

PENRITH CITY COUNCIL

MAJOR ASSESSMENT REPORT

Application number:	DA17/0233
Proposed development:	Demolition of Existing Service Station and Construction of new Service Station with Food & Drink Premises and Drive through Facility
Property address:	4 Dunheved Road, WERRINGTON COUNTY NSW 2747
Property description:	Lot 4 DP 565623
Date received:	27 March 2017
Assessing officer	Mahbub Alam
Zoning:	Zone B2 Local Centre - LEP 2010
Class of building:	Class 6
Recommendations:	Approve

Executive Summary

Council is in receipt of a development application for the demolition of the existing vehicle repair workshop, service station convenience store building and car wash facility and construction of a new service station convenience store building integrating a food and drink premises with drive-thru facility at 4 Dunheved Road Werrington.

The site is zoned B2 Local Centre under the provisions of Penrith Local Environmental Plan 2010 (LEP 2010). The proposal is defined as a service station and commercial precinct (for food and drink premises) and is a permissible form of development in the *B2* zone with the consent of Council.

An assessment under Section 79C of the *Environmental Planning and Assessment Act 1979* has been undertaken and the application is recommended for approval with amendments in red to delete a signage height that exceeds 7m DCP height limit.

Background

In accordance with Appendix F4 Notification and Advertising of the Penrith Development Control Plan 2014, the proposed development was exhibited and notified to nearby and adjoining residents from 14 April 2017 to 03 May 2017. Council did not receive any submissions. However a phone call was received from the owner of the nearby property (address 117 Henry Lawson Avenue Werrington) for further discussion of the application. A meeting was held with the objector and assessment officer on 02 August 2017 at Council Civic centre for further discussion and the objector raised no objection for the proposed development.

Site & Surrounds

The subject site is described as Lot 4 in DP 565623 (4 Dunheved Road, Werrington County, 2747) and has 62 metres of primary frontage to Dunheved Road and 60 metres secondary frontage to Henry Lawson Avenue. The site currently supports a service station operation, car wash and vehicle repair station. In association with the service station the site contains fuel dispensers with overhead canopy, convenience store refuse/service areas, car parking spaces and landscaping. The portion of the site affected by this DA site is relatively flat, with a gentle slope towards Henry Lawson Avenue.

The site is bound by Henry Sports club along its northern boundary; residential properties to the east; a vacant allotment zoned for public recreational purposes adjoining the western boundary; and land to the south beyond the Dunheved Road are a number of commercial and retail premises comprising the Werrington County Village. The surrounding area is characterised by commercial and residential land uses, with a vegetation buffer zoned for public recreational purposes located immediately west of the site, adjacent to Dunheved Road.

Proposal

The proposed development includes the following aspects:

- Demolition of the existing vehicle repair workshop, service station convenience store building and car wash facility;
- Construction of a new service station convenience store building integrating a food and drink premises with drive-thru facility (GFA 373m²);
- New convenience store building comprising customer service counter and retail floor space, office, food area, store room, cool room, drive-through pay/pick-up window, amenities and service yard;
- Car parking reconfiguration, from 18 car spaces on site to 21;
- Associated upgrades to landscaping;
- Business identification signage; and
- The Caltex Convenience Shop and Service Station will operate 24 hours a day, 7 days a week in accordance with the existing development consent. The food and drink premises will operate from 6.00am to 12.00am, 7 days a week. Approximately 2-4 staff will be present on site at any one time.

Plans that apply

- Local Environmental Plan 2010 (Amendment 4)
- Development Control Plan 2014
- State Environmental Planning Policy No 33—Hazardous and Offensive Development
- State Environmental Planning Policy No 55—Remediation of Land
- State Environmental Planning Policy No 64—Advertising and Signage
- Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

Planning Assessment

• Section 79C - Evaluation

The development has been assessed in accordance with the matters for consideration under Section 79C of the EP&A Act 1979, and having regard to those matters, the following key considerations have been identified for further assessment.

Section 79C(1)(a)(i) The provisions of any environmental planning instrument

State Environmental Planning Policy No 33—Hazardous and Offensive Development

This policy aims to ensure that in considering any application to carry out potentially hazardous or offensive development, the consent authority has sufficient information to assess whether the development is hazardous or offensive and to impose conditions to reduce or minimise any adverse impact.

