

# PENRITH CITY COUNCIL

## NOTICE OF DETERMINATION

### DESCRIPTION OF DEVELOPMENT

Application number:	Mod23/0031
Description of development:	Modification to Approved Warehouse - Alter Driveway Location and Amend Consent Conditions
Classification of development:	Class 7b , Class 5

### DETAILS OF THE LAND TO BE DEVELOPED

Legal description:	Lot 112 DP 1278027
Property address:	2 - 12 Emporium Avenue, KEMPS CREEK NSW 2178

### DETAILS OF THE APPLICANT

Name & Address:	Goodman Property Services (Aust) Pty Ltd 1-11 Hayes Road ROSEBERY NSW 2018
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### DECISION OF CONSENT AUTHORITY

In accordance with Sections 4.18(1) (a) and 4.55 of the Environmental Planning and Assessment Act 1979, consent is granted subject to the conditions listed in attachment 1.

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

Decision:	Approve
Date from which consent operates	30 January 2023
Date the consent expires	30 January 2028
Date of this decision	25 January 2023 as amended on 9 May 2023 under Section 4.55 of the Environmental Planning and Assessment Act.

## POINT OF CONTACT

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

Assessing Officer:	Jacqueline Klincke
Contact telephone number:	+61247328391

## NOTES

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### **Reasons**

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

### **Conditions**

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

### **Certification and advisory notes**

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

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

### **Review of determination**

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

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

### **Appeals in the Land and Environment Court**

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

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

### **Designated development**

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

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

### **Sydney Western City Planning Panels**

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

## ATTACHMENT 1: CONDITIONS OF CONSENT

### General

- 1 The development must be implemented substantially in accordance the following stamped approved plans and supporting information received with the application, except as may be amended in red or by the following conditions within this consent:-

Plan No.	Plan Title	Prepared By	Revision	Date
<b>Architectural Plans</b>				
DA00	Cover Sheet	SBA Architects	B	23/9/2022
DA05	Perspectives	SBA Architects	B	23/9/2022
<b>OAK 3C MOD 1 DA10</b>	<b>3C Site and Warehouse Plan</b>	<b>SBA Architects</b>	<b>A</b>	<b>8/2/2023</b>
DA20	Roof Plan - Warehouse 3C1 & 3C2	SBA Architects	C	23/9/2022
DA34	Floor Plans - 3C1	SBA Architects	B	23/9/2022
DA35	Office & Dock Office Floor Plans 3C2	SBA Architects	C	23/9/2022
DA40	Elevations & Section - Warehouse 3C1	SBA Architects	B	23/9/2022
DA41	Elevations & Section - Warehouse 3C2	SBA Architects	D	26/9/2022
DA45	Elevations - Office 3C1	SBA Architects	B	23/9/2022
DA46	Elevations - Office 3C2	SBA Architects	C	23/9/2022
DA50	Signage Plan	SBA Architects	D	23/9/2022
<b>Civil Plans</b>				
15-272-C7600	Cover Sheet	AT&L	P1	5/4/2022
15-272-C7601	General Notes	AT&L	P1	5/4/2022
<b>15-272-C7605</b>	<b>General Arrangement Plan</b>	<b>AT&amp;L</b>	<b>A</b>	<b>8/2/2023</b>
15-272-C7610	Typical Sections Sheet 1	AT&L	P1	5/4/2022
15-272-C7611	Typical Sections Sheet 2	AT&L	P1	5/4/2022
<b>15-272-C7615</b>	<b>Bulk Earthworks Plan</b>	<b>AT&amp;L</b>	<b>P3</b>	<b>8/2/2023</b>
15-272-C7620	Siteworks and Stormwater Drainage Plan Sheet 1	AT&L	P2	4/10/2022
<b>15-272-C7621</b>	<b>Siteworks and Stormwater Drainage Plan Sheet 2</b>	<b>AT&amp;L</b>	<b>P5</b>	<b>8/2/2023</b>
15-272-C7622	Siteworks and Stormwater Drainage Plan Sheet 3	AT&L	P2	4/10/2022
15-272-C7623	Siteworks and Stormwater Drainage Plan Sheet 4	AT&L	P2	4/10/2022
<b>15-272-C7630</b>	<b>Pavement Plan</b>	<b>AT&amp;L</b>	<b>P3</b>	<b>8/2/2023</b>

