



**Land and Environment
Court**
of New South Wales

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Level 4 GPO Box 3565 SYDNEY NSW 2001
DX 264, Sydney

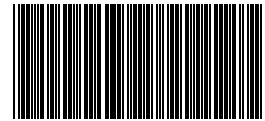
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Your Ref:



D000107VIS

2 February 2023

NOTICE OF ORDERS MADE

Case number	2022/00167570
Case title	BW Cranebrook Pty Ltd ATF BW Cranebrook Trust v Penrith City Council

On 2 February 2023 the following orders (and/or directions) were made:

The Court orders that:

- (1) pursuant to s 8.15(3) of the Environmental Planning and Assessment Act 1979, the Applicant is to pay those costs of the Respondent that have been thrown away as a result of the amendment to the development application, agreed at \$31,000.00;
- (2) the appeal is upheld;
- (3) Development consent is granted to Development Application No. DA21/0837 for construction and use of a mixed-use development consisting of a child care centre, swim school, service station, three take away food and drink premises, at-grade car parking, landscaping and subdivision at 1 Renshaw Street, Cranebrook, and associated drainage work in Lot 1 DP 286568, subject to the conditions set out in Annexure 'A'.

For the Registrar

Annexure A

DETERMINATION OF DEVELOPMENT APPLICATION BY GRANT OF CONSENT

Development Application No: 21/0837

Development: Subdivision into 3 allotments and construction of a childcare centre, swim centre, petrol station and 3 take away food and drink premises with at-grade parking and associated civil and landscape works.

Site: 1 Renshaw Street, Cranebrook, NSW, 2749 and Lot 1 in DP 286568

The above development application has been determined by the granting of consent subject to the conditions specified in this consent.

Date of determination: 02 February 2023

Date from which consent takes effect: Date the consent is registered on the NSW Planning Portal.

TERMINOLOGY

In this consent:

- (a) Any reference in this document to a "consent" means a "development consent" defined in the *Environmental Planning and Assessment Act 1979 (EP&A Act)*.
- (b) Any reference to a Construction, Compliance, Occupation or Subdivision Certificate is a reference to such a certificate as defined in the EP&A Act.
- (c) Any reference to the "Applicant" means a reference to the applicant for development consent or any person who may be carrying out development from time to time pursuant to this consent.
- (d) Any reference to the "Site", means the land known as 1 Renshaw Street, Cranebrook NSW 2749, also known as Lot 13 in DP 286568.

- (e) Any reference to the “Council” is a reference to Penrith City Council.
- (f) Any reference to the DCP is a reference to the Penrith Development Control Plan 2014.
- (g) Any reference to the BCA is a reference to the Building Code of Australia.

Deferred Commencement Condition

Prior to the commencement of the development consent, the following conditions shall be satisfied.

- A. The applicant is to prepare amended plans showing the upgrade of the intersection of Renshaw Street / Andrews Road to either a roundabout or a signalised intersection, to the satisfaction of TfNSW.
- B. The applicant is to provide to Council evidence that TfNSW is satisfied with the proposed design of the intersection upgrade.

Upon written confirmation from Council that the above conditions have been satisfied, the consent will become operable subject to the following conditions.

GENERAL

1. The approved development must be carried out substantially in accordance with the following plans, and documents as listed, except as may be amended or added to, by the following conditions.

Drawing Name	Prepared by	Issue	Date
DA00 Cover Sheet	Richmond+Ross	U	25/10/22
DA01 3D Views	Richmond+Ross	T	22/10/22
DA02 3D Views	Richmond+Ross	U	25/10/22
DA03 3D Views	Richmond+Ross	T	22/10/22
DA04A Area Plan	Richmond+Ross	T	22/10/22
DA04B Car Parking Compliance Plan	Richmond+Ross	T	22/10/22
DA05 Overall Site Plan	Richmond+Ross	T	22/10/22
DA06A Site Signage Plan	Richmond+Ross	T	22/10/22
DA06B Site Signage Schedule	Richmond+Ross	T	22/10/22
DA07 Site Signage Schedule	Richmond+Ross	T	22/10/22
DA08 Site Signage	Richmond+Ross	T	22/10/22
DA09 Site Setout Plan	Richmond+Ross	T	22/10/22
DA10 Site Plan – Childcare Centre	Richmond+Ross	T	22/10/22

DA11 Floor Plan – Childcare Centre	Richmond+Ross	T	22/10/22
DA12 Roof Plan – Childcare Centre	Richmond+Ross	T	22/10/22
DA13 Section – Childcare Centre	Richmond+Ross	T	22/10/22
DA15 Elevations – Childcare Centre	Richmond+Ross	T	22/10/22
DA16 Elevations – Childcare Centre	Richmond+Ross	T	22/10/22
DA17 External Finishes – Childcare Centre	Richmond+Ross	T	22/10/22
DA18 Signage – Childcare Centre	Richmond+Ross	T	22/10/22
DA19 Childcare Side View (Render)	Richmond+Ross	U	25/10/22
DA20 Site Plan – Taco Bell	Richmond+Ross	T	22/10/22
DA21 Floorplan – Taco Bell	Richmond+Ross	T	22/10/22
DA22 Roofplan – Taco Bell	Richmond+Ross	T	22/10/22
DA23 Section – Taco Bell	Richmond+Ross	T	22/10/22
DA25 Elevations – Taco Bell	Richmond+Ross	T	22/10/22
DA26 Elevations – Taco Bell	Richmond+Ross	T	22/10/22
DA27 External Finishes – Taco Bell	Richmond+Ross	T	22/10/22
DA28 Signage – Taco Bell	Richmond+Ross	T	22/10/22
DA29 Signage – Taco Bell	Richmond+Ross	T	22/10/22
DA30 Site Plan – El Jannah	Richmond+Ross	T	22/10/22
DA31 Floorplan – El Jannah	Richmond+Ross	T	22/10/22
DA32 Roof Plan – El Jannah	Richmond+Ross	T	22/10/22
DA33 Section – El Jannah	Richmond+Ross	T	22/10/22
DA35 Elevations – El Jannah	Richmond+Ross	T	22/10/22
DA36 Elevations – El Jannah	Richmond+Ross	T	22/10/22
DA37 External Finishes – El Jannah	Richmond+Ross	T	22/10/22
DA38 Signage – El Jannah	Richmond+Ross	T	22/10/22
DA40 Site Plan – Hungry Jacks	Richmond+Ross	T	22/10/22
DA41 Floorplan – Hungry Jacks	Richmond+Ross	T	22/10/22
DA42 Roofplan – Hungry Jacks	Richmond+Ross	T	22/10/22
DA43 Section – Hungry Jacks	Richmond+Ross	T	22/10/22
DA45 Elevations – Hungry Jacks	Richmond+Ross	T	22/10/22
DA46 Elevations – Hungry Jacks	Richmond+Ross	T	22/10/22
DA47 External Finishes – Hungry Jacks	Richmond+Ross	T	22/10/22
DA48 Signage – Hungry Jacks	Richmond+Ross	T	22/10/22
DA50 Site Plan – Swim School	Richmond+Ross	T	22/10/22
DA51 Floor Plan – Swim School	Richmond+Ross	T	22/10/22
DA52 Roof Plan – Swim School	Richmond+Ross	T	22/10/22

DA53 Section – Swim School	Richmond+Ross	T	22/10/22
DA55 Elevations – Swim School	Richmond+Ross	T	22/10/22
DA56 Elevations – Swim School	Richmond+Ross	T	22/10/22
DA57 External Finishes – Swim School	Richmond+Ross	T	22/10/22
DA58 Signage – Swim School	Richmond+Ross	T	22/10/22
DA60 Site Plan – Petrol Station	Richmond+Ross	T	22/10/22
DA61 Floorplan – OTR	Richmond+Ross	T	22/10/22
DA62 Roof Plan – OTR	Richmond+Ross	T	22/10/22
DA63 Section – OTR	Richmond+Ross	T	22/10/22
DA65 Elevations – Petrol Station	Richmond+Ross	T	22/10/22
DA66 Elevations – Petrol Station	Richmond+Ross	T	22/10/22
DA67 External Finishes – OTR	Richmond+Ross	T	22/10/22
DA68 Signage – OTR	Richmond+Ross	T	22/10/22
DA80 Elevations Overall	Richmond+Ross	T	22/10/22
DA83 Site Elevations – After & Before Development	Richmond+Ross	T	22/10/22
DA90 Footpath Plan	Richmond+Ross	T	22/10/22
C100 Overall Site Plan	Richmond+Ross	F	7/10/22
C101 Proposed Drainage Plan – Sheet 1 of 4	Richmond+Ross	E	7/10/22
C102 Proposed Drainage Plan – Sheet 2 of 4	Richmond+Ross	E	7/10/22
C103 Proposed Drainage Plan – Sheet 3 of 4	Richmond+Ross	E	7/10/22
C104 Proposed Drainage Plan – Sheet 4 of 4	Richmond+Ross	F	7/10/22
C110 Notes and Schedules Sheet 1 of	Richmond+Ross	C	7/10/22
C111 Notes and Schedules Sheet 2 of 2	Richmond+Ross	A	7/10/22
C300 Sedimentation Control Notes Sheet 1 of 2	Richmond+Ross	B	7/10/22
C301 Sedimentation Control Notes Sheet 2 of 2	Richmond+Ross	B	7/10/22
C302 Sedimentation Plan	Richmond+Ross	D	7/10/22
C303 Sedimentation Plan	Richmond+Ross	D	7/10/22
C304 Sedimentation Plan	Richmond+Ross	D	7/10/22