There are no changes proposed to the location of the existing fuel dispensers and fuel points. As the service station fill points and petrol dispensers are at least 8m from the nearest site boundary, the proposed service station is considered non-hazardous and as such will not require a preliminary hazard analysis to be conducted.

SEPP 33 screening also requires a study of the transporting/delivery frequencies for the site. It is envisaged that deliveries for the site, for fuels will be about three (3) times a week, or 156 times per year. According to the 'Transport Screening Thresholds', up to 45 movements per week or 750 movements per year for fuel are acceptable prior to becoming potentially hazardous. These numbers are well below the threshold.

The proposed service station is considered to be non-hazardous for the surrounding residential and commercial uses as defined under SEPP 33. Accordingly, the proposal is consistent with the aims and objectives of SEPP 33 and the site is suitable in accommodating the proposed upgrades.

State Environmental Planning Policy No 55—Remediation of Land

SEPP 55 aims to provide a state wide planning approach to the remediation of contaminated land. In particular the policy aims to promote the remediation of contaminated land in order to reduce the risk of harm to human health or any other aspect of the environment.

Site environmental information including groundwater monitoring reports and environmental data has been provided with this application. Pursuant to EPA legislation and standards, Caltex commissions monitoring and investigation of all sites to ensure the service station sites remain safe and suitable for ongoing use. The existing UPSS will remain unchanged as part of this application. As the site will continue to be used as a service station operation after the proposed works, with no significant earthworks or excavation proposed within the vicinity of UPSS as part of the site works, Council must be satisfied the land is suitable for the intended construction and use of the service station and food premises development. All proposed works shall be carried out in accordance with the applicable guidelines; and appropriate notice shall be given in accordance with the SEPP. The proposal therefore achieves compliance with SEPP 55.

State Environmental Planning Policy No 64—Advertising and Signage

An assessment has been undertaken of the application against relevant criteria within State Environmental Planning Policy No 64—Advertising and Signage:

The proposed signage is consistent with the aims and objectives of SEPP 64. An assessment under Schedule 1 has been undertaken below:

Criteria	Compliance – Yes/No
1. Character of the Area	
<i>Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?</i>	The proposed signage is compatible with the character of the locality, being zoned for business purposed adjacent to a main road. There is similar commercial signage existing along Dunheved Road and within in the vicinity of the site, including signage associated with retail premises.

<i>Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?</i>	The proposed signage is consistent with the objectives for signage under the DCP but there is no specific theme for this locality.
2. Special Areas	
<i>Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?</i>	The proposed signage does not detract from any areas of environmental or cultural importance. It is considered the proposal represents a comparable signage scheme to what is currently on site.
3. Views and Vistas	
<i>Does the proposal obscure or compromise important views?</i>	All signage, freestanding and on the building, is within the building height and does not comprise any views or vistas.
<i>Does the proposal dominate the skyline and reduce the quality of vistas?</i>	Most of the external signage is located on the building or fuel canopy and does not protrude above the structure on which it is located. The 8.5m freestanding sign will be amended by 7m. The 7m freestanding sign is in keeping with the building height for the immediate area, and does not dominate the sky line.
<i>Does the proposal respect the viewing rights of other advertisers?</i>	The proposed signage will not obscure any other advertising.
4. Streetscape, setting or landscape	
<i>Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?</i>	The proposed scale, proportion and form of signage is appropriate for the streetscape given it addresses a classified road.
<i>Does the proposal contribute to the visual interest of the streetscape, setting or landscape?</i>	The proposed signage will contribute to the visual interest of the area through its integration with the built form. The presentation is uncluttered in appearance and responds well to the surrounding context. Accordingly, the signage appropriately identifies the users of the site.
<i>Does the proposal reduce clutter by rationalising and simplifying existing advertising?</i>	An integrated whole-site approach to advertising has been adopted including a shared pylon sign and this will simplify / de-clutter advertising signage.
<i>Does the proposal screen unsightliness?</i>	The proposal does not screen unsightliness.
<i>Does the proposal protrude above buildings, structures or tree canopies in the area or locality?</i>	Signage is consistent with the height of other signage for commercial development (including existing service station) in the area.
<i>Does the proposal require ongoing vegetation management?</i>	No, vegetation management for landscaping within the site will occur.