<b>15-272-C7640</b>	<b>Erosion and Sediment Control Plan</b>	<b>AT&amp;L</b>	<b>P4</b>	<b>8/2/2023</b>
15-272-C7641	Erosion and Sediment Details	AT&L	P1	5/4/2022
<b>SKC434</b>	<b>Lot 3C Driveway Layout Option 4</b>	<b>AT&amp;L</b>	<b>P1</b>	<b>28/12/2022</b>
<b>AGO3</b>	<b>Design Advice - Access</b>	<b>ASON Group</b>	<b>-</b>	<b>14/02/23</b>
<b><u>Landscape Plans</u></b>				
L.SK.00	Cover Sheet	scape design	A	2/5/2022
L.SK.01	Landscape Sketch Plan - Lot 3C	scape design	A	2/5/2022
L.SK.02	Planting Plan - Lot 3C	scape design	A	2/5/2022
L.SK.03	Planting Schedule Lot 3C	scape design	A	2/5/2022
L.SK.04	Character & Materials	scape design	A	2/5/2022
L.SK.105	Landscape - Detailed Plan & Notes	scape design	A	2/5/2022
L.SK.200	Carpark Details	scape design	A	2/5/2022
L.SK.201	Landscape Sections Sheet 1	scape design	A	2/5/2022
L.SK.201	Landscape Sections Sheet 2	scape design	A	2/5/2022

- Transport Assessment, ref 1959r01v01, prepared by ason group, dated 13/04/2022
- Civil Report, REP105-02-15-272, prepared by AT&L, dated 4/10/2022
- Dangerous Goods Report, prepared by Riskcon Engineering, dated 2/11/2022
- Consultants Advice Notice, ref no.: RCE-22227, prepared by Riskcon Engineering, dated 10/10/2022
- Noise & Vibration Assessment, version D, prepared by RWDI Australia Pty Ltd, dated 2/11/2022
- Landscape Character and Visual Impact Assessment Letter, prepared by Clouston Associates, dated 17/10/2022
- BCA Assessment Report, revision 1, prepared by Blackett Macquire + Goldsmith Pty Ld, dated 4/10/2022
- Bushfire Risk Assessment, version 1.1, prepared by Blackash Bushfire Consulting, dated 27 May 2022
- Sustainability Management Plan, prepared by SLR Consulting, dated 16/5/2022
- Biodiversity Impact Assessment, prepared by ecologique, dated 27/5/2022
- Fire Safety Strategy, prepared by Core Engineering Group, dated 4/5/2022
- Waste Management Plan, prepared by SLR Consulting, version v4.0, dated 25 May 2022
- Air Quality Impact Assessment, prepared by SLR Consulting, dated 30/5/2022

***As amended on 9 May 2023 under Section 4.55(1A) of the Environmental Planning and Assessment Act 1979.***

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

**3 The approved operating hours for Warehouse 3C1 is 24 hours, 7 days a week.**

The approved operating hours for Warehouse 3C2 is 24 hour, 7 days a week.

- 4 The approved use of each tenancy is for Warehouse or Distribution Facilities. No approval is granted for the use of the site as a *hazardous or offensive storage establishment* or a *hazardous or offensive industry*, as defined under *State Environmental Planning Policy (Resilience and Hazards) 2021*.
- 5 **Prior to the issue of an Occupation Certificate**, a lighting system shall be installed for the development to provide uniform lighting across common areas and driveways. Exterior lighting shall be located and directed in such a manner so as not to create a nuisance to surrounding landuses. The lighting shall be the minimum level of illumination necessary for safe operation. The lighting shall be in accordance with AS 4282 "Control of the obtrusive effects of outdoor lighting" (1997).
- 6 The finishes of all structures and buildings are to be maintained at all times and any graffiti or vandalism immediately removed/repaired.
- 7 A **Construction Certificate** shall be obtained prior to commencement of any building works.
- 8 The approved development, the subject of this development consent, is not to contravene the State Significant Development consent 7348 (as modified) or the relevant Planning Agreement. The onus is on the landowner and proponent to ensure that the SSD 7348 (as modified) conditions and Planning Agreement obligations are met.
- 9 The installation of the approved signage shall be carried out strictly in accordance with the manufacturer's specifications. Any wiring or installation fixtures associated with the signage or internal illumination shall be contained wholly within the body of the signage and not be visible from the public domain.
- 10 **Prior to the issue of a Construction Certificate**, the relevant construction certificate plans shall demonstrate the installation of a minimum 500 kW solar panel system.

The system shall be operational within 12 months of the issue of any Occupation Certificate.

Written confirmation shall be submitted to the Manager of Development Services at Penrith City Council once the system is installed and operation.

- 11 **Prior to the issue of a Construction Certificate**, an amended set of Landscape Plans shall be submitted to the Manager of Development Services at Penrith City Council for review and approval. The amended plans shall:
  - reflect the approved Site Plan and driveway arrangement required, as described in Condition 41 of this consent, and
  - indicate the relocation of the 2 street trees, including details of the engineered tree pits.