C305 <i>Sedimentation Plan</i>	Richmond+Ross	E	7/10/22
C306 <i>Sedimentation Control Details</i>	Richmond+Ross	A	1/09/21
C307 <i>Bio Basin Plans A, B & C</i>	Richmond+Ross	B	6/10/22
C308 <i>Bio Basin – A</i>	Richmond+Ross	A	25/10/21
C309 <i>Bio Basin – B</i>	Richmond+Ross	A	25/10/21
C310 <i>Bio Basin – C</i>	Richmond+Ross	A	25/10/21
C311 <i>WSUD Details</i>	Richmond+Ross	A	25/10/21
C312 <i>Stormwater Chamber Details</i>	Richmond+Ross	A	6/10/22
000 <i>Landscape Coversheet</i>	Site Image	F	7/10/22
100 <i>Landscape Masterplan</i>	Site Image	F	7/10/22
101 <i>Landscape Plan – Outdoor Play Area</i>	Site Image	F	7/10/22
102 <i>Landscape Plan</i>	Site Image	F	7/10/22
103 <i>Landscape Plan</i>	Site Image	F	7/10/22
104 <i>Landscape Plan</i>	Site Image	F	7/10/22
105 <i>Landscape Plan</i>	Site Image	F	7/10/22
106 <i>Landscape Plan</i>	Site Image	F	7/10/22
501 <i>Landscape Details</i>	Site Image	B	8/11/21
601 <i>Landscape Sections</i>	Site Image	B	7/11/22
602 <i>Landscape Sections</i>	Site Image	A	28/09/22
701 <i>Landscape Carpark Shading</i>	Site Image	C	7/10/22
<i>Plan of Proposed Subdivision, Sheet 1</i>	LTS		5/10/22
Document Name	Prepared by	Issue	Date
Statement of Environmental Effects	SLR Consulting		11/11/21
Addendum Statement of Environmental Effects	SLR Consulting	1.0	7/12/22
Compliance Tables	SLR Consulting	2	2/12/22
Waste Management Plan	SLR Consulting	3	9/09/22
Stormwater Management Plan	Richmond+Ross	C	10/22
Service Station Plan of Management	SLR Consulting	3	27/10/22
Take Away Food & Drink Premises Plan of Management	SLR Consulting	4.0	27/10/22
Child Care Facility Plan of Management	Kiddiwinks	3	6/10/22
Traffic Impact Assessment	Colston Budd Rogers & Kafes	1	7/10/22

Supplementary Traffic Report	Colston Budd Rogers & Kafes		6/12/22
Bushfire Assessment Report	BEMC		28/09/21
Letter providing bushfire certification of landscape plans	BEMC		11/10/22
Noise Impact Assessment	Muller Acoustic Consulting	3	28/09/22
Crime Risk Assessment	SLR Consulting	2	14/10/22
BCA Compliance Report	Mckenzie group	00	25/10/22
Air Quality Assessment	Todoroski Air Services	001	27/09/22
Neptune Swim School Plan of Management	Neptune	2	7/12/22
Operation and Maintenance Plan	Richmond+Ross	A	09/22
Child Care Evacuation Plan	Kiddiwinks	2	28/10/22
Planning Statement regarding SREP20	SLR	1	13/01/23

2. Where there is any inconsistency between the approved plans and documents and the conditions of consent, the conditions of consent prevail.
3. Noise levels from the premises shall not exceed the relevant noise criteria detailed in the approved Muller Acoustics (dated 28 September 2022, ref MAC211443-02 RP1V4). The recommendations provided in Noise Impact Assessment shall be implemented and incorporated into the design, construction and operation of the development, and **shall be shown on plans accompanying the Construction Certificate application.**

A compliance certificate is to be obtained from a qualified acoustic consultant certifying that the development has been constructed to meet the noise criteria in accordance with the approved Noise Impact Assessment. This certificate is to be submitted to the Principal Certifying Authority **prior to the issue of an Occupation Certificate.**

The provisions of the Protection of the Environment Operations Act 1997 apply to the development in terms of regulating offensive noise.'

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

4A. The development shall be carried out in accordance with the General Terms of Approval issued by NSW RFS dated 22 April 2022, which are **annexed** to these conditions.

GENERAL CONDITIONS TO BE SATISFIED PRIOR TO THE RELEASE OF THE CONSTRUCTION CERTIFICATE

All conditions in this part of the consent must be complied with before any Construction Certificate can be issued. Separate requirements are provided for specific uses within the site which must also be complied with before a Construction Certificate can be issued in relation to those uses.

5. A Construction Certificate is to be obtained prior to the commencement of any building or subdivision works.

6. NOT USED

i.

7. Prior to the issue of a Construction Certificate, a detailed “design” certificate from an experienced and qualified traffic engineer with tertiary qualifications is to be submitted to and approved by the Principal Certifying Authority confirming the following:

- a) The car parking layout and loading areas associated with the development (including, driveway grades, headroom clearance turn paths, aisle widths, aisle lengths and parking bay dimensions) should be in accordance with AS2890.1:2004, AS2890.2:2018, AS2890.3:2015 and AS2890.6:2009.
- b) Bicycle parking associated with the development is provided in accordance with AS2890.3 design requirements.
- c) Driveway access complies with Figure 3.3 of AS2890.1:2004 minimum sight lines for pedestrian safety.
- d) All vehicles shall enter and exit the lot in a forward direction;
- e) Confirmation that the plans provide for a minimum of 133 car parking spaces including six (6) accessible car parking spaces as per the following:
 - i. A minimum of 10 spaces allocated to the parents for the child care centre which are to be located along the internal car parking frontage of the child care centre and signposted as 10-minute parent parking between 7:00am to 9:30am and 2:30pm to 6:00pm weekdays.

- ii. A minimum of 23 staff car parking spaces allocated to the child care centre and swim school and signposted and linemarked accordingly.
 - iii. **NOT USED**
 - iv. A minimum of 36 visitor spaces allocated to the swim school and signposted and linemarked accordingly.
 - v. A minimum 12 car parking spaces provided for the service station / convenience store;
 - vi. A minimum of 28 car parking spaces are to be provided on site for fast food premises 1, a minimum of 11 car parking spaces are to be provided on site for fast food premises 2 and a minimum of 12 car parking spaces are to be provided on site for fast food premises 3. This is based on the maximum number of internal seats being provided for premises 1, 2 and 3 being 56 seats, 22 seats and 24 sets respectively;
;
 - vii. Each component of the site is to be allocated a minimum of one (1) accessible parking space (minimum 6 accessible spaces);
 - viii. The provision of bicycle parking is to be provided in accordance with the Planning Guidelines for Walking and Cycling
- f) Provision of regulatory No Exit signage located on private land is to be located at the southern entry only driveway facing inwards to the development, accompanied by appropriate pavement arrow linemarking in accordance with AS2890.1:2004.
- g) Appropriate wayfinding and traffic management pavement markings and signage is to be provided to advise visitors of the direction vehicular direction flow of on-site circulation roadways.

8. NOT USED

9. **Prior to the issue of the Construction Certificate**, a Construction Noise and Vibration 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 and vibration 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}.

10. **Prior to the issue of the Construction Certificate**, further details on the type and location of all mechanical plant and equipment associated with the development is to be provided to Penrith City Council for consideration and approval. Suitable data and information assessed by a suitably qualified acoustic consultant is to be supplied to demonstrate compliance with the established noise criteria and the approved Noise Impact Assessment prepared by Muller Acoustics (dated 28 September 2022, ref MAC211443-02 RP1V4).

{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}.

11. The approved Building Code of Australia Compliance Report shall be updated prior to the release of the Construction Certificate and any necessary amendments shall be incorporated into the Construction Certificate Plans.