5. Site and building	
<i>Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?</i>	The signage has been designed to integrate with the built form and site characteristics.
<i>Does the proposal respect important features of the site or building, or both?</i>	The proposed signage does not detract from important features of the site or proposed building.
<i>Does the proposal show innovation and imagination in its relationship to the site or building, or both?</i>	The proposed signage is consistent with the users' branding. The placement of signage is considered the most appropriate given the site topography, building siting, access points, car parking and landscape elements.
6. Associated devices and logos with advertisements and advertising structures	
<i>Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?</i>	The proposed signage includes elements of appropriately illuminated signage.
7. Illumination	
<i>Would illumination result in unacceptable glare?</i>	Signage will be illuminated at appropriate LUX levels to not result in unacceptable glare.
<i>Would illumination affect safety for pedestrians, vehicles or aircraft?</i>	The illuminated signage will not provide a safety concern for pedestrians, vehicles or aircraft.
<i>Would illumination detract from the amenity of any residence or other form of accommodation?</i>	The proposed illuminated signage will not detract from the amenity of any residences.
<i>Can the intensity of the illumination be adjusted, if necessary?</i>	No, however the illumination is not expected to create any negative visual impacts or unacceptable glare.
<i>Is the illumination subject to a curfew?</i>	Hours of operation - to be confirmed through conditions
8. Safety	
<i>Would the proposal reduce the safety for any public road?</i>	The proposed signage will not reduce road safety. Sightlines to and from the site will not be affected and there will be no cause of distraction for drivers.
<i>Would the proposal reduce the safety for pedestrians or bicyclists?</i>	The proposed signage will not reduce existing safety for pedestrians and cyclists. All signage is contained wholly within the site and not within the road or footpath.
<i>Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?</i>	The proposed signage does not obscure sightlines from public areas.

Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

Sydney REP No. 20 integrates planning with catchment management to protect the Hawkesbury-Nepean river system, requiring the impact of future land use to be considered in a regional context. The plan covers water quality and quantity, environmentally sensitive areas, riverine scenic quality, agriculture and urban and rural-residential development. It controls development that has the potential to impact on the river environment. The plan applies to all parts of the catchment in the Sydney region (15 local government areas), except for land covered by *Sydney REP No. 11 - Penrith Lakes Scheme*. The REP is supported by an Action Plan, which includes actions necessary to improve existing conditions.

The proposed development is in accordance with the general planning considerations set out in Clause 5 of the REP and the relevant specific planning policies and related recommended strategies set out in Clause 6. In particular, provision will be made for adequate erosion and sediment control measures to ensure sediment as a result of the development is not deposited in the Hawkesbury-Nepean River via the stormwater system. Stormwater run-off from the proposed development will be directed to Council's existing stormwater drainage system.

Local Environmental Plan 2010 (Amendment 4)

Provision	Compliance
Clause 2.3 Permissibility	Complies - See discussion
Clause 2.3 Zone objectives	Complies - See discussion
Clause 4.3 Height of buildings	Complies - See discussion
Clause 5.9 Preservation of trees or vegetation	Complies - See discussion
Clause 7.1 Earthworks	Complies - See discussion

Clause 2.3 Permissibility

The site is zoned B2 Local Centre under the provisions of Penrith Local Environmental Plan 2010 (LEP 2010). The proposal is defined as a service station which mean

“a building or place used for the sale by retail of fuels and lubricants for motor vehicles, whether or not the building or place is also used for any one or more of the following:

- (a) the ancillary sale by retail of spare parts and accessories for motor vehicles,*
- (b) the cleaning of motor vehicles,*
- (c) installation of accessories,*
- (d) inspecting, repairing and servicing of motor vehicles (other than body building, panel beating, spray painting, or chassis restoration),*
- (e) the ancillary retail selling or hiring of general merchandise or services or both.”*

The proposal is defined as a service station and commercial precinct (for food and drink premises) and is a permissible form of development in the B2 zone with the consent of Council.

