

# CONDITIONS SUMMARY

<b>Application Number:</b>	DA22/0326
<b>Assessing Officer</b>	Sandra Fagan
<b>Land to be developed (Address):</b>	Lot 59 DP 36728 28 Somerset Street KINGSWOOD NSW 2747
<b>Proposed Development:</b>	Construction of a Seven (7) Storey Accommodation Hotel with 140 Rooms, including Food and Beverage Use on the Top Floor with Outdoor Rooftop Seating, and Three (3) Basement Levels with 63 Parking Spaces

## General

### 1 [A001 - Approved plans table](#)

The development must be implemented substantially in accordance with the plans stamped approved by Council and referenced in the table below, the consultant reports referenced at the end of the table, and with the following conditions.

Document Number	Issue	Title	Prepared By	Date
TP00.00	B	Cover Sheet	Rothelowman	6 October 2022
TP01.00	-	Basement 3	Rothelowman	25 March 2022
TP01.01	-	Basement 2	Rothelowman	25 March 2022
TP01.02	-	Basement 1	Rothelowman	25 March 2022
TP01.03	A	Ground	Rothelowman	5 October 2022
TP01.04	A	Level 1	Rothelowman	5 October 2022
TP01.05	A	Levels 2-3	Rothelowman	5 October 2022
TP01.06	A	Levels 4-5	Rothelowman	5 October 2022
TP01.07	A	Rooftop	Rothelowman	5 October 2022
TP01.08	B	Roof / Roof Services Plan	Rothelowman	6 October 2022
TP02.01	B	North Elevation	Rothelowman	6 October 2022
TP02.02	B	East Elevation	Rothelowman	6 October 2022
TP02.03	B	South Elevation	Rothelowman	6 October 2022
TP02.04	B	West Elevation	Rothelowman	6 October 2022
TP03.01	B	Section A-A	Rothelowman	6 October 2022
TP03.02	B	Sections B-B & C-C	Rothelowman	6 October 2022

TP05.01	A	Development Summary	Rothelowman	25 March 2022
TP05.02	A	GFA	Rothelowman	25 March 2022
TP05.04	A	Site Coverage and Deep Soil	Rothelowman	25 March 2022
TP05.05	B	Height Plane Diagram	Rothelowman	6 October 2022
01	D	Coversheet	LandFX	26 September 2022
02	D	Contents and Info Page	LandFX	26 September 2022
03	D	Landscape Character	LandFX	26 September 2022
04	D	Landscape Plan - Ground	LandFX	26 September 2022
05	D	Landscape Detail Plan - Ground 1 of 2	LandFX	26 September 2022
06	D	Landscape Detail Plan - Ground 2 of 2	LandFX	26 September 2022
DA_C01.01	06	Cover Sheet	Northrop	6 April 2022
DA_C02.01	06	Concept Sediment Erosion Control Plan	Northrop	6 April 2022
DA_C02.11	06	Sediment Erosion Control Details	Northrop	6 April 2022
DA_C04.01	08	Siteworks & Stormwater Management Plan - Ground Floor	Northrop	6 April 2022
DA_C04.02	04	Siteworks & Stormwater Management Plan - Basement 3	Northrop	6 April 2022
DA_C04.21	06	Stormwater Longitudinal Sections	Northrop	6 April 2022
DA_C05.01	05	Driveway Longitudinal Section	Northrop	6 April 2022
DA_C06.01	06	Details Sheet 01	Northrop	6 April 2022
DA_C06.02	04	Details Sheet 02	Northrop	6 April 2022

#### Consultant Reports:

- Report on Geotechnical Investigation, by Douglas Partners, Reference 99851.00, Revision R.001.Rev1, dated 7 May 2021;
- Stormwater Management Report, by Northrop, Reference 202701, Revision D, dated 6 April 2022 (note that the report incorrectly states a 2021 date for Revision D);
- Water Quality Chamber Letter, by Northrop, Reference SY202702-01-CV-LE1-1, dated 27 September 2022;
- BCA Design Assessment Report, by Design Confidence, Reference P220\_430-4 (BCA) NH, dated 31 March 2022;
- New DA Acoustic Assessment, by Pulse White Noise Acoustics, Reference 220146, Revision 4, dated 11 January 2023;
- Traffic Report by The Transport Planning Partnership, Reference 20227, dated 23 July 2021 and Letter from TTPP, dated 31 March 2022;
- Access Design Assessment Report, by Design Confidence, Reference P220\_430-4 (ACCESS) NH, dated 31 March 2022;
- Aboricultural Impact Appraisal and Method Statement (Revision A), by Naturally Trees, dated 29 July 2021;

- Waste Management Plan, by Salt, Reference 20358W, Version F03, dated 31 March 2022;
- Building Services Engineering Utilities Report, by Evolved Engineering, dated 5 November 2020;
- Structural Development Application Report, by Northrop, Reference SY202701-SR01, Revision 1, dated 11 November 2020;
- Report on Preliminary Site (Contamination) Investigation, by Douglas Partners, Reference 99851.00, Revision R.002.Rev0, dated 10 November 2020; and
- Sustainability Services - ESD DA Report by Norman Disney Young, Reference rp220322s0032, Revision 3, dated 31 March 2022.