12. The provision of electricity within the site must be placed underground.

13. **Prior to the issue of the Construction Certificate**, a Construction Environmental Management Plan (CEMP) is to be prepared by a suitably experienced / qualified person and submitted to Penrith City Council for approval. If Council is not the certifying authority, a copy of Council's approval is to be provided to the Principal Certifying Authority. The CEMP is to address the environmental aspects of the construction phase of the development and is to include details on the environmental management practices and controls to be implemented on the site in relation to potential exposures and potential impacts arising from the identified contaminants of potential concern in the groundwater as identified in the Due Diligence Environmental Site Assessment prepared by Reditus Consulting Pty Ltd (dated 17 August 2021, ref 21219RP01).

14. Prior to the issue of the Construction Certificate, a Construction Management Plan (CMP) is to be prepared by a suitably experienced / qualified person and submitted to Council for approval. If Council is not the certifying authority, a copy of Council's approval is to be provided to the Principal Certifying Authority.

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

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

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

15. 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.

16. Prior to the issue of any Construction Certificate, the recommendations of the approved Access Report are to be incorporated into the Construction Certificate plans. All works identified as being necessary in the Access Report shall be completed prior to the issue of an Occupation Certificate.

17. Prior to the issue of any Construction Certificate, a Section 138 Roads Act application, 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).

You are required to lodge the applicable Section 138 Roads Act application for the below works that apply to your specific development prior to that work activity commencing. Please liaise with your builder to determine what applications are required for your development

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

- a) Construction of driveways (including kerb reinstatement of redundant driveway crossings and reconstruction of any affected footpaths and/or cycleways)
- b) Temporary road reserve occupancies
- c) Road reserve openings for the installation of:
 - i. Utilities (water, sewer, power, telecommunications)
 - ii. Private stormwater connections to the kerb (including stormwater connection to Penrith City Council owned drainage)
 - iii. Reconstruction of concrete footpath and/or cycleways across the frontage
- d) Establishment of a construction work zone
- e) Establishment of road reserve hoardings and temporary structures/fencing etc.
- f) Operation of a tower crane over the road reserve
- g) Temporary ground anchors that encroach below the road reserve (for basement construction)

All works shall be carried out in accordance with the Roads Act Approval and the conditions outlined in the Roads Act Applications, the development consent, including the stamped approved plans, and Penrith City Council's Driveway and Road Reserve Restoration Works Specification, guidelines and engineering best practice.

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

Note:

Separate approval may be required from Transport for NSW for classified roads

All works associated with the Roads Act approval(s) must be completed prior to the issue of any Occupation Certificate or Subdivision Certificate as applicable.

18. Prior to the issue of any Construction Certificate or Subdivision Works Certificate, the Certifier shall ensure that an application under Section 138 Roads Act, including the payment of application and inspection fees, has been lodged with, and approved by, Penrith City Council, for any works within the Andrews Road reserve, including in relation to the Andrews Road intersection with Renshaw Street.
19. Prior to the issue of any Construction Certificate or Subdivision Works Certificate, the Certifier shall ensure that an application under Section 68 of the Local Government Act, including payment of application and inspection fees, has been lodged with and approved by Penrith City Council for provision of drainage works in Lot 1 DP 286568.

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.

Applications under S68 of the Local Government Act are now lodged via the NSW Planning Portal. Further information on the lodgement process can be found on the NSW Planning Portal website. Please contact Penrith City Council's Development Engineering Department on 4732 7777 to obtain a formal fee proposal prior to lodgement on the portal or if you require any assistance with the lodgement process.

Note:

All works associated with the Section 68 Local Government Act approval must be completed prior to the issue of any Occupation Certificate or Subdivision Certificate as applicable.

20. Prior to the commencement of any works on-site (including demolition works) or prior to the issue of any Construction or Subdivision Works Certificate, whichever occurs first, a Construction Traffic Management Plan (CTMP) shall be submitted to Penrith City Council's Asset Management Department for endorsement. The CTMP shall be prepared by a suitably qualified consultant with appropriate training and certification from the Roads and Maritime Services (RMS). The CTMP shall include, but not be limited to the following:
 - (a) Construction vehicle routes;
 - (b) Anticipated number of trucks per day;
 - (c) Anticipated number of staff per day
 - (d) Hours of construction;

- (e) Duration of construction;
 - (f) Traffic Control Plans to manage construction vehicles;
 - (g) Access arrangements; and
 - (h) Proposed traffic measures to minimise impacts of construction vehicles must be submitted for the approval of Council's Engineers. Council's Engineers must specify in writing that they are satisfied with the Traffic Management Plan prior to the issue of the Construction Certificate.
 - (i) Hours of Construction and Building Work - Any work activity or activity associated with the development consent that requires the use of any tools (including hand tools) or any power operated plant and machinery must not be performed, or permitted to be performed, except between the hours of 7.00 am to 6.00 pm, Monday to Saturday inclusive. No work or ancillary activity is permitted on Sundays, or Public Holidays.
 - (j) Works Zone - The installation of a "Works Zone" for the site will require the approval from the Traffic Advisory Committee and/or TfNSW. As a result, the applicant will provide a formal request to Council's Traffic Section with the duration and exact location of the required "Works Zone" at least 6 weeks prior to its required installation date. All costs associated with the installation of a "Works Zone" will be at the applicant's expense.
 - (k) Site Safety Fencing - Site fencing will be erected in accordance with SafeWork Guidelines, to exclude public access to the site during construction. The fencing will be erected before the commencement of any work and maintained throughout any building work.
21. The stormwater management system shall be provided generally in accordance with the concept plan/s lodged for development approval, prepared by prepared by Richmond + Ross Consulting Engineers Pty Ltd, Job Number – 210285, Sheets C100 - 104, Rev F Sect 34, dated 07/10/2022 and commitments made in the Stormwater Quality and Quantity report prepared by Richmond + Ross Consulting Engineers Pty Ltd, Job Number – 210285, Rev C, dated October 2022.

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.

Prior to the issue of any Construction Certificate, the Certifier shall ensure that the stormwater management system including pits, pipes, swale, level spreader, catch drains and the like has been designed in accordance with Penrith City Council's Stormwater Drainage Specification for Building Developments.

Prior to the issue of a Construction Certificate the Certifying Authority shall ensure that the stormwater management system has been designed in

accordance with Council's Stormwater Drainage for Building Developments and Water Sensitive Urban Design Policy.

22. Prior to the issue of a Construction Certificate, 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 approved development.

No approval is granted for the installation of a pad-mounted substation.

23. Prior to the issue of a Construction Certificate, any telecommunications infrastructure installed to service the approved development must comply with the following:

- a. The requirements of the Telecommunications Act 1997;
- b. For a fibre ready facility, the NBN Co's standard specifications current at the time of installation;
- c. For a line that is to connect a lot to telecommunications infrastructure external to the premises, the line must be located underground.

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

24. 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.

Note: 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.

25. This condition is imposed in accordance with Penrith City Council's Section 7.12 Contributions Plan. **Prior to a Construction Certificate being issued for this development**, a monetary contribution calculated at a rate of 1% of the cost of development is to be paid to Penrith City Council. To inform the contribution payable, a development cost schedule prepared by a suitably qualified Quantity Surveyor is to be submitted to Council that confirms the cost of the development as amended as part of Land and Environment Court Appeal No. 2022/16750 and in accordance with Section 208 of the Environmental Planning and Assessment

Regulation 2021. If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted Section 7.12 Contributions plan.

Council should be contacted prior to payment to ascertain the rate for the current quarterly period.. The Section 7.12 Contributions Plan may be inspected at Council's Civic Centre, 601 High Street, Penrith or online via Council's website.

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

26. A Stage 3 (detailed design) Road Safety Audit (RSA) shall be undertaken in accordance with Austroads Guide to Road Safety Part 6: Road Safety Audit on the proposed roadworks external to the site by an accredited auditor who is independent of the design consultant. A copy of the RSA shall accompany the design plans submitted with the Construction Certificate, Subdivision Works Certificate or Roads Act application.

Prior to the issue of the Construction Certificate, Subdivision Works Certificate or Section 138 Roads Act approval, the Certifier shall ensure that the recommendations of the RSA have been considered in the final design, through review of the Road Safety Audit Checklist, including Findings, Recommendations and Corrective Actions.

A copy of the Road Safety Audit shall be submitted to Penrith City Council by the applicant or Certifier for information purposes.

27. Prior to the issue of any Construction Certificate or Subdivision Works Certificate, the Certifier shall ensure that all habitable floor levels are in accordance with the stamped approved plans with a minimum floor level of RL 24.3m AHD (0.5m above the 1% AEP adopted flood level)..

28. NOT USED

Child Care Centre

The following conditions must be satisfied prior to the release of a Construction Certificate for the child care centre on the site.

29. The windows of the childcare centre along the southern and eastern sides of the building are to be fixed. Detailed plans and specifications of an alternate method of ventilation are to be submitted to Council **prior to the issue of the Construction Certificate.**

30. NOT USED

Service Station

The following conditions must be satisfied prior to the release of a Construction Certificate for the service station on the site.

