith City Council with an annual fire safety statement for the building. The annual fire safety statement for a building must:

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

(b) be given:

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

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

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

## 21 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.

Access and sanitary facilities for persons with disabilities are to be provided and maintained in accordance with the requirements of the Building Code of Australia and AS 1428 "Design for Access and Mobility".

**As amended on 4 November 2021 in accordance with Section 4.55(1a) of the Environmental Planning and Assessment Act 1979.**

## Health Matters and OSSM installations

### 22 F001 - Food shop construction & plans

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

Detailed plans and specifications for the construction of the premises and installation of fittings, furnishings and equipment to all food preparation and storage areas are to be submitted with the Construction Certificate application.

### 23 F022 – Commercial kitchens (kitchen exhaust system)

Cooking appliances which exceed a total maximum power input of 8kw for electrical, or a total gas input of 29MJ/h for a gas appliance are required to have a kitchen exhaust system installed in accordance with Clause F4.12 of the Building Code of Australia and Australian Standard AS1668 Parts 1 & 2.

Details of the installation of the kitchen exhaust system shall be submitted with the Construction Certificate application.

The kitchen exhaust system must be designed to prevent or minimise air pollution including the emission of odours, vapours and oils in accordance with the Protection of the Environment Operations Act 1997.

Prior to the issue of an Occupation Certificate, the installer of the kitchen exhaust system (either the individual person or the Company who installed the exhaust system) shall certify or submit appropriate documentation (as instructed by the Principal Certifying Authority) that all practical pollution control measures have been installed to achieve the requirements of the Protection of the Environment Operations Act 1997.

## Utility Services

### 24 G Special (BLANK)

Prior to the issue of a Construction Certificate, an assessment of the additional load and method of supply is to be undertaken via Endeavour Energy's Network Connections Branch.

Further details are available by contacting Endeavour Energy's Network Connections Branch via Head Office enquiries on telephone: 133 718 or (02) 9853 6666 from 8am - 5:30pm or on Endeavour Energy's website under 'Home > Residential and business > Connecting to our network' via the following link:

<http://www.endeavourenergy.com.au/>

### 25 G Special (BLANK)

Landscaping in the vicinity of the padmount substation and associated cabling is to be restricted to low growing shrubs, not exceeding 3.0 metres in height and ground covers with non-invasive root systems. The planting of large trees in the vicinity of electricity infrastructure is not supported by Endeavour Energy.

## 26 G Special (BLANK)

Landscaping in the vicinity of the padmount substation must not obstruct access for maintenance, construction or emergency works.

## Construction

### 27 H001 - Stamped plans and erection of site notice

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

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

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

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

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

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

### 28 H002 - All forms of construction

Prior to the commencement of construction works:

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

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

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

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

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

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

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

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

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

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

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

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

## Roads Act Requirements

### 30 [I Special \(BLANK\)](#)

A Road Occupancy Licence should be obtained from Roads and Maritime Services Transport Management Centre for any works that may impact on traffic flows on Richmond Road during construction activities.

### 31 [I Special \(BLANK\)](#)

All demolition and construction vehicles are to be contained wholly within the site and vehicles must enter the site before stopping. A construction zone will not be permitted on Richmond Road.

### 32 [I Special \(BLANK\)](#)

Detailed design plans and hydraulic calculations of any changes to the stormwater drainage system are to be submitted to Roads and Maritime Services for approval prior to the commencement of any works.

Details should be forwarded to:

The Sydney Asset Management  
Roads and Maritime Services  
PO Box 973, Parramatta CBD 2124

A plan checking fee will be payable and a performance bond may be required before Roads and Maritime Services approval is issued. With regard to the Civil Works requirements please contact the Roads and Maritime Project Engineer, External Works, ph: 8849 2114 or fax 8849 2766.

## Engineering

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

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

### 34 [K201 - Infrastructure Bond](#)

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

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

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

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

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

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

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

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

Note:

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

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

Stormwater drainage from the site shall be discharged to the:

- a) Existing site drainage system.

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

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

**As amended on 11 March 2019 under Section 4.55(1A) of the Environmental Planning and Assessment Act, 1979.**



### 37 [K210 - Stormwater Management](#)

The stormwater management system shall be provided generally in accordance with the following plans:

- Drainage Detail Plan, numbered 80216097-CI-1010, revision 5, prepared by Cardno Pty Ltd and dated 11.04.19.
- Catchment Plan, numbered 80216097-CI-1020, revision 5, prepared by Cardno Pty Ltd and dated 11.04.19.