## 2 [A012 - Food Act](#)

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. This includes 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.

## 3 [A014 - LOT CONSOLIDATION](#)

Lots 58 and 59 in Deposited Plan 36728 and Lot 57 in Deposited Plan 215146, being 28, 30, and 32 Somerset Street, are to be consolidated into one lot. A copy of the registered plan of consolidation is to be submitted to the Principal Certifier and Penrith City Council, if Council is not the certifier, prior to the issue of an Occupation Certificate for the development.

## 4 [A021 - Business Registration](#)

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.

## 5 [A029 - HOURS OF OPERATION AND DELIVERY TIMES](#)

Servicing of the building via the loading dock can only occur between the hours of 7am to 10pm.

## 6 [A039 - Graffiti](#)

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

## 7 [A055 - Crane And Temp Structure On Roof Requirements – Penrith Cbd & Kingswood](#)

Prior to the erection of any crane or any temporary construction structure at a height greater than the roof of the subject development, written notice shall be provided to Council and the Nepean Blue Mountains Local Health District at least 21 days prior to the erection, indicating at least the following:

- Name of responsible company and relevant contact details.
- Dimensions (height, length, etc).
- Position and orientation of boom/jib and counter boom/jib.
- Length of time that such a crane or structure will be erected on site.
- The management plan and measures that will ensure that the crane or structure will be of least possible impact on flight operations for Ambulance NSW.

Any crane or any temporary construction structure erected at a height greater than the roof of the subject development shall comply with the following:

- Be equipped with medium intensity steady red lighting positioned at the highest point and both ends of the boom/jib and counter boom/jib, such that the lighting will provide an indication of the height of the crane and the radius of the crane boom/jib. Such lighting, which should be displayed at all times of the day and night, should be positioned so that when displayed it is visible from all directions.
- When a crane is unattended for an extended period of time ensure the crane's boom is retracted and lowered as far as possible.
- No part of the crane or structure shall extend beyond the boundaries of the subject development site unless approved by Penrith City Council in consultation with the Nepean Blue Mountains Local Health District. Any encroachment beyond the boundaries of the subject site shall be the minimum amount required to facilitate construction and access all parts of the construction site.

8 [A060 - Survey Infrastructure Identification And Recovery](#)

**Prior to the issue of any Construction Certificate**, documentary evidence must be prepared by a Registered Surveyor and submitted to the appointed Certifying Authority and the Council that includes and addresses the following:

(a) A letter, signed by a current NSW Registered Land Surveyor and including his or her Board of Surveying and Spatial Information (BOSSI) identification number, stating that all investigations required under Surveyor-General's Direction No. 11 have been made for the subject site.

(b) The above letter is required to confirm if any survey infrastructure will be affected or impacted upon by the proposal. If no impact is identified this must be detailed by the Registered Land Surveyor.

(c) In the event that survey infrastructure is identified on the subject site and will be affected or impacted upon by the approved development, a copy of any Surveyor-General's Approval for Survey Mark Removal granted by NSW Spatial Services for the subject site, including all documentation submitted as part of that application (for example the survey mark audit schedule, strategy plan and strategy report) is required.

The applicant must, where possible, ensure the preservation of existing survey infrastructure undisturbed and in its original state or else provide evidence of the Surveyor-General's authorisation to remove or replace marks.

**Note:** Under Section 24 of the Surveying and Spatial Information Act 2002, it is an offence to remove, damage, destroy, displace, obliterate or deface any survey mark unless authorised to do so by the Surveyor-General.

9 [A062 - Survey Infrastructure Restoration Requirements](#)

Where a Surveyor-General's Approval for Survey Mark Removal has been granted by NSW Spatial Services, documentary evidence of restoration of the removed survey marker must be prepared by a Registered Surveyor and submitted to the appointed certifying authority and the Council **prior to the issue of an Occupation Certificate or Subdivision Certificate (where applicable)**.