31. NOT USED**32. NOT USED**

33. The following details are to be submitted to and approved by Penrith City Council before a Construction Certificate can be issued for the development:

- a) The proposed fuel bowser/s shall be covered with a canopy. All uncontaminated stormwater from the canopy and other roofed areas shall be directed away from the forecourt area under the canopy.
- b) The covered fuel bowser/s area shall be protected from the entry of external surface waters at the canopy line by either a minimum 2% change in grade, or a combination of a minimum 2% grade changes and a grated drainage system.
- c) Tanker delivery facilities shall be provided with a spillage collection device, which will collect any spilt fuel.

A copy of Council's approval of the information submitted for the above matters is to be provided to the Certifying Authority as part of the Construction Certificate application.

34. All wastes collected within the canopy of the fuel bowzers shall be directed to the sewer after being treated in accordance with the requirements of Sydney Water.

35. Inlets to underground storage tanks are to be located so as to ensure that vehicles discharging fuel are contained within the boundaries of the site.

36. An Environmental Protection Plan detailing spill prevention, contingency and emergency clean-up procedures for the service station shall be submitted for approval **prior to the issue of the Construction Certificate**. The approved procedures plan shall be implemented in the event of a spill or emergency. The Environmental Protection Plan is to be prepared in accordance with the Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation (2014).

CONDITIONS TO BE SATISFIED PRIOR TO THE COMMENCEMENT OF SUBDIVISION WORKS

Prior to the commencement of any subdivision works, the following conditions in this part of the Consent must be satisfied, and all relevant requirements complied with at all times during the operation of this consent.

- 37.A Subdivision Works Certificate (previously a Construction Certificate) is to be approved by the Certifier for the provision of any subdivision works (road, drainage, earthworks).

Prior to the issue of any Subdivision Works Certificate, the Certifier shall ensure that engineering plans are consistent with the stamped approved plan/s prepared by Richmond + Ross Consulting Engineers Pty Ltd, Job Number – 210285, Sheets C100 - 104, Rev E and F Sect 34, dated 07/10/2022 and commitments made in the Stormwater Quality and Quantity report prepared by Richmond + Ross Consulting Engineers Pty Ltd, Job Number – 210285, Rev C, dated October 2022 and that all subdivision works have been designed in accordance with the development consent, Penrith City Council's Design Guidelines for Engineering Works for Subdivisions and Developments, Engineering Construction Specification for Civil Works, Austroads Guidelines and best engineering practice.

The subdivision works may include but are not limited to the following:

- a) Public and private roads
- b) Stormwater management (quantity and quality)
- c) Inter-allotment drainage
- d) Private access driveways
- e) Sediment and erosion control measures
- f) Flood control measures
- g) Overland flow paths
- h) Traffic facilities
- i) Earthworks
- j) Bridges, culverts, retaining walls and other structures
- k) Landscaping and embellishment works

The Subdivision Works Certificate must be supported by engineering plans, calculations, specifications and any certification relied upon.

Note:

Subdivision Works Certificates are now lodged via the NSW Planning Portal. Further information on the lodgement process can be found on the NSW Planning Portal website. Council's Development Engineering Department can provide this service and can be contacted on 4732 7777 to obtain a formal fee proposal prior to lodgement on the portal or if you require any assistance with the lodgement process.

38. NOT USED

CONDITIONS TO BE SATISFIED PRIOR TO THE COMMENCEMENT OF WORKS

Prior to the commencement of any works, the following conditions in this part of the Consent must be satisfied, and all relevant requirements complied with at all times during the operation of this consent.

39. Work on the subdivision is not to commence until:

- a Subdivision Works Certificate has been issued,
- a Principal Certifying Authority has been appointed for the project, and
- any other matters prescribed in the development consent for the subdivision and the Environmental Planning and Assessment Act and Regulation have been complied with.

40. 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 works are to commence on site (including the clearing site vegetation), the proponent shall submit a "Notice of Commencement" to Council.

41. Prior to the commencement of construction works:

- a. Toilet facilities at or in the vicinity of the worksite 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 of a building must be executed safely and in accordance with the appropriate professional standards. All excavations associated with the erection 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 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. 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 of the approved development 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 worksite 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 worksite 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.
42. 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.

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

43. Certification that the erosion and sediment control measures have been installed in accordance with the approved erosion and sediment control plan (s) for the development and "Managing Urban Stormwater: Soils and Construction 2004" shall be obtained and issued a minimum 2 days before any other site works are to commence, including earthworks and clearing of the site

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

CONDITIONS TO BE SATISFIED DURING CONSTRUCTION WORKS

Unless otherwise specified, the following conditions in this part of the consent must be complied with at all times during the construction works. Where applicable, the requirements under previous parts of the consent must be implemented and maintained at all times during the construction period.

44. Construction works are restricted to the following hours in accordance with the NSW Environment Protection Authority Noise Control Guidelines:
- a. Mondays to Saturdays, 7am to 6pm
 - b. No work is permitted on Sundays and Public Holidays.

In the event that the construction 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.

45. 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.

46. 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.

47. 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:

- a. state the legal property description of the fill material source site,
- b. 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,
- c. clearly indicate the legal property description of the fill material source site,
- d. provide details of the volume of fill material to be used in the filling operations,
- e. 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
- f. (based on the fill classification) determine whether the fill material is suitable for its intended purpose and land use and whether the fill material will or will not pose an unacceptable risk to human health or the environment.

An appropriately qualified person/s (as defined in the Penrith Development Control Plan 2014) shall:

- Supervise the filling works,
- (On completion of filling works) carry out an independent review of all documentation relating to the filling of the site, and shall submit a review findings report to Council and any Principal Certifying Authority,
- Certify by way of a Compliance Certificate or other written documentation that fill materials have been placed on the site in accordance with all conditions of this consent and that the site will not pose an unacceptable

risk to human health or the environment. A copy of the Compliance Certificate or other documentation shall be submitted to Council and any Principal Certifying Authority.

The contact details of any appropriately qualified person/s engaged for the works shall be provided with the Notice of Commencement.

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

Note: for the purpose of this condition 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.

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

49. 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.

50. An Unexpected Finds Protocol (the Protocol) is to be developed by an appropriately qualified environmental consultant as per the recommendations made in the Due Diligence Environmental Site Assessment prepared by Reditus Consulting Pty Ltd (dated 17 August 2021, ref 21219RP01). Prior to the issue of the Construction Certificate, the Protocol is to be submitted to Penrith City Council for approval. If Council is not the certifying authority for this development, the report is required to be provided to Council for approval.

The Protocol is to address, at minimum, the management of any contamination found on the site during the [excavation/construction] phase of the development, including at minimum, contaminated soils, groundwater, buried building materials, asbestos, odour and staining.

The Protocol is to clearly detail that all remediation works within the Penrith Local Government Area are considered to be Category 1 works under State Environmental Planning Policy (Resilience and Hazards) 2021 and that 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.

The Council approved Protocol is to be complied with at all times during the construction phase of the development.

51. All earthworks shall be undertaken in accordance with AS3798 and Penrith City Council's Design Guidelines for Engineering Works for Subdivisions and Developments and Engineering Construction Specification for Civil Works.

The level of testing shall be determined by the Geotechnical Testing Authority / Superintendent in consultation with the Principal Certifier.

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

53. 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.

54. If any archaeological relics or items or places of aboriginal cultural significance are uncovered during the carrying out of the works permitted by this consent, no further works are to be undertaken until or unless further directed by Penrith City Council or the NSW Office of Environment and Heritage.

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

55. 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.

56. A Site Fencing and Hoarding Plan is to be submitted to Penrith City Council for its approval. That Plan is to include all required Site fencing and hoarding, including the locations, heights and the materials and finishes proposed. Any

advertising or display suite or sales information is to be limited to 25% coverage of each elevation of the Site fencing.

All Site fencing and hoarding is to be maintained in good working order and is to be kept tidy. All damage and graffiti is to be removed or rectified as soon as practicable.

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

- a. the name of the Principal Certifying Authority, their address and telephone number,
- b. the name of the person in charge of the worksite and telephone number at which that person may be contacted during work hours,
- c. that unauthorised entry to the worksite is prohibited,
- d. the designated waste storage area must be covered when the site is unattended, and
- e. 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:

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

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

58. A certificate by a registered surveyor verifying that all habitable floor levels are at or above RL 24.3 m AHD (adopted flood level + 0.5m freeboard) shall be submitted upon completion of the building to that level. No further construction of the building is to be carried out until approval to proceed is issued by the Principal Certifier.

59. All landscape works are to be constructed in accordance with the stamped approved plans, as amended by any conditions of this consent, and Chapter C6 Landscape Design of Penrith Development Control Plan 2014.