LEP Objectives

The proposal is consistent with the LEP objectives in relation to:

- (a) The proposal is committed to environmental protection and enhancement
- (b) The proposal will deliver a balanced social, economic and environmental outcome and hence a sustainable development
- (c) The proposal would have minimal visual impact

Clause 2.3 Zone objectives

The proposed establishment of a service station in the B2 zone is considered to be compatible with the objectives of the zone, in particular the service station will provide facilities and services to meet the day to day needs of workers in the area. It will also support and protect commercial for commercial uses. In keeping with the objectives of the zone, the proposed service station layout has been developed to minimise the impact of the development on neighbouring residential properties.

Clause 4.3 Height of buildings

The maximum height permissible on the site is 15 metres. The proposed building on site is single storey, with the maximum building height being 5.725 metres above natural ground level. The canopy will have a maximum height of 5.725m. The tallest proposed sign within the development is 7 metres in height. Therefore, all buildings and structures proposed on site comply with the height limitation.

Clause 5.9 Preservation of trees or vegetation

The objective of this clause is to preserve the amenity of the area, including biodiversity values, through the preservation of trees and other vegetation. Removal of prescribed vegetation requires development consent from Council.

Vegetation internal to the site that is proposed to be removed is identified on the landscape plans contained. Vegetation to be removed includes the palm trees located to the north-east of the existing retail building, shrubs and other low level plantings along the eastern boundary. These trees and vegetation are not identified as significant or prescribed trees. To compensate for the removal of the trees, new trees and vegetation will be planted in replacement, as detailed on the Landscape Plan.

Clause 7.1 Earthworks

The proposal involves minor earthworks within the site in order to assist the access design and suitable stormwater management. A suitable stormwater management design accompanies the development application. Proposed levels and existing levels are illustrated on the civil drawings. The extent of cut and fill can be contained within the site boundaries, with minimal impact on neighbouring properties.

Section 79C(1)(a)(iii) The provisions of any development control plan

Development Control Plan 2014

Provision	Compliance
C1 Site Planning and Design Principles	Complies - see Appendix - Development Control Plan Compliance
C2 Vegetation Management	Complies - see Appendix - Development Control Plan Compliance
C3 Water Management	Complies
C4 Land Management	Complies
C5 Waste Management	Complies
C6 Landscape Design	Complies - see Appendix - Development Control Plan Compliance
C7 Culture and Heritage	N/A
C8 Public Domain	N/A
C9 Advertising and Signage	Complies
C10 Transport, Access and Parking	Complies - see Appendix - Development Control Plan Compliance
C11 Subdivision	N/A
C12 Noise and Vibration	Complies
C13 Infrastructure and Services	Complies
D3.1. Bulky Good Retailing	Complies - see Appendix - Development Control Plan Compliance
D3.2. Sex Services Premises	
D3.3. Restricted Premises	

Section 79C(1)(a)(iv) The provisions of the regulations

Council's Building Surveyor raised no objection to the proposal and recommended appropriate conditions to be imposed in the consent.

Section 79C(1)(b)The likely impacts of the development

Context and Setting

The proposed development for the demolition of the existing vehicle repair workshop, service station convenience store building and car wash facility and construction of a new service station convenience store building integrating a food and drink premises with drive-thru facility will enable the commercial use of the site which is consistent with the site's zoning and surrounding context. The site is located within an established commercial zone and therefore the proposed service station will preserve and reinforce the existing character of the area. The proposed development will also provide significant employment in the commercial sector with positive connotations for the local and regional economies and populations.

The proposed service station has been strategically positioned on the subject site to respond to site constraints and be contextually appropriate. The proposal will not prevent any future development on the subject site or surrounding land.

No activities exist near the site that would prevent the development from being undertaken or successfully operating in the long-term.

The proposal will not exhibit any significant environmental impacts and will not adversely impact on the amenity of any adjoining sites. Therefore the proposed works are compatible with the site context.

Access, Parking and Traffic

Separate entry and exit driveways are provided. The proposed driveways and turning areas are demonstrated on the submitted plan. Turning templates are shown for semi-trailers. All vehicles are able to enter and leave the site in a forward direction including refuelling tankers.

The application was referred to Roads and Maritime Services (RMS) and Council Traffic Engineering Department for further review and raised no objection subject to condition.