The documentary evidence is to consist of a letter Signed by a Registered Land Surveyor confirming that all requirements requested under the Surveyor-General's Approval for Survey Mark Removal under condition "Survey Infrastructure – Identification and Recovery" have been satisfied.

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

The Development Consent numbered DA20/0767 must be surrendered prior to a Construction Certificate being issued for the Development Consent DA22/0326. The surrender must be in accordance with the requirements of the *Environmental Planning and Assessment Act, 1979*, (Section 4.63) and the *Environmental Planning and Assessment Regulation 2021* (Section 68). The surrender notice must clearly outline all works under DA20/0767 that have been completed. The Certifier shall obtain confirmation in writing of the surrender prior to the release of any Construction Certificate relating to the consent for DA22/0326.

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

A certificate is to be obtained from a qualified acoustic consultant certifying that the mechanical plant and equipment has been chosen and installed to meet the noise criteria in accordance with the approved acoustic report referenced at Condition 1. This Certificate is to be provided to the Principal Certifier prior to the issue of any Occupation Certificate.

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

Prior to the issue of any Occupation Certificate, the applicant is to provide evidence to the Principal Certifier that a commercial contract for all waste collection services to the site has been entered into. Such a contract must be retained and maintained while the site is being used. All costs associated with waste collection are to be at the expense of the developer/operator/landowner. The hotel waste is to be managed in accordance with the Waste Management Plan referenced at Condition 1.

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

The drawings and details submitted with the Construction Certificate application are to include all of the relevant recommendations and details as contained in the specialist consultant reports referenced at the end of the table at Condition 1.

#### 14 A Special (BLANK)

The following restrictions apply to the non-hotel room spaces at both the ground floor and the topmost floor, including the external rooftop area and external ground floor deck to the northern elevation. These areas are to be used and managed in accordance with the recommendations of the acoustic report referenced at Condition 1. The use of these spaces are also restricted as follows:

- The use of the internal areas of the ground floor wellness retail and wellness centre is restricted to between 7am to 10:30pm every day;
- The use of the internal areas of the Level 6 drink and dine space are permitted to operate 24 hours every day;
- The use of the external areas associated with the Level 6 drink and dine space, and the external area of the ground floor wellness centre is restricted to between 7am to 10pm Monday to Saturday and between 8am to 10pm on Sundays and Public Holidays;
- All windows and doors of any internal areas of the ground floor and Level 6 drink and dine spaces are to be closed between 10:00pm and 7:00am, with doors used only for direct ingress and egress as required and for emergencies;
- Background music can only be played within the internal areas and is not to exceed 75dBA within the space/s; and
- The 1.8m high glazed balustrade around the entire perimeter of the outdoor dining/bar area is to be retained/provided as shown in the approved acoustic report.

The total number of patrons (not including staff) permitted is as follows:

- Internally in the wellness retail space = 84;
- Internally in the wellness centre space = 36;
- Externally for the wellness centre space = 5;
- Internally in the Level 6 drink/dine area when windows and doors are permitted to be open = 75 patrons;
- Internally in the Level 6 drink/dine area when windows and doors must be closed = 174 patrons;
- Externally in the Level 6 outdoor drink/dine area between the hours of 7am (or 8am on Sundays) to 6pm = 99 patrons; and
- Externally in the Level 6 outdoor drink/dine area between the hours of 6pm to 10pm = 60 patrons.

#### 15 A Special (BLANK)

The details provided with the Construction Certificate must include adequate information to show that the recommendations of the Access Report referenced at Condition 1 have been included in the detailed design. This includes but is not limited to; the accessible parking spaces complying with AS 2890.6:2009; repositioning of the southern accessible parking spaces to be closer to the lift; way-finding signage is to be installed and maintained for the accessible room located on the northern side of the building at ground floor level; and a balance of right-hand and left-hand facilities in the accessible rooms.

#### 16 A Special (BLANK)

The materials, finishes, and colours are to be those shown on Page 38 (Section 5.0) of the Urban Design Report prepared by Rothelowman, dated March 2022. The roof must be of a lightweight material (such as Colourbond) and must be in a light colour (such as Colourbond Surfsmist).

#### 17 A Special (BLANK)

The spaces on the ground floor marked as 'wellness centre' and 'wellness retail' are permitted to operate between the hours of 7am and 10:30pm every day. The glazed shopfronts of these two spaces is to remain clear and untinted. No signage, including decal stickers, is permitted to be placed on the shopfronts in a manner that obscures visibility into the spaces. These spaces do not have development consent to operate as a bar or a small bar, without the prior and relevant approval from Penrith City Council.