60. Upon completion of all works in the road reserve, all verge areas fronting the development are to be turfed. The turf shall extend from the back of kerb to the property boundary, with the exception of concrete footpaths, service lids or

other infrastructure which is not to be turfed over. Turf laid up to concrete footpaths, service lids or other infrastructure shall finish flush with the edge.

61. All landscaping on the site, including in raised planting areas must be provided with an irrigation system.
62. The approved landscaping must be installed by a suitably qualified and experienced landscape professional.
63. No native trees or other vegetation, including shrubs and understorey, are to be removed, ringbarked, cut, topped, lopped, slashed or wilfully destroyed (other than those within the development footprint or as shown on the approved plans) without the prior consent of Penrith City Council and in accordance with Penrith Development Control Plan 2014.
64. All landscape works are to meet industry best practice and the following relevant Australian Standards including AS4419 Soils for Landscaping and Garden Use, AS 4454 Composts, Soil Conditioners and Mulches, and AS 4373 Pruning of Amenity Trees.
65. A mailbox structure is to be erected within the site, compliant with the requirements of Australia Post. The structure is to be of face or rendered brickwork.
66. 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.
67. The installation of the 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 must be contained wholly within the body of the signage or must not be visible from the public domain.

CONDITIONS TO BE SATISFIED PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE

All conditions in this part of the consent must be complied with before any Subdivision Certificate can be issued.

68. NOT USED

69. A Surveyors Certificate is to be lodged with the application for a Subdivision Certificate that certifies that all pipes and services are located wholly within the property or within appropriate easements and that no services encroach boundaries.

70. Prior to the issue of the Subdivision Certificate, the following is to be submitted:

An original plan of subdivision and associated administration sheets. The plan of subdivision must indicate, where relevant –

- All drainage easements, rights of way, restrictions and covenants.
- All proposed dedications of roads/drainage/public reserve, which are to be undertaken at no cost to Penrith City Council.

The following information is to be shown on one (1) copy of the plan.

- The location of all buildings and/or other permanent improvements shall comply with any statutory boundary clearances or setbacks as defined by the Building Code of Australia and Council's resolutions.
- All existing services are wholly contained within the lot served and/or covered by an appropriate easement.

71. Prior to lodgement of the Subdivision Certificate Application, street address numbering must be obtained/approved by Penrith City Council's Rates Team. Proposed street addresses can be forwarded to council@penrith.city for approval.

72. Prior to the issue of any Subdivision Certificate, the Principal Certifier shall ensure that all subdivision works required by this consent have been satisfactorily completed or that suitable arrangements have been made with Penrith City Council for any outstanding works.

CONDITIONS TO BE SATISFIED PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

All conditions in this part of the consent must be complied with before any Occupation Certificate can be issued.

Unless otherwise specified, the Principal Certifying Authority is responsible for determining compliance with conditions in this part of the consent. Details to demonstrate compliance with all conditions, including plans, documentation, or other written evidence must be submitted to the Principal Certifying Authority.

Conditions required to be satisfied prior to the issue of an occupation certificate only for specific uses within the development are separately identified.

73. On the completion of all works and prior to the occupation of any building, an Occupation Certificate is to be obtained.

The Certificate must not be issued if any conditions (other than those specified as applying to another use on the site) 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.

74. Prior to the issue of an Occupation Certificate, the intersection of Renshaw Street / Andrews Road is to be fully constructed as either a roundabout intersection or a signalised intersection in accordance Deferred Commencement Condition B, and in the form approved by Council under condition 18.

75. Prior to the issue of an Occupation Certificate, the following community safety and crime prevention through environmental design (CPTED) requirements are to be implemented:

a) Lighting

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

b) Building Security & Access Control

- ii. Intercom, code or card locks or similar must be installed for all secure entries to buildings.
- iii. Australian Standard 220 – door and window locks must be installed in all buildings.
- iv. CCTV is to be provided to cover the car parking areas, petrol bowsters and entrances to all premises. Cameras must be of sufficient standard to be useful for police in the event of criminal investigations. Lighting must be provided to support cameras at night (alternatively infra-red cameras are recommended). Signage must be displayed to indicate that CCTV cameras are in use.
- v. Monitored alarm systems must be installed in all individual premises.

c) Graffiti/Vandalism

- i. Graffiti resistant coatings must be used to external surfaces where possible, including signage, furniture, retaining walls etc.
- ii. Procedures must be in place to ensure the prompt removal and/or repair of graffiti or vandalism to the buildings, fencing, and common areas. This includes reporting incidents to police and/or relevant authorities.

d) Landscaping

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

76. 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.

77. 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 Penrith City Council is not the Principal Certifying Authority.

78. **Prior to the issue of any Occupation Certificate**, the Principal Certifying Authority shall ensure that the stormwater management system (including on-site detention and 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.

79. Prior to the Issue of an Occupation Certificate, A Bush Fire Emergency Management and Evacuation Plan is prepared that complies with the requirements of Table 6.8d within Planning for Bushfire Protection 2019 and includes all buildings on the site and developed in consultation with all leases of the buildings. A copy of the Bush Fire Emergency Management and Evacuation Plan is to be provided to the Local Emergency Management Committee for its information prior to occupation of the development.

80. Prior to the issue of an Occupation Certificate, an "as built" certificate from an experienced and qualified traffic engineer with tertiary qualifications is to be

submitted to and approved by the Principal Certifying Authority confirming the as-built conditions comply with the construction plans as required by Condition 7.

81. Parking spaces shall be clearly designated (sign posted and marked on ground) and line marked prior to the issuing of an Occupation Certificate where relevant. Signage, pavement symbols and line marking shall comply with *Australian Standards, AS1742, Manual of Uniform Traffic Control Devices* and *AS2890.1:2004* where applicable.
82. Redundant Driveway - All existing vehicular crossings adjacent to the subject premises that have become redundant will be removed and the footway and kerb and gutter reinstated at the developer/applicant's expense.
83. Prior to the issue of an Occupation Certificate an updated dilapidation report confirming no damage occurred during the excavation and construction of the development to Council owned infrastructure and surrounding buildings is to be provided to the Principal Certifying Authority. If Council is not the Certifying Authority the updated dilapidation report shall be submitted to Council for approval prior to the issue of an Occupation Certificate.
84. Prior to the issue of any Occupation Certificate, a lighting system must be installed for the development so as to provide uniform lighting across any common areas and driveways. Any exterior lighting must be located and directed in such a manner so as not to create a nuisance to any surrounding properties. Such lighting must be at the minimum level of illumination, to facilitate for safe manoeuvring of vehicles and pedestrians on the Site. The lighting must comply with AS 4282 "Control of the obtrusive effects of outdoor lighting" (1997).
85. The applicant shall, at no cost to Council, construct a standard concrete footpath across the Renshaw Street frontage of the site. Levels of the footpath paving shall conform with levels approved by Council.
86. **Prior to the issue of an Occupation Certificate** a restriction as to user and positive covenant relating to the:
 - a) Stormwater management systems (including on-site detention and water sensitive urban design)

Shall be lodged with Land and Registry Services for registration on the title of the property. The restriction as to user and positive covenant shall be in Penrith City Council's standard wording as detailed in Penrith City Council's Stormwater Drainage for Building Development.

87. **Prior to the issue of an Occupation Certificate**, written certification from all relevant service providers that the telecommunications infrastructure is

installed in accordance with the requirements above and the applicable legislation at the time of construction, must be submitted to the Principal Certifying Authority.

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

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

89. Prior to the issue of any Occupation Certificate, the required sight lines around the driveway entrance must be demonstrated not to be compromised by landscaping, fencing or signage.

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

i. Implementation Report

Upon completion of the landscape works associated with the development and prior to the issue of an Occupation Certificate for the development, an Implementation Report must be submitted to the Principal Certifying Authority attesting to the satisfactory completion of the landscaping works for the development.

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

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.

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

92. A Food Safety Supervisor, with a current Food Safety Supervisor Certificate recognised by the NSW Food Authority, must be appointed by the business prior to commencement of the business.
93. **Prior to the issue of an Occupation Certificate and commencement of trade**, the occupier must register their food business with Penrith City Council by completing Council's Registration of Premises-Food Form. The occupier of the premises must notify Council within 7-days of any change of details. Separate Food Business registration forms are to be completed for each take away food and drink premises, service station, and childcare centre.
94. All existing (aerial) and proposed services for the development, including those across the frontage of the development are to be located or relocated underground in accordance with the relevant authorities' regulations and standards.
95. 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.
96. A certificate is to be obtained from a qualified acoustic consultant certifying that the development including mechanical plant and equipment/acoustic barriers has been constructed to meet the noise criteria in accordance with the Council approved Noise Impact Assessment prepared by Muller Acoustics (dated 28 September 2022, ref MAC211443-02 RP1V4). This certificate is to be submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate.
- {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}.
97. The construction, fit out and finishes of all the food premises (including the service station and kitchen in the childcare centre) must comply with Food Safety Standard 3.2.3 of the Australian and New Zealand Food Standards Code, and AS4674-2004 Design, Construction and Fit-out of Food Premises. This includes:
- a) 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.