Total on-site car parking requirement = $(168 / 100 \times 4) + (31 / 3) = 17.05$ (18 spaces).

The proposed redevelopment proposes a car parking provision of 21 car spaces including 1 accessible space. Therefore, the proposed development is compliant with both the requirement of the RTA Guide to Traffic Generating Development and Penrith City Council DCP (2014) with the proposal exceeding the on-site car parking requirements.

The proposal also comprises a queuing space within the drive through lane for 8 vehicles spaces behind the collection point including 4 spaces behind the ordering point demonstrating the drive through lane complies with the requirements of the RTA's Guide to Traffic Generating Developments and therefore is considered suitable.

Accordingly, the above assessment of parking requirements against the proposed development has demonstrated compliance with the site achieving a high level of suitability with regard to future parking demand.

Utilities/Water and Energy

Services including water, sewerage, electricity and telecommunication services are available in the area to support the development. The development would not require amplification of these services.

Noise and vibration

To maintain the acoustic privacy of the surrounding developments especially during demolition and construction of the service station, the standard condition restricting working hours is recommended.

Site design and internal design

The above assessment has concluded that the proposal is responsive to the existing built and natural.

Socioeconomic impacts

The proposal would promote efficient use of commercial land and employment opportunities in Penrith.

Section 79C(1)(c)The suitability of the site for the development

The proposed development is considered to be compatible with the surrounding area. The immediate area is zoned B2 Local Centre. Buildings such as that proposed are permissible only with development consent. The proposal maintains a desirable industrial development through compliance with Council's LEP and DCP.

Section 79C(1)(d) Any Submissions

Community Consultation

In accordance with Appendix F4 Notification and Advertising of the Penrith Development Control Plan 2014, the proposed development was exhibited and notified to nearby and adjoining residents from 14 April 2017 to 03 May 2017. Council did not receive any submissions.

Referrals

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

Referral Body	Comments Received
Building Surveyor	No objections - subject to conditions
Development Engineer	No objections - subject to conditions
Landscape Architect	No objections
Environmental - Environmental management	No objections - subject to conditions
Environmental - Waterways	No objections
Environmental - Public Health	No objections - subject to conditions
Traffic Engineer	No objection subject to conditions
Community Safety Officer	Not supported

Section 79C(1)(e)The public interest

The proposed development is consistent with the objectives of the EP&A Act in so far as it promotes the co-ordinated and orderly, and economic use and development of the land. As a result Council may be satisfied that the development subject to conditions is consistent with the public interest.

Conclusion

The proposed development is appropriately located within B2 Local Centre zone under LEP 2010 and is consistent with the aims and objectives of LEP 2010 and DCP 2014.

Furthermore, the development performs adequately in terms of its relationship to the surrounding built and natural environment, particularly in relation to likely impacts upon surrounding properties. Consequently, the proposal is supported from an environmental planning perspective.

Recommendation

That DA17/0233 for the demolition of the existing vehicle repair workshop, service station convenience store building and car wash facility and construction of a new service station convenience store building integrating a food and drink premises with drive-thru facility at 4 Dunheved Road Werrington, be approved subject to the attached conditions.

General

1 A001

The development must be implemented substantially in accordance with the following plans and details:

Drawing Title	Drawing No.	Prepared By	Dated
Site Plan - Proposed	28569-DA04 (Rev. D)	Ramakers Architects	25.05.17
Site Plan – Tanker Turning Path	28569-DA05 (Rev. C)	Ramakers Architects	25.05.17
Site Plan – Refuse Truck Turning Path	28569-DA06 (Rev. C)	Ramakers Architects	25.05.17
Site Signage Plan	28569-DA08 (Rev. C)	Ramakers Architects	25.05.17
Site Signage Details	28569-DA09 (Rev. B)	Ramakers Architects	11.04.17
Floor Plan	28569-DA010 (Rev. B)	Ramakers Architects	11.04.17
Retail Store Elevations (Sheet 1 of 2)	28569-DA011 (Rev. B)	Ramakers Architects	11.04.17
Retail Store Elevations (Sheet 2 of 2)	28569-DA012 (Rev. B)	Ramakers Architects	11.04.17
Retail Canopy Elevations (Sheet 1 of 2)	28569-DA013 (Rev. B)	Ramakers Architects	11.04.17
Retail Canopy Elevations (Sheet 2 of 2)	28569-DA014 (Rev. B)	Ramakers Architects	11.04.17
Staging Plan – Stage 1 – Demolition	28569-DA015 (Rev. A)	Ramakers Architects	24.03.17
Staging Plan – Stage 2 – Building Construction	28569-DA016 (Rev. C)	Ramakers Architects	25.05.17
Staging Plan – Stage 3 – Workbay demolition	28569-DA017 (Rev. C)	Ramakers Architects	25.05.17
Landscape Site Analysis	01 (Ref. F)	Mara Consulting	29.05.17
Landscape Site Analysis	02 (Ref. F)	Mara Consulting	29.05.17
Landscape Design Report	03 (Ref. F)	Mara Consulting	29.05.17
Landscape Plan	04 (Ref. F)	Mara Consulting	29.05.17
Landscape Plan	05 (Ref. F)	Mara Consulting	29.05.17
Landscape Elevation and Section	06 (Ref. F)	Mara Consulting	29.05.17

Landscape Details	07 (Ref. F)	Mara Consulting	29.05.17
Landscape Specifications	08 (Ref. F)	Mara Consulting	29.05.17
Landscape Specifications	09 (Ref. F)	Mara Consulting	29.05.17
Waste Management Plan	-	KDC	-
Plan of Management	-	-	May 2017

and any supporting information received with the application, except as may be amended in red on the approved plans and by the following conditions.

2 [A019 - Occupation Certificate](#)

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 the Environmental Health Department to organise an appointment at least 72 hours prior to the requested inspection time.

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

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

4 [A021 - Business Registration](#)

The business is to be registered with Penrith City Council by completing the "Registration of Premises" form. This form is to be returned to Council prior to the issuing of the occupation certificate and operation of the business.

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

The Caltex Convenience Shop and Service Station will operate 24 hours a day, 7 days a week. The food and drink premises will operate from 6.00am to 12.00am, 7 days a week.

6 [A032 - Goods in buildings](#)

All materials and goods associated with the use shall be contained within the building at all times.

7 [A038 - LIGHTING LOCATIONS](#)

Prior to the issue of an Occupation Certificate, a lighting system shall be installed for the development to provide uniform lighting across common areas and driveways. Exterior lighting shall be located and directed in such a manner so as not to create a nuisance to surrounding landuses. The lighting shall be the minimum level of illumination necessary for safe operation. The lighting shall be in accordance with AS 4282 "Control of the obtrusive effects of outdoor lighting" (1997).

8 [A039 - Graffiti](#)

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

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

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

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

The maximum height of the proposed pylon sign as amended in red on the approved plans will be 7m.

11 [A special BLANK](#)

Should any "unexpected finds" occur during site excavation and earthworks including, but not limited to, the identification of contaminated soils and/or groundwater, 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.

12 [A special BLANK](#)

Three (3) months after the issue of the Occupation Certificate, an Acoustic Compliance Report is to be submitted to and approved by Council. The report is to be prepared by a suitably qualified acoustic consultant and is to address all noise generating activities on the site and the level of compliance with the noise criteria set within the Noise Assessment (Document ID: MAC160361RP1V02) prepared by Muller Acoustic Consulting and dated March 2017. It is also to consider the requirements of the NSW Environment Protection Authority's Industrial Noise Policy, other relevant guideline documents and the conditions of this development consent.

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

13 A special BLANK

The construction noise management recommendations contained within the approved Noise Assessment report (Document ID: MAC160361RP1V02) prepared by Muller Acoustic Consulting and dated March 2017 are to be implemented and adhered to during the demolition and construction phase of the development.

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

Demolition

14 B002 - AS FOR DEMOLITION AND DISPOSAL TO APPROVED LANDFILL SITE

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

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

15 B003 - ASBESTOS

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

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

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

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

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

16 B004 - Dust

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

17 B005 - Mud/Soil

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

18 B006 - Hours of work

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

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

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

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

Environmental Matters

19 D001 - Implement approved sediment& erosion control measures

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

20 **D005 – No filling without prior approval (may need to add D006)**

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

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

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

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

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

Waste materials not specified in the approved waste management plan are to be disposed of at a lawful waste management facility.