#### 18 A Special (BLANK)

The only signage approved are the three building identification signs of which the location is shown in the architectural drawings referenced at Condition 1. The three signs are to be of a high quality design, colour, and finish. They are to be proportionally sympathetic to the host building and are not to obscure any architectural features of the building, nor protrude beyond any building edges.

The final details of the sign, including the position, material, method of illumination, and design is to be submitted to Council for approval prior to the signage being installed and displayed. The approved signage shall only be for building and/or tenancy identification signage, relating to the major tenant. The method of illumination must include the ability for the lighting to be dimmed.

19 **A Special (BLANK)**

The food and drink areas of the hotel are not to be sub-let to a third party. Those spaces are to be operated and managed by the hotel operator.

An operational 'Plan of Management' to reflect the above, and outlining appropriate management measures to mitigate impacts upon neighbours (including matters outlined below), is to be submitted to and approved by the Certifier prior to the issue of any Occupation Certificate.

Thereafter, the hotel shall be managed in accordance with the approved Plan of Management, which can be reviewed and updated to improve processes and operations. The Plan of Management is to include details of the following:

- The 24 hour contact details of the property caretaker or manager, who has overall responsibility for the operation, administration, cleanliness, maintenance and fire safety of the premises;
- Any rules, including details of how they will be publicised to guests, visitors and patrons, that cover guest behaviour, activities and noise, visitor policy and any other relevant rules;
- Measures to minimise unreasonable impact to the habitable areas of adjoining properties, including the management of the licensed bar / restaurant areas and the external seating areas;
- The use of the external and publicly accessible spaces are to be restricted in accordance with the Acoustic Report referenced at Condition 1 and other conditions of this consent; and
- Details of how complaints will be investigated, recorded and managed.

20 **A Special (BLANK)**

Any lighting on the site shall be designed so as not to cause a nuisance to other residences in the area or to motorists on nearby roads and to ensure no adverse impact on the amenity of the surrounding area by light overspill. All lighting shall comply with AS 4282-2019 Outdoor Lighting Obtrusive Effects.

Any lighting of the external areas within the development shall be designed and located in a manner to prevent light spill and/or glare impacts on neighbouring premises.

21 **A Special (BLANK)**

Any fencing shown on the approved drawings or referenced in the approved consultant's reports can only straddle the property boundaries if the relevant landowner's consent is obtained for the position of such fencing. Otherwise, all fencing must be positioned wholly within the boundaries of the subject site and the cost borne by the applicant.

## 22 [A Special CPTED Requirements](#)

The following community safety and crime prevention through environmental design (CPTED) requirements are required to be implemented:

### (a) Lighting

- All outdoor/public spaces 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 4282-2019 Outdoor Lighting Obtrusive Effects.
- Adequate lighting is to be installed and maintained in the area of the bicycle parking.

### (b) Basement Car Parking

- A security system must be installed on any pedestrian and vehicle entry/exit points to the car park, including the lift and stairwell, to minimise opportunities for unauthorised access.
- All areas of the car park must be well-lit, with consistent lighting to prevent shadowing or glare.
- Car park surfaces including walls and ceilings are to be light coloured with details included with the **Construction Certificate** application.

### (c) Building Security & Access Control

- Intercom, code or card locks or similar must be installed for all entries to the building and restricted areas. Access to hotel floors must be restricted to visitors travelling to the roof top only.
- Australian Standard 220 door and window locks must be installed in all premises/rooms.
- CCTV is to be provided to cover communal public space areas. 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.
- A monitored alarm system must be installed.
- A Plan of Management must be submitted **prior to the issue of an Occupation Certificate** detailing safety and security practices for the rooftop amenities, in particular the bar/restaurant.

### (d) Graffiti/Vandalism

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

### (e) Landscaping

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

## Environmental Matters

### 23 [D009 - Covering of waste storage area](#)

All construction waste materials stored on-site are to be contained within a designated area such as a waste bay or bin to ensure that no waste materials are allowed to enter the stormwater system or neighbouring properties. The designated waste storage areas are to be fully enclosed when the site is unattended.

### 24 [D010 – Appropriate disposal of excavated or other waste](#)

Waste materials associated with the construction phase of the development are to be classified and disposed of at a lawful waste facility, or, if suitable, re-used or recycled in accordance with the Waste Management Plan referenced at Condition 1. 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.



25 **D013 - Approved noise level 1**

Noise levels from the premises shall not exceed the relevant noise criteria detailed in the approved acoustic report referenced at Condition 1. Prior to the release of the Construction Certificate for any part of the approved building located above ground, the Certifier shall ensure that the acoustic consultant has reviewed the amended roof construction material (from concrete to cladding) and incorporated any further acoustic recommendation/s as may be required to address that change of material.