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

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

**As amended on 30 May 2019 in accordance with Section 4.55(1A) of the Environmental Planning and Assessment Act, 1979.**

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

Prior to the issue of any Construction Certificate, the Certifying Authority shall ensure that vehicular access, circulation, manoeuvring, pedestrian and parking areas associated with the subject development are in accordance with AS 2890.1, AS2890.2, AS2890.6 and Penrith City Council's Development Control Plan.

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

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

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

### 40 [K302 - Traffic Control Plan](#)

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

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

Note:

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

### 41 [K405 - Turf to Verge](#)

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

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

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

### 43 [K504 - Stormwater Compliance](#)

**Deleted on 30 May 2019 in accordance with Section 4.55(1A) of the Environmental Planning and Assessment Act, 1979.**

### 44 [K505 - Restriction as to User and Positive Covenant](#)

**Deleted on 30 May 2019 in accordance with Section 4.55(1A) of the Environmental Planning and Assessment Act, 1979.**



45 [K511 - Directional signage](#)

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

46 [K601 - Stormwater Management system operation and maintenance](#)

**Deleted on 30 May 2019 in accordance with Section 4.55(1A) of the Environmental Planning and Assessment Act, 1979.**

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

The maximum length of vehicle to enter the site shall be limited to 12.5m.

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

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

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

The required sight lines around the driveway entrances are not to be compromised by landscaping, fencing or signage.

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

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

## Landscaping

51 [L001 - General](#)

All landscape works are to be constructed in accordance with the stamped approved plan by Monaco Designs P/L dated 14 June 2016, and Chapter C6 of Penrith Development Control Plan 2014.

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.

52 [L002 - Landscape construction](#)

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

53 [L003 - Report requirement](#)

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

i. Implementation Report

Upon completion of the landscape works associated with the development and prior to the issue of an Occupation Certificate for the development, an Implementation Report must be submitted to the Principal Certifying Authority attesting to the satisfactory completion of the landscaping works for the development. The report is to be prepared *by a suitably experienced and qualified landscape design professional*

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

ii. Maintenance Report

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

54 [L005 - Planting of plant](#)

All plant material associated with the construction of approved landscaping is to be planted in accordance with Chapter C6 of Penrith Development Control Plan 2014.

#### 55 [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.

#### 56 [L007 - Tree protection measures – no TMP with DA](#)

All trees that are required to be retained as part of the development are to be protected in accordance with the minimum tree protection standards prescribed in section C6 Landscap Design of Penrith Development Control Plan 2014.

#### 57 [L008 - Tree Preservation Order](#)

No trees are to be removed, ringbarked, cut, topped or lopped or wilfully destroyed (other than those within the proposed building footprint or as shown on the approved plans) without the prior consent of Penrith City Council and in accordance with Council's Tree Preservation Order and Policy.

#### 58 [L010 - Retain existing trees \(no tree bond required\)](#)

The trees identified for retention on the Concept Landscape Plan by Monaco Designs PL dated 14 June 2016 shall be retained and duly protected during the construction of the development.

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

All landscaping shall be maintained so all plants are healthy and reach their full potential size and form. Pruning is acceptable to achieve growth in accordance with plant form, however hedging and excessive pruning is not acceptable where plant height and form is compromised.

The plant establishment maintenance period shall be a minimum of 26 weeks and shall extend through the summer season.

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

Prior to the issue of an Occupation Certificate screen shrub planting to 2m in height shall be provided behind the boundary fencing on the southern boundary to further ameliorates views into the site from residential properties.

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

Prior to the issue of an Occupation Certificate street trees are to be provide along the eastern (six large trees) and southern (11 medium) streets to ameliorate the impact of built form and carpark for residential properties opposite. Species to be approved by Council prior to planting.

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

Where the ground is compacted and in poor condition to sustain new turf and planting, the ground shall be improved to provide ideal growing conditions enabling trees and shrub planting and turf to be healthy and reach their full potential.

#### 63 [L Special \(Tree protection - Australian Standards\)](#)

The tree/s must be retained and protected in accordance with Australian Standards, Protection of trees on development sites, AS 4970 -2009.

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

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

## Payment of Fees

#### 65 [P001 - Costs](#)

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

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

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

## Certification

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

Information to accompany the Notice of Commencement

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