- b) The exhaust hood must completely cover the equipment to be ventilated and extended at least 200mm beyond the perimeter of the equipment. The exhaust hood must be provided with a condensation gutter around its base. The gutter must be at least 50mm wide by 25mm deep. Where abutting walls are located the hood must be constructed so as to finish flat against the wall surface.
- c) The low edge of a canopy type exhaust hood must be at least 2000 mm above floor level.
- d) The kitchen exhaust system must be fitted with carbon filters 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 and Regulations there under.
- e) Hand basins must be serviced with hot and cold water through a single outlet, able to be mixed at a temperature of at least 40°C and fitted with a hands-free operation. Where sensor taps are installed, the basin must not be more than 6 metres from the hot water system. Disposable paper hand towels and soap must be provided and serviced from a dispenser adjacent to each hand basin.
- f) Staff toilets must be provided on the premises. Where a toilet adjoins a food preparation area it must be separated by an air lock and its doors must be fitted with self-closing devices. Toilets intended for customer use must not be accessed through areas where open food is handled, displayed, or stored.
- g) A hand basin must be located within the toilet cubicle. Hand basins must be serviced with hot and cold water through a single outlet, able to be mixed at a temperature of at least 40°C and fitted with a handsfree operation. Where sensor taps are used the basin must not be more than 6 metres from the hot water system. Disposable paper hand towels and soap must be provided and serviced from a dispenser adjacent to each hand basin.
- h) Hot water services must be positioned at least 75mm clear of the adjacent wall surfaces, and mounted at a minimum 150mm above the floor level on a non-corrosive metal stand. The hot water system must be sized to meet the demands of the food business during peak operating and cleaning periods and be able to provide sufficient hot water throughout the working day. Discharge from the hot water system must enter the sewer through a tongue dish in accordance with Sydney Water's requirements.
- i) The floor of the food premises must be finished in an approved non-absorbent material, evenly laid, or graded and drained to a trapped floor waste. All floor wastes in the food preparation, service and scullery area must be fitted with a sump removable basket and grate, a minimum 200mm in diameter, and finished in all stainless steel.
- j) Approved, recessed coving must be provided at all intersections of the floor with the walls within all food preparation, service, storage, and scullery areas. All coving must have a minimum concave radius of 25mm and be installed so

as to be integral to the surface finish of both floor and wall in such a manner as to form a continuous, uninterrupted surface.

- k) The walls of the food preparation area must be of solid construction and finished with glazed ceramic tiles or other approved material to a height of 2 metres. The intersection of tiles and render must have a flush finish or be splayed at a 45 degree angle to eliminate a ledge that would allow dust and grease to accumulate.
- l) The walls at the rear of cooking appliances must be surfaced with an impervious material, such as stainless steel, which extends from the canopy to the floor. Where a cooking appliance is sealed to the wall, the material must be lapped over the top edge of the appliance to provide a grease and vermin proof seal. Cooking appliances must only be sealed to walls made of a non-combustible material.
- m) The ceiling in the preparation, service and scullery areas must be constructed with a rigid, non-absorbent, smooth faced material free from open joints, cracks and crevices and be painted with a lightcoloured washable paint. The intersection of the walls and ceiling must be tight jointed, sealed and dust proofed. Drop-in panel style ceilings are not permitted. Service pipes, electrical conduits, refrigeration condensate pipes shall be enclosed or chased into walls, floors, or plinths. Where it can be demonstrated that this is not feasible pipes and conduits fixed on brackets, providing a minimum of 25 mm clearance from the adjacent wall and 100 mm from the floor or adjacent horizontal surface, can be used. All openings in walls, floors, and ceilings, through which service pipes and conduits pass, must be vermin proof.
- n) Appliances used to store potentially hazardous food must have a capacity to keep foods hotter than 60°C, refrigerated foods less than 5°C and be provided with a digital thermometer, accurate to 1°C that can be easily observed from outside the appliance.
- o) Any window sill within a food preparation area, service or scullery area must be located 450mm above the top of any bench/sink and tiled at a splayed angle of 45 degrees. Flyscreens or other approved means of excluding flies must be provided to all window and door openings.
- p) All wash sinks and food preparation sinks must be serviced with hot and cold water through a single outlet. Wash sinks must be supplied with water at a temperature of not less than 54°C for washing. Double bowl sinks must be constructed of stainless steel, have a minimum bowl size of 450mm x 300mm x 300mm to enable cleaning of large pots and equipment, be fitted with a draining area at each end, and have a splashback as part of the unit at least 300mm up the wall.
- q) Food preparation sinks must be separated from all other sinks by a minimum distance of 2 metres or have an approved form of physical barrier that separates the sink.

- r) Cleaners sinks must be serviced with hot and cold water through taps fitted with hose connectors. Cleaner's sinks must be located outside of areas where open food is handled.
- s) All fixtures, fittings and equipment must be provided with smooth and impervious surfaces, free from cracks and crevices to enable easy cleaning.
- t) All fittings and fixtures must be built into the wall and floor so as to be free from joint, gaps and cavities to enable easy cleaning or alternatively, supported on one of the following:
 - i. Plinths – plinths must be an integral part of the floor, constructed of solid materials similar to the floor at least 75mm in height and coved at the intersection with the floor. All plinths must have a smooth and impervious finish. All fittings and fixtures must be properly sealed to the plinth so to be free from gaps, cracks, and cavities.
 - ii. Wheels or castors – fittings and fixtures can be supported on wheels or castors. The wheels and castors must be capable of supporting and easily moving a full loaded fitting. All wheels and castors must be provided with a restraining device.
 - iii. Legs – fittings and fixtures can be supported on legs but must be constructed of a non-corrosive, smooth metal, or moulded plastic. All legs must be free from cracks and crevices. All legs must have a clearance space between the floor and the underside of the fitting of at least 200 mm.

NOTE: False bottoms under fittings are not permitted (AS4674-2004 – Section 4.2 and 4.3).

- u) All food preparation benches must be constructed in stainless steel or finished in a smooth and non-absorbent approved material that is free of joints.
- v) All storage cabinets (internal and external surfaces) must be finished in a smooth and non-absorbent approved material that is free of joints.
- w) Light bulbs or tubes are to be shatterproof or fitted with approved light diffusers (covers or shields) to prevent contamination of food by glass from a broken light globe or tube. Light fittings must be free from any feature that would collect dirt or dust, harbour insects or make the fitting difficult to clean. Light fittings must be recessed into ceilings or equipment where possible. Heat lamps must be protected against breakage by a shield extending beyond the bulb.
- x) Shelves must be smooth and impervious; free from joints, cracks, and crevices; and able to be easily cleaned. The lowest shelf must be at least 200mm off the floor to allow easy cleaning underneath.

- y) Approved materials must be used, such as galvanised piping, stainless steel, or laminated plastic.
- z) Shelves are to be sealed to the wall or kept clear of walls to allow easy access for cleaning (>40 mm).
- aa) Coolroom and freezer room floors must be finished with a smooth even surface and graded to the door. A sanitary floor waste must be located outside the coolroom and freezer adjacent to the door. All metal work in coolrooms and freezer rooms must be treated to resist corrosion.
- bb) Condensation from coolrooms and refrigeration motors must discharge to sewer via a tundish with air gap separation in accordance with Sydney Water requirements.
- cc) Coolrooms and freezer rooms must be provided with:
 - i. A door which can at all times be opened from inside without a key; and
 - ii. An approved alarm device located outside the room but controlled only from the inside.
- dd) Sufficient lockers must be provided in the food preparation area or storeroom specifically for the storage of cleaning materials, employees' clothing, and personal belongings.
- ee) Storerooms must be constructed in accordance with AS4674-2004 by providing the following:
 - i. A smooth, even, non-slip floor surface.
 - ii. Coving at all intersections of the floor and walls with approved, recessed coving to a minimum concave radius of 25mm, so as to be integral to the surface finish of both floor and wall in such a manner as to form a continuous, uninterrupted surface. "Feather edge skirting" and non-rebated coving are not permitted.
 - iii. Walls must be provided with a smooth even surface and painted with a light-coloured washable paint to enable easy cleaning.
 - iv. The ceiling must be constructed with a rigid, non-absorbent, smooth faced material free from open joints, cracks and crevices and be painted with a light-coloured washable paint. The intersections of the walls and ceiling must be tight-jointed, sealed, and dustproof. Drop in panel style ceilings are not permitted.
 - v. Shelving or storage racks must be designed and constructed to enable easy cleaning.
- ff) Smooth and impervious surfaces (walls and floors) must be provided to all waste storage areas and rooms. Floor areas must be graded and drained to a floor waste gully connected to the sewer. Open waste storage areas must be appropriately covered and bunded to avoid stormwater entering the sewer. Waste storage rooms must be adequately ventilated and proofed against

pests. The area or room must be provided with water service hose connectors to enable easy cleaning.