## Demolition

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

## Environmental Matters

- 13 Mud and soil from vehicular movements to and from the site must not be deposited on the road.
- 14 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 Certifying Authority 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 Where a building is to take place on any land that is to be filled, such filling is to be compacted in accordance with AS3798-1996. Certification is to be submitted to the Principal Certifying Authority by a Geotechnical Engineer verifying that the work has been undertaken prior to the commencement of the construction of any building.

If Penrith City Council is not the Principal Certifying Authority, a copy of the certification is to be submitted to Council for their reference.

- 16 All *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.

- 17 Waste materials associated with the 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.

- 18 Noise levels from the premises shall not exceed the relevant noise criteria detailed in the 'Noise and Vibration Assessment - Oakdale West Estate Buildings 3C1, 3C2, 5A and 5B' (RWDI#2102730) prepared by RWDI Australia Pty Ltd dated 2/11/2022. The provisions of the Protection of the Environment Operations Act 1997 apply to the development, in terms of regulating offensive noise.

- 19 All works and storage areas where spillages are likely to occur shall be bunded. Where Australian Standards apply, bunding construction and capacity must comply with those standards. Where Australian Standards do not apply, the size of the area to be bunded shall be calculated as being equal to 10% of the total volume of containers stored, or 110% of the largest container stored, whichever is the greater.

All bunded areas shall be graded to a blind sump so as to facilitate emptying and cleaning.

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

- 21 **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 the Principal Certifying Authority for approval. 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,
- 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 approved CEMP.

- 22 **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.

**Note:** For the purpose of this condition a suitably qualified acoustic consultant means a consultant who possesses the qualifications to render them eligible for membership of the Australian Acoustics Society, Institution of Engineers Australia or the Association of Australian Acoustic Consultants at the grade of member.

- 23 The recommendations of the below documents are to be implemented and adhered to during the construction and operational phases of the development:
- Erosion and Sediment Control section of 'Lot 3C and Lot 5 Civil Report' for Oakdale West Estate Kemps Creek prepared by AT&L dated 4/10/2022
  - 'Erosion and Sediment Control Plan' (DWG# 15-272-C7640) for Proposed Industrial Development at Oakdale West Lot 3C prepared by AT&L dated 4/10/2022
  - 'Requirement to update Air Quality Impact Assessment' Letter for Oakdale West Estate Precincts 3C and 5 prepared by SLR dated 30/5/2022
  - 'Dangerous Goods Report' (RCE-22227 Rev 0) for Oakdale West NSW prepared by Riskcon Engineering dated 2/11/2022
- 24 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). 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.

## **BCA Issues**

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

26 All aspects of the building design shall comply with the applicable performance requirements of the Building Code of Australia so as to achieve and maintain acceptable standards of structural sufficiency, safety (including fire safety), health and amenity for the on-going benefit of the community. Compliance with the performance requirements can only be achieved by:

(a) complying with the deemed to satisfy provisions, or

(b) formulating an alternative solution which:

- complies with the performance requirements, or
- is shown to be at least equivalent to the deemed to satisfy provision, or

(c) a combination of (a) and (b).

It is the owner's responsibility to place on display, in a prominent position within the building at all times, a copy of the latest fire safety schedule and fire safety certificate/ statement for the building.

## Health Matters and OSSM installations

27 The rainwater tank must be maintained so as not to create a nuisance and it must be protected against mosquito infestation.

## Utility Services

28 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](http://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 a Subdivision Certificate.

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

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

30 **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.

## **Construction**

31 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.

32 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.

33 The rainwater tank(s) is to be:

- erected on a self-supporting base in the approved location on the property in accordance with the stamped-approved site plans for the development,
- structurally sound and constructed in accordance with AS/NZS 3500 1.2- 1998: National Plumbing and Drainage - Water Supply - Acceptable Solutions,
- fully enclosed and all openings sealed to prevent access by mosquitoes,
- fitted with a first flush device,
- fitted with a trickle system to top up from mains water,
- provided with an air gap, and
- installed by a licensed plumber in accordance with Sydney Water's "Plumbing requirements Information for rainwater tank suppliers and plumbers April 2003" and the NSW Code of Practice: Plumbing and Drainage.

Additionally, the following are to be provided:

- A back flow prevention device shall be provided at the water meter in accordance with Sydney Water requirements.