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.

23 **D013 - Approved noise level 1**

Noise levels from the premises shall not exceed the relevant noise criteria detailed in the Noise Assessment (Document ID: MAC160361RP1V02) prepared by Muller Acoustic Consulting and dated March 2017. The recommendations provided in the above-mentioned acoustic report shall be implemented and incorporated into the design and construction of the development, and shall be shown on plans accompanying the Construction Certificate application.

A 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 acoustic report. 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.

24 **D024 - Pre-treatment**

Prior to the issue of a Construction Certificate, details of any pre-treatment facilities as required by Sydney Water and, if required a Section 73 Certificate issued by Sydney Water for the said development, are to be submitted to the Certifying Authority.

25 **D026 - Liquid wastes**

Only clean and unpolluted water is to be discharged into Penrith City Council's stormwater drainage system.

26 **D027 - SW lines not to be Touched**

The stormwater drainage system shall not be altered or new lines directed into the system without the prior approval of Penrith City Council.

27 **D - Hours of work**

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

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

In the event that the demolition or construction work relates to works inside the building and does not involve external walls or the roof, and does not involve the use of equipment that emits 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 construction works.

28 **D Special BLANK**

All mechanical plant and equipment is to comply with the noise criteria outlined in the Noise Assessment report (Document ID: MAC160361RP1V02) prepared by Muller Acoustic Consulting and dated March 2017.

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 Council for consideration and approval. Suitable data and information on the noise impacts associated with this plant and equipment is also to be supplied to demonstrate compliance with the established noise criteria.

29 **D Special BLANK**

An Unexpected Finds Protocol (the Protocol) is to be developed by an appropriately qualified environmental consultant. **Prior to the issue of the Construction Certificate**, the Protocol is to be submitted to Council for approval. If Council is not the certifying authority for this development, the report is required to be provided to Penrith City 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 Unexpected Finds Protocol is required to acknowledge that 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.

The approved Unexpected Finds Protocol is to be complied with at all times during the excavation/construction phase of the development.

30 **D Special BLANK**

In the event of on going noise complaint(s) 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 within 45 days of being requested. The assessment report is to be approved by Council, with any recommendations being implemented in accordance with the approved assessment report.

BCA Issues

31 **E009 - Annual fire safety-essential fire safety (Class 2-9 buildings)**

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

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

(b) be given:

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

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

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

32 E01A - BCA compliance for Class 2-9

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

- (a) complying with the deemed to satisfy provisions, or
- (b) formulating an alternative solution which:
 - complies with the performance requirements, or
 - is shown to be at least equivalent to the deemed to satisfy provision, or
- (c) a combination of (a) and (b).

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

Health Matters and OSSM installations

33 F001 - General Fitout

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

34 F022 - Commercial kitchen(exhaust system)

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

Detailed plans together with calculations for the system must be provided as part of the development application or as part of the Construction Certificate application.

The exhaust hood must completely cover the equipment to be ventilation 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.

The low edge of a canopy type exhaust hood must be at least 2000 mm above floor level.

Prior to the issuing of an Occupational Certificate, and operation of the business, the exhaust system shall be certified by an appropriately qualified person to comply with the Building Code of Australia and Australian Standard AS1668 Parts 1 & 2. A copy of the certification and supporting documentation must be provided to Council's Environmental Health Department if Council is not the Principal Certifying Authority

35 F025 - Food safety supervisor

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.

36 F027 - Hand basins

In addition to the hand wash basins required for the kitchen, a hand wash basin will be required in the drive through service area should any open food be prepared there (including any drinks or coffee).

Hand basins must be freestanding, 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.

37 F029 - Hand basin within staff toilets

A hand basin must be located within the toilet cubicle. Hand basins must be freestanding, 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 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.

38 **F035 - Ceilings**

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 light coloured 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.

39 **F052 - Coolrooms**

The coolroom and/or freezer room floor 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 the coolroom and freezer room must be treated to resist corrosion.

40 **F053 - Coolrooms – condensation**

Condensation from coolrooms and refrigeration motors must discharge to sewer via a tundish with air gap separation in accordance with Sydney Water requirements.

41 **F054 - Coolrooms – doors