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

- i. constructed of impervious material such as metal or plastic; and
- ii. have tight fitting lids,
- iii. bins that cannot be lifted for draining after cleaning shall have drainage bungs at the base.

hh) The grease arrestor must not be installed in any kitchen, food preparation or food storage area. The grease arrestor shall be installed in accordance with Sydney Water's requirements.

Swim Centre

The following conditions must be satisfied prior to the release of an Occupation Certificate for the swim centre on the site.

98. **Prior to the issue of the Occupation Certificate and commencement of trade**, the occupier must register the public swimming pool (as defined in the Public Health Act, 2010) with Penrith City Council by completing Council's "Public Swimming Pool, Spa Pool and Splash Parks" Registration Form. The occupier of the premises must notify Council within 7 days of any change of details.

CONDITIONS TO BE SATISFIED ON AN ONGOING BASIS

Unless otherwise specified, the following conditions in this part of the consent must be complied with at all times by all uses on the site. Conditions only applicable to some of the approved uses are separately identified.

99. The entire site shall be maintained as an Inner Protection Zone.
100. All finishes of all structures and buildings are to be maintained at all times. Graffiti is to be promptly removed and any vandalism to the property is to be promptly repaired.
101. The intensity of the signage illumination and any obtrusive effects of outdoor lighting shall be controlled in accordance with AS 4282 – 1997, "Control of the Obtrusive Effects of Outdoor Lighting."
102. All vehicles are to enter/exit the site in a forward direction.
103. Subleasing of car parking spaces is not permitted by this Consent.
104. The stormwater management systems shall continue to be operated and maintained for the life of this consent 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.

105. Landscaping shall be maintained:

- in accordance with the approved plan, and
- in a healthy state for the life of this consent, 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.

106. Where an intruder alarm is installed on the premises, it must be fitted with a timing device in accordance with the requirements of the *Protection of the Environment Operations (Noise Control) Regulation 2017* by:

- a. Automatically ceasing to sound, whether continuously or intermittently, within 5 minutes after being activated by a detection device, and
- b. Not being able to be reactivated (except by a different detection device) until it has been manually reset.

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

108. The largest vehicle that is to service the development is to be limited to a 16.9m length Articulated Vehicle.

109. The signposting and linemarking of the allocation of car parking within the site is to remain for the life of the development, inclusive of traffic management signage and pavement markings.

The site is to maintain for the life of the development a minimum of 133 car parking spaces including six (6) accessible car parking spaces as per the following:

- a. A minimum of 10 spaces allocated to the parents for the child care centre which are to be located along the internal car parking frontage of the child care centre and signposted as 10-minute parent parking between 7:00am to 9:30am and 2:30pm to 6:00pm weekdays.
- b. A minimum of 23 staff car parking spaces allocated to the child care centre and swim school and signposted and linemarked accordingly.

c. **.NOT USED**

- d. A minimum of 36 visitor spaces allocated to the swim school and signposted and linemarked accordingly.
- e. A minimum 12 car parking spaces provided for the service station / convenience store;
- f. A minimum of 28 car parking spaces are to be provided on site for fast food premises 1, a minimum of 11 car parking spaces are to be provided on site for fast food premises 2 and a minimum of 12 car parking spaces are to be provided on site for fast food premises 3. This is based on the maximum number of internal seats being provided for premises 1, 2 and 3 being 56 seats, 22 seats and 24 sets respectively;

; and

- g. Each component of the site is to be allocated a minimum of one (1) accessible parking space (minimum 6 accessible spaces).

110. Amplified music from the development is not to be audible at the boundaries of the property. No amplified music is to be used externally, including in the carpark.

The provisions of the Protection of the Environment Operations Act 1997 apply to the development, in terms of regulating offensive noise.

111. In the event of substantiated ongoing noise complaints relating to the development being received by Council, the owner and/or occupier of the development may be required by Council to obtain the services of a suitably qualified acoustic consultant to undertake a noise impact assessment on the development to address the concerns of the community.

The noise impact assessment report is to be prepared and provided to Council for approval within 45 days of being requested. Any mitigation works are to be undertaken within thirty (30) days from the date of notice from Council, unless otherwise specified.

{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}.

112.

Prior to the issue of an Occupation Certificate, an amended security/operational management plan shall be prepared addressing the following:

- The provision of security personnel, the hours security patrols are to be undertaken, and the circumstances in which security personnel will be engaged.
- Management of loitering and anti-social behaviour. Specific strategies shall be detailed to manage loitering, particularly in car parking areas and outdoor terrace areas, and around the periphery of the site.
- Management of the site as an 'alcohol free zone'.
- All incidents of crime and anti-social behaviour shall be reported to the NSW Police. An onsite log book shall be established to document any occurrences of anti-social behaviour to ensure that the relevant authority is informed and to record what action was taken to prevent reoccurrence of the incident.
- After 11pm the number of entry points for each tenancy shall be reduced to one, where relevant.
- The provision of gates or other measures to prevent unauthorised access after hours.

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

113. At the commencement of building works and in perpetuity, the entire Site shall be managed as an Inner Protection Area (IPA) as outlined within Appendix 4 of Planning for Bush fire Protection 2019, and NSW Rural Fire Service 'Standards for Asset Protection Zones'.

Child Care Centre

The following conditions are to be complied with at all times by the child care centre on the site.

114. The maximum number of children placed at the centre is to be limited 100 and staff is limited to 20.
115. The approved Childcare Centre must be maintained in a manner that always complies with the Education and Care Services National Regulations 2011.
116. The bottle preparation area in the 0-2 year old room of the childcare centre is to be provided with a hand wash basin which is supplied with hot and cold water through a single mixing tap, adequate supplies of liquid soap and

paper towels at all times. The hand wash basin is to be used only for the purpose of hand washing.

117. The operating hours are from 6:30am to 6:30pm Monday to Friday. The centre is not to operate on weekends or public holidays. Staff are not permitted to access the carpark or generate noise that can be heard from a sensitive receiver before 6:00am.

Delivery by medium rigid and larger vehicles to the childcare centre, and garbage collections, shall only occur between 8.30pm and 6.00am on weekdays.

118. The childcare centre is to operate in accordance with the approved Kiddiwinks Plan of Management. Any modification to the operation of the Kiddiwinks Plan of Management is to be submitted to and approved in writing by Council.

119. A public contact number is to be displayed on the childcare centre/boarding house signage and this phone line must be operational during business hours. A complaint register is to be maintained and must include complaint details and any actions taken to address those complaints. A copy of the complaint register is to be provided to Council upon request.

Take Away Food and Drink Premises

The following conditions are to be complied with at all times by the take away food and drink premises on the site.

120. The proprietor of the food business shall ensure that the requirements of the NSW Food Act 2003, NSW Food Regulation 2015 and the Australian and New Zealand Food Standards Code are met at all times.

121. The Take Away Food & Drink Premises are to operate in accordance with the approved Take Away Food & Drink Premises Plan of Management. Any modification to the operation of the Take Away Food & Drink Premises Plan of Management is to be submitted to and approved in writing by Council.

122. The permitted operating hours are 24hrs a day, 7 days a week

Delivery and service vehicles generated by the take away food and drink premises and garbage collections are limited to between 8.00pm and 6.30am or between 1.30pm and 3pm on weekdays .

123. Litter patrols are to be carried out in accordance with the Take Away Food & Drink Premises Plan of Management. Litter from the particular Take Away Food & Drink Premises that is visible by their staff during the litter patrol but outside of the path of travel of the litter patrol shall also be collected, including from the adjacent drainage reserve fronting Andrews Road.

124. Offensive odours are not to be emitted from the site. Vapours, fumes, gases, particles or any other substance that are considered to be harmful to human health or the environment or impact unreasonably on a person outside of the premises are not to be emitted from the site.
125. The development is not to generate air quality impacts (including dust and odour) that exceed the relevant air quality and odour emissions criteria detailed in the Air Quality Assessment prepared by Todoroski Air Sciences (dated 27 September 2022, ref 22091478).

Operations are to be carried out generally in accordance with the above Assessment. The provisions of the Protection of the Environment Operations Act 1997 apply to the development, in terms of regulating offensive air quality and odour emission.