The recommendations provided in the approved acoustic report referenced at Condition 1 shall be implemented into the design and construction of the development. A certificate is to be obtained from a qualified acoustic consultant certifying that the building has been constructed to meet the noise criteria in accordance with the approved acoustic report. This certificate is to be submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

26 **D014 - Plant and equipment noise**

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

27 **D026 - Liquid wastes**

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 suitable waste contractor is to remove the liquid waste from the premises to an appropriate waste facility.

Waste licensing requirements apply in NSW. Where required, the waste contractor and waste facility are to be licensed by the NSW Environment Protection Authority. Reference should be made to the NSW Environment Protection Authority for licensing requirements.

28 **D034- Noise Construction Noise**

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

29 **D043— Noise Mechanical Plant & Equipment**

Prior to the issue of a Construction Certificate, further details of the type and location of all mechanical plant and equipment associated with the development is to be submitted to the Certifier for consideration and approval. This information is to be accompanied by suitable data and information from a qualified acoustic consultant to demonstrate compliance with the established noise criteria and the approved acoustic report referenced at Condition 1.

30 **D058 - Wastewater from garbage bin washing**

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

31 **D Special (BLANK)**

The basement car park and basement waste storage room are to be mechanically ventilated in accordance with the relevant sections of the BCA and AS 1668, Parts 1 & 2. The discharge of the mechanical ventilation is to be to the roof of the building. The exhaust risers are to be reticulated through the internal areas of the building prior to their discharge to the roof. Suitable details are to be submitted to Penrith City Council for approval prior to the issue of a Construction Certificate and the approved details are then to be included in the Construction Certificate drawings.

32 **D Special (BLANK)**

An unexpected finds protocol is to be developed by an appropriately qualified environmental consultant. Prior to the issue of a Construction Certificate, the protocol is to be submitted to Council and approved. If Council is not the certifying authority for the development, the protocol is required to be submitted to Penrith City Council for approval.

The protocol is to address the management of any contamination on the site during the excavation and construction phases, including, at a minimum, contaminated soils, groundwater, buried building materials, asbestos, odour and staining. The protocol is to be complied with at all times.

33 **D Special BLANK**

When a vehicle is stationary in the loading dock, the engines of the vehicle are to be switched off.

## **BCA Issues**



#### 34 E01B - EXTERNAL WALLS AND CLADDING FLAMMABILITY

The external walls of the building including attachments must comply with the relevant requirements of the National Construction Code (NCC). Prior to the issue of a Construction Certificate and Occupation Certificate, the Certifying Authority and Principal Certifying Authority must:

- (a) Be satisfied that suitable evidence is provided to demonstrate that the products and systems proposed for use or used in the construction of external walls including finishes and claddings such as synthetic or aluminium composite panels comply with the relevant requirements of the NCC; and
- (b) Ensure that the documentation relied upon in the approval processes include an appropriate level of detail to demonstrate compliance with the NCC as proposed and as built.

### Health Matters and OSSM installations

#### 35 F026 - Kitchen bar & food prep area-certification

The construction, fit-out and finishes of the food premises must comply with Food Safety Standard 3.2.3 of the Australian and New Zealand Food Standards Code, and AS 4674-2004 *Design, Construction and Fitout of Food Premises*. Details of the kitchen, bar and food preparation and storage areas must be prepared by a suitably qualified person and certified in accordance with Standard 3.2.3 of the Australian and New Zealand Food Standards Code and AS 4674-2004 *Design, Construction and Fitout of Food Premises* to the satisfaction of the Certifier prior to a Construction Certificate being issued.

### Utility Services

#### 36 G002 - Section 73 (not for

A Section 73 Compliance Certificate under the Sydney Water Act 1994 shall be obtained from Sydney Water. The application must be made through an authorised Water Servicing Coordinator. Please refer to "Your Business" section of Sydney Water's website at [www.sydneywater.com.au](http://www.sydneywater.com.au) then the "e-developer" icon, or telephone 13 20 92. The Section 73 Compliance Certificate must be submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

#### 37 G004 - Integral Energy

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

In the event that the pad mounted substation is repositioned, Penrith City Council shall be consulted over the proposed location prior to the relevant Construction Certificate being issued. The finished colour of the substation can only be either a khaki-green colour, a dark recessive colour, or can contain a painted mural. The intent of this is to finish the substation to be as visually recessive as possible.