- In the event of a power failure, a back up supply of mains water shall be provided to at least one toilet in the dwelling.
- The rainwater tank(s) and associated piping is to be labelled 'Rainwater - Not for Drinking' in accordance with Sydney Water requirements.
- The rainwater tank and pipework is to be painted in colours matching the external finishes of the dwelling and is to be of non-reflective finish.
- The overflow for the rainwater tank is to be connected into the existing stormwater disposal system on the site.

34 Before a rainwater tank(s) can be used, a certificate or suitable document is to be submitted to the Principal Certifying Authority stating that the rainwater tank has been installed in accordance with:

- the Manufacturer's Specifications, and
- Sydney Water and NSW Health requirements.

This certificate or documentation is to be provided by the licensed plumber who installed the rainwater tank on the property, and is to be submitted prior to the issue of the Occupation Certificate.

35 The catchment area (for the rainwater tank) includes the parts of the roof of the dwelling(s) from which water is collected and includes gutters. To ensure a safe supply of water:

- roof catchment areas must be kept clear of overhanging vegetation,
- gutters must have sufficient fall to downpipes to prevent pooling of water,
- overflow, discharge from bleed off pipes from roof mounted appliances such as airconditioners, hot water services and solar heaters must not discharge into the rainwater catchment area,
- for roofs containing lead based, tar based or asbestos material the tank supply must not be connected to drinking, bathing and gardening tap water outlets,
- appropriate measures must be installed to prevent foreign materials from contaminating the water which enters the rainwater tank.

36 The rainwater tank supply must not be connected to drinking and bathing water tap outlets.

37 The rainwater tank pump must not exceed 5dBA above ambient background noise level at the nearest residential property boundary. The provisions of the Protection of the Environment Operations Act 1997 apply to the development, in terms of regulating offensive noise.

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

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

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

The provisions of the Protection of the Environment Operations Act, 1997 in regulating offensive noise also

apply to all construction works.

## Engineering

- 39 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.
- 40 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.

- 41 **Prior to the issue of any Construction Certificate**, the Certifier shall ensure that a Section 138 Roads Act application, including payment of application and inspection fees, has been lodged with and approved by Penrith City Council (being the Roads Authority under the Roads Act) for the following civil works within Emporium Avenue:
1. Provision of 2 x vehicular crossings with one continuous layback, a minimum 1 metre clear from the existing kerb inlet pit to the south of the driveways.
  2. Conversion of 1 x kerb inlet pit to provide a heavy-duty butterfly grate.

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

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

### **Note:**

- Where Penrith City Council is the 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 the 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.

***As amended on 9 May 2023 under Section 4.55(1A) of the Environmental Planning and Assessment Act 1979.***

42 The stormwater management system shall be consistent with the plan/s lodged for development approval, prepared by AT&L, drawing numbers C7600 to C7641, revisions P1 to P4.

**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.

43 **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, AS2890.1, AS2890.2 and AS2890.6.

44 **Prior to the issue of a Roads Act approval**, a Performance Bond is to be lodged with Penrith City Council for stormwater drainage works within Emporium Avenue.

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

**Note:**

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

45 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.

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

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

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

48 **Prior to the issue of any Occupation Certificate**, the Principal Certifying Authority shall ensure that the

stormwater management system (including water sensitive urban design measures):

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

49 **Prior to the issue of an Occupation Certificate**, a restriction as to user and positive covenant relating to the stormwater management systems (including water sensitive urban design measures) shall be registered on the title of the property. The restriction as to user and positive covenant shall be in Penrith City Council's standard wording as detailed in Penrith City Council's Stormwater Drainage Specification for Building Development – Appendix F.

50 **Prior to the issue of any Occupation Certificate**, a Maintenance Bond is to be lodged with Penrith City Council for stormwater drainage works within Emporium Avenue.

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

**Note:**

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

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

52 All vehicle parking spaces, parking aisles and driveways/circulating roads must be designed and built in accordance with AS2890.1-2004; AS2890.6-2009 and Council's requirements.

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

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



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

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

## Landscaping

57 All landscape works are to be constructed in accordance with the stamped approved plans.

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.

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

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

59 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.

60 All required fencing and retaining walls shall be at the full cost of the property owner/developer. The materials and colours of any new fencing or retaining walls shall match or complement the external materials of the development. Retaining walls are to be of masonry construction.

## Section 94

61 This condition is imposed in accordance with Penrith City Council's Section 7.12 Contributions Plan. Based on the identified cost of the development, a contribution of **\$268,550.00 is to be paid to Council prior to a Construction Certificate** being issued for this development. Council should be contacted prior to payment to verify the contribution payable. The Section 7.12 Contributions Plan is available on Council's website.

## Certification

62 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.

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

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

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

## SIGNATURE

Name:	Jacqueline Klincke
Signature:	

For the Development Services Manager