126. Should the location of odour sources identified in Figure 5-4 for each respective fast food outlet not be consistent with the locations identified in the external site plans prepared by Richmond + Ross Consulting Engineers and Project Leaders (dated 7 October 2022, project no. 210285, drawing no. DA22, issue R, drawing no. DA32, issue R and drawing no. DA42, issue R), an amended Air Quality Assessment will need to be submitted to Council for review and approval **prior to the issue of the Construction Certificate** which demonstrates that the operations of the development will not generate air quality impacts (including dust and odour) that exceed the relevant air quality and odour emissions criteria.
127. The manager of the Take Away Food & Drink Premises shall maintain an incident register which shall identify the nature of the incident, the time of its occurrence, the method of resolution and the person who resolved the incident (eg duty manager, security guard, Police). The incident register shall be made available to Council or the Police upon request.
128. CCTV footage of any incident which involves a crime, including but not limited to, sexual, verbal or physical abuse, shall be retained for 12 months and provided to the Police upon request.

Swim Centre

The following conditions are to be complied with at all times by the swim centre on the site.

129. The construction and operation of the public swimming pool and associated premises shall comply with the Public Health Act, 2010, Public Health Regulation, 2012 and any relevant standards, guidelines or codes of practice published or endorsed by the NSW Ministry of Health.

130. A Food Safety Supervisor, with a current Food Safety Supervisor Certificate recognised by the NSW Food Authority, must be appointed by the business prior to commencement of the business.

131. The swim school is to operate in accordance with the approved Neptune Swim School Plan of Management, inclusive of the maximum number of students on-site at any one time and class staggering arrangement. Any modification to the operation of the Neptune Swim School Plan of Management is to be submitted to and approved in writing by Council.

132. The permitted operating hours are 7.30am – 8.00pm, 7 days a week

Delivery and service vehicles generated by the swim centre and garbage collections shall only occur between 8.00pm and 6.30am on weekdays.

Service Station

The following conditions are to be complied with at all times by the service station on the site.

133. The proprietor of the food business shall ensure that the requirements of the NSW Food Act 2003, NSW Food Regulation 2015 and the Australian and New Zealand Food Standards Code are met at all times.

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

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

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

135. The service station is to operate in accordance with the approved On The Run Service Station Plan of Management. Any modification to the operation of the On The Run Service Station Plan of Management is to be submitted to and approved in writing by Council.

136. Litter patrols are to be carried out in accordance with the On The Run Service Station Plan of Management. Litter from On The Run Service Station that is visible by their staff during the litter patrol but outside of the path of travel of the litter patrol shall also be collected, including from the adjacent drainage reserve fronting Andrews Road

137. The permitted operating hours are 24 hours per day, 7 days a week.

Delivery and service vehicles generated by the service station, and garbage collection are limited to between 6am and 9pm.

138. The manager of the service station shall maintain an incident register which shall identify the nature of the incident, the time of its occurrence, the method of resolution and the person who resolved the incident (eg duty manager, security guard, Police). The incident register shall be made available to Council or the Police upon request.

139. CCTV footage of any incident which involves a crime, including but not limited to, sexual, verbal or physical abuse, shall be retained for 12 months and provided to the Police upon request.

Reason for Conditions: These conditions have been imposed to ensure the protection of the environment, the amenity of neighbouring residents and land users, and the safety and convenience of the staff and visitors to the development.



NSW RURAL FIRE SERVICE

Penrith City Council
PO Box 60
PENRITH NSW 2751

Your reference: DA21/0837 (CNR-31849)
Our reference: DA20211125005159-Original-1

ATTENTION: Penrith City Council

Date: Friday 22 April 2022

Dear Sir/Madam,

Integrated Development Application
s100B – SFPP – Child Care Centre
1 Renshaw Street Cranebrook NSW 2749, 13//DP286568

I refer to your correspondence dated 25/11/2021 seeking general terms of approval for the above Integrated Development Application.

The New South Wales Rural Fire Service (NSW RFS) has considered the information submitted. General Terms of Approval, under Division 4.8 of the *Environmental Planning and Assessment Act 1979*, and a Bush Fire Safety Authority, under section 100B of the *Rural Fires Act 1997*, are now issued subject to the following conditions:

Asset Protection Zones

Intent of measures: to provide suitable building design, construction and sufficient space to ensure that radiant heat levels do not exceed critical limits for firefighters and other emergency services personnel undertaking operations, including supporting or evacuating occupants.

1. From the start of building works and in perpetuity, all lot/s must be entirely managed as an inner protection area (IPA) in accordance with the requirements of Appendix 4 of *Planning for Bush Fire Protection 2019*. When establishing and maintaining an IPA, the following requirements apply:

- Tree canopy cover be less than 15% at maturity;
- Trees at maturity are not touching or overhang the building;
- Lower limbs are removed up to a height of 2m above the ground;
- Tree canopies are separated by 2 to 5m;
- Preference is given to smooth-barked and evergreen trees;
- Large discontinuities or gaps in vegetation are provided to slow down or break the progress of fire towards buildings;
- Shrubs are not located undertrees;
- Shrubs do not form more than 10% of ground cover;
- Clumps of shrubs are separated from exposed windows and doors by a distance of at least twice the height of the vegetation.
- Grass to be kept mown (as a guide grass should be kept to no more than 100mm in height);

- Leaves and vegetation debris are removed; and
- NSW Rural Fire Service's document *Standards for asset protection zones*.

2. Landscaping for all lot/s must comply with Appendix 4 of *Planning for Bush Fire Protection 2019*. In this regard, the following principles are to be incorporated:

- A minimum 1 metre wide area (or to the property boundary where the setbacks are less than 1 metre), suitable for pedestrian traffic, must be provided around the immediate curtilage of the building;
- Planting is limited in the immediate vicinity of the building;
- Planting does not provide a continuous canopy to the building (i.e. trees or shrubs are isolated or located in small clusters);
- Landscape species are chosen to ensure tree canopy cover is less than 15% (IPA), and less than 30% (OPA) at maturity and trees do not touch or overhang buildings;
- Avoid species with rough fibrous bark, or which retain/shed bark in long strips or retain dead material in their canopies;
- Use smooth bark species of trees species which generally do not spread fire up the bark into the crown;
- Avoid planting of deciduous species that may increase fuel at surface/ ground level (i.e. leaf litter);
- Avoid climbing species to walls and pergolas;
- Locate combustible materials such as woodchips/mulch, flammable fuel stores away from the building;
- Locate combustible structures such as garden sheds, pergolas and materials such as timber garden furniture away from the building; and
- Low flammability vegetation species are used.

Construction Standards

Intent of measures: to provide suitable building design, construction and sufficient space to ensure that radiant heat levels do not exceed critical limits for firefighters and other emergency services personnel undertaking operations, including supporting or evacuating occupants.

3. New construction of the petrol station, recreation facility (indoor) and southern food & drink premises (Hungry Jack's) building/s must comply with Sections 3 and 5 (BAL 12.5) of the Australian Standard AS3959-2018 *Construction of buildings in bush fire-prone areas* or NASH Standard (1.7.14 updated) *National Standard Steel Framed Construction in Bushfire Areas – 2014* as appropriate, and Section 7.5 of *Planning for Bush Fire Protection 2019*.

4. A Fire Safety Study (FSS) must be prepared for the petrol station development as required under section 8.3.9 of *Planning for Bush Fire Protection 2019*. The FSS must be prepared by a suitably qualified person and address the Hazardous Industry Planning and Assessment Papers and all credible fire hazards (including bush fire) and associated fire prevention and mitigation measures. The recommendations of the FSS must be incorporated into the petrol station development.

5. Any new Class 10b structures as defined per the *National Construction Code* must be non-combustible.

Water and Utility Services

Intent of measures: to provide adequate services of water for the protection of buildings during and after the passage of a bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building.

6. The provision of water, electricity and gas shall comply with Table 6.8c of *Planning for Bush Fire Protection 2019*.

For any queries regarding this correspondence, please contact Simon Derevnin on 1300 NSW RFS.

Yours sincerely,

Alastair Patton

**Supervisor Development Assessment &
Plan**





NSW RURAL FIRE SERVICE

BUSH FIRE SAFETY AUTHORITY

SFPP – Child Care Centre

1 Renshaw Street Cranebrook NSW 2749, 13//DP286568

RFS Reference: DA20211125005159-Original-1

Your Reference: DA21/0837 (CNR-31849)

This Bush Fire Safety Authority is issued on behalf of the Commissioner of the NSW Rural Fire Service under s100b of the Rural Fires Act (1997) subject to the attached General Terms of Approval.

This authority confirms that, subject to the General Terms of Approval being met, the proposed development will meet the NSW Rural Fire Service requirements for Bush Fire Safety under *s100b of the Rural Fires Act 1997*.

Alastair Patton

**Supervisor Development Assessment & Plan
Built & Natural Environment**

Friday 22 April 2022