#### 38 G006 -

**Prior to the issue of a Construction Certificate**, the Principal Certifying Authority shall be satisfied that telecommunications infrastructure may be installed to service the premises which complies with the following:

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

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

#### 39 G Special (BLANK)

The matters contained in the referral response letters from Endeavour Energy dated 29 July 2021 and 14 May 2022 shall be addressed in the Construction Certificate where relevant.

### Construction

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

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

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

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

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

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

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

#### 41 H002 - All forms of construction

Prior to the commencement of construction works:

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

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

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

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

#### 42 H004 - Mud/Soil

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

#### 43 H005 - Dust

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

#### 44 H006 - Hours of work

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

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

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

#### 45 H Special (BLANK)

The Certifier is to ensure that the recommendations of the ESD Report referenced at Condition 1 are incorporated into the details submitted with the Construction Certificate.

## Engineering

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

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

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

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

An application form together with an information sheet and conditions are available on Council's website. Contact Penrith City Council's Asset Management Department on 4732 7777 or visit Penrith City Council's website for more information.

#### 48 [K203 - S138 Roads Act - Roadworks Requiring Approval of Civil Drawings](#)

Prior to the issue of any Construction Certificate, the Certifier shall ensure that a Section 138 Roads Act application, including payment of application and inspection fees, has been lodged with and approved by Penrith City Council (being the Roads Authority under the Roads Act) for provision of the following:

- New kerb and gutter, path paving, landscaping and public domain street furniture for the full frontage of the site in Somerset Street and Hargrave Street in accordance with the Kingswood Public Domain Manual.
- Extension of the road drainage system within Hargrave Street and upgrade of the existing drainage system to provide sufficient capacity for the development.
- Vehicular crossover for the basement car park.
- Regulatory signage and line marking works in Somerset Street and Hargrave Street, subject to separate approval by the Local Traffic Committee.
- Road opening for utilities and stormwater (including stormwater connection to Penrith City Council roads and other Penrith City Council owned drainage)
- Road occupancy or road closures (including temporary construction work zones and tower crane operation).
- The placement of hoardings, structures, containers, waste skips, signs, etc in the road reserve.
- Temporary construction access.

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

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

#### Notes:

- Where Penrith City Council is the Certifier for the development, the Roads Act approval for the above works may be issued concurrently with the Construction Certificate.
- Separate approval may be required from the Transport for NSW for classified roads.
- All works associated with the Roads Act approval must be completed prior to the issue of any Occupation Certificate.

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

The stormwater management system shall be consistent with the plans lodged for development approval, prepared by Northrop, reference number 202701, drawing numbers DA\_C01.01 to DA\_C06.02, revision 6, dated 6/4/22 and the subsequent letter regarding Water Quality Chamber prepared by Northrop, reference number SY202701-01-CV-LE1-1, dated 27/9/22.

Prior to the issue of any Construction Certificate, the Certifier shall ensure that the stormwater management system has been designed in accordance with Penrith City Council's Stormwater Drainage Specification for Building Developments and Water Sensitive Urban Design (WSUD) Policy. Engineering plans and supporting calculations for the stormwater management system are to be prepared by a suitably qualified person and shall accompany the application for a Construction Certificate.

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

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

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

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

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

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

53 [K225 - Performance Bond](#)

Prior to the issue of a Roads Act approval, a Performance Bond is to be lodged with Penrith City Council for civil works within Somerset Street and Hargrave Street. The value of the bond shall be determined in accordance with Penrith City Council's adopted Fees and Charges. You may contact Penrith City Council's Development Engineering Department on 4732 7777 for further information relating to bond requirements.

54 [K226 - Basement Geotechnical Testing](#)

Prior to the issue of any Construction Certificate, a geotechnical investigation report and strategy shall be submitted to the Certifier to ensure the stability of any adjoining Council owned infrastructure and surrounding developments. The technical direction GTD 2012/001 prepared by Transport for NSW can be used as a guide for preparing the geotechnical investigation report and strategy.

55 [K228 - Dilapidation Report](#)

The developer shall undertake a dilapidation report for all surrounding buildings and Council owned infrastructure that confirms that no damage occurs due to the construction activities associated with the development. If Council is not the Certifier for the development, then the dilapidation report/s shall be submitted to Council prior to the issue of any Construction Certificate and must then be updated and submitted prior to the issue of any Occupation Certificate confirming no damage has occurred.

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

Prior to commencement of works, sediment and erosion control measures shall be installed in accordance with the approved Construction Certificate and to ensure compliance with the Protection of the Environment Operations Act 1997.

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

57 [K302 - Traffic Control Plan](#)

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

Traffic control measures shall be implemented during the construction phase of the development in accordance with the certified plan. A copy of the plan shall be available on site at all times. A copy of the Traffic Guidance Scheme shall accompany the Notice of Commencement to Penrith City Council.

58 [K405 - Turf to Verge](#)

On 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.

59 [K406 - Underground Services](#)

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 authority's regulations and standards.

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

Prior to the issue of any Occupation Certificate, the Principal Certifier shall ensure that all works associated with a Section 138 Roads Act approval or Section 68 Local Government Act approval have been inspected and signed-off by Penrith City Council.

61 **K503 - Works As Executed - Stormwater Management**

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

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

62 **K504 - Stormwater Compliance**

Prior to the issue of any Occupation Certificate, the Principal Certifier shall ensure that the stormwater management systems (including water sensitive urban design):

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

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

63 **K505 - Restriction on the Use of Land and Positive Covenant**

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

64 **K515 - Maintenance Bond**

Prior to the issue of any Occupation Certificate, a Maintenance Bond is to be lodged with Penrith City Council for civil works within Somerset Street and Hargrave Street. The value of the bond shall be determined in accordance with Penrith City Council's adopted Fees and Charges. You may contact Penrith City Council's Development Engineering Department on 4732 7777 for further information relating to bond requirements.

65 **K601 - Stormwater Management System Operation and Maintenance**

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

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

66 **K Special (BLANK)**

The drop-off and pick-up spaces shown on the architectural drawings are not specifically approved by this development consent. Prior to the issue of any Construction Certificate or installation of any regulatory/advisory signage and line marking within the public road reserve, whichever occurs first, signage and line marking plans for any changes to parking bay markings and/or the installation of parking restriction signage/line marking in Hargrave Street and/or Somerset Street, shall be lodged with Penrith City Council and endorsed by the Local Traffic Committee. Approved signage and line marking shall be installed at no cost to Council.

Notes:

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

67 **K Special (BLANK)**

Prior to the issue of any Construction Certificate, the Certifier shall ensure that secure bicycle parking is provided at convenient location(s) in accordance with AS 2890.3: 2015 Bicycle Parking Facilities.

68 **K Special (BLANK)**

Prior to the issue of any Occupation Certificate, the Certifier shall ensure that a Waste Collection / Service / Delivery Vehicle Operational Management Plan (Loading Dock Management Plan) is in place. The Plan/s must apply to all waste collection and service/delivery vehicles accessing the site's loading dock. The Plan/s shall include details about:

- Coordinating all development site businesses and operator's agreements and management of all waste collection, service, and delivery vehicles to the site and to all businesses at the site;
- Ensuring that only vehicles equal to or smaller than a Small Rigid Vehicle service the development;
- Management of pedestrians to ensure they are kept clear of any service vehicles servicing the site particularly during reversing manoeuvres;
- Details on how drivers will be made aware that they must comply with the operational traffic management plan for the development; and
- Clear instructions that no deliveries, no servicing of the site, and no waste collection is to occur from the street.

69 **K Special (BLANK)**

Prior to the issue of any Occupation Certificate, directional signage and line marking shall be installed indicating directional movements and the location of customer, small, and/or staff parking spaces to the satisfaction of the Principal Certifier. This must include a visible sign at the driveway entrance indicating "Private Parking: Hotel Guests Only" (or similar).

70 **K Special (BLANK)**

All parking spaces, loading zones, parking aisles and manoeuvring areas are to be kept clear of stored materials, products, waste materials, etc such that these areas remain unobstructed and allow for the safe movement of vehicles.

71 **K Special (BLANK)**

The car parking spaces at all basement levels are to be used solely by staff and visitors/guests of the hotel. At no time are the car parking spaces to be sub-leased. No parking is permitted outside of marked parking spaces shown on the approved plans.

72 **K Special (BLANK)**

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

73 **K Special (BLANK)**

Prior to the issue of any Occupation Certificate, the hotel operator is to create and adopt a Green Travel Plan. The Plan is to include information and management strategies to encourage more sustainable travel to the hotel for both staff and guests. The Plan is to be implemented thereafter during operation of the hotel and is to be provided to staff and guests as part of the hotel booking process.

74 **K Special (BLANK)**

The applicant/developer must ensure that the relevant requirements, inspections and/or information, as recommended in the Geotechnical Report referenced at Condition 1, occurs at the appropriate time, including after the basement excavation is completed to confirm that the designed drainage system is adequate for the actual groundwater seepage flows.

75 **K Special (BLANK)**

Any groundwater removed from the site, whether originating from water table levels or seepage, must not be drained or discharged directly into Council's stormwater system without first obtaining written approval to do so from Council's Asset Management Department. Any such request to discharge must be accompanied by evidence as to the suitability of the groundwater to be discharged, including any treatment required, volumes and method of discharge.

76 **K Special (BLANK)**

No approval has been granted for dewatering of any groundwater that may be encountered during excavation. The applicant is to ensure that any approvals required under the Water Management Act from Water NSW are obtained, if required.

## **Landscaping**



#### 77 L001 - General

All landscape works are to be constructed in accordance with the stamped approved landscape plans tabled at Condition 1. Landscaping shall be retained and maintained:

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

In particular, the new landscaping is to be retained and maintained on the Somerset Street frontage of the site and in the arbour along the driveway area. 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.

#### 78 L003 - Report requirement

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

##### **i. Implementation Report**

On 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**

On the first anniversary of the date of the Occupation Certificate issued for the development, a Landscape Maintenance Report is to be submitted to Penrith City Council certifying that the landscape works are still in accordance with the development consent and the plant material is alive and thriving. Any dead or damaged planting needs to be replaced.

The landscaping shall be maintained in a healthy state thereafter.

#### 79 L006 - Aust Standard

All landscape works are to meet industry best practice and the following relevant Australian Standards:

- AS 4419 Soils for Landscaping and Garden Use,
- AS 4454 Composts, Soil Conditioners and Mulches, and
- AS 4373 Pruning of Amenity Trees.

#### 80 L010 - Retain existing trees (no tree bond required)

The trees identified for retention in the arborist report referenced at Condition 1, being Trees numbered 1, 4, 5, 7, and 8 in that report, shall be retained and duly protected during the construction of the development as per the recommendations of that report.

Tree protection measures shall:

- be installed before any works can commence on site including the clearing of site vegetation;
- comply with the standards prescribed by the Method Statement of the arborist report; and
- be certified by the author of the arborist report before any works can commence on site. The certification is to be a Compliance Certificate or other written document certifying that the tree protection measures have been installed in accordance with the recommendations in the approved arborist report. The Compliance Certificate or other suitable documentation shall be submitted to the Principal Certifying Authority a minimum of 2 days prior to the commencement of site works. A copy of the Compliance Certificate or written documentation is to be submitted to Council with the "Notice of Commencement".

#### 81 L Special (BLANK)

The Section 138 Roads Act application is to show details of the street trees required to be installed in both the Somerset Street and Hargrave Street public domain. The street trees in Hargrave Street are to be Zelkova 'Green Vase', 100L and the existing Brush Box is also to be replaced with Zelkova. The street trees in Somerset Street are to be Lophostemon Confertus, 100L, unless otherwise agreed by Penrith City Council.



## Development Contributions

### 82 N Special (BLANK)

This condition is imposed in accordance with Penrith City Council's Section 7.12 Contributions Plan for Non-Residential Development. Based on the current rates detailed in the accompanying schedule attached to this notice, **\$22,860.00 is to be paid to Council prior to a Construction Certificate being issued** for the development (the rates are subject to quarterly reviews). If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted Section 7.12 Contributions Plan. The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule.

This amount has taken into account the Section 7.12 contribution already paid against Development Consent DA20/0767. The applicant is to provide evidence that a payment pursuant to DA20/0767 has been made, showing the amount paid and at what date. This is to be submitted to Council prior to determining the remaining amount to be paid, and prior to making the additional payment required by this Development Consent for DA22/0326.

Council should be contacted prior to payment to ascertain the rate for the current quarterly period.

## Payment of Fees

### 83 P001 - Costs

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

### 84 P002 - Fees associated with Council land (Applies to all works & add K019)

Prior to the commencement of any works on site, all fees associated with Penrith City Council-owned land and infrastructure shall be paid to Council. These fees include Road Opening fees where works or activities are proposed on/within a public road as well as Infrastructure Restoration fees.

## Certification

### 85 Q001 - Notice of Commencement & Appointment of PCA2 (use for Fast Light only)

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

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

The Principal Certifier shall submit to Council an "Appointment of Principal Certifier" in accordance with Section 6.6 of the Environmental Planning and Assessment Act 1979. Two days before any construction works are to commence on site, the proponent shall submit a "Notice of Commencement" to Council in accordance with Section 6.6 of the Environmental Planning and Assessment Act 1979.

### 86 Q006 - Occupation Certificate (Class 2 - 9)

An Occupation Certificate is to be obtained from the Principal Certifying Authority on completion of all works and prior to the occupation of the building and commencement of the approved use. The Occupation Certificate shall not be issued if any conditions of this consent, but not the conditions relating to the operation of the development, are outstanding, and/or if the development does not comply with the provisions of the Environmental Planning and Assessment Act and Regulation.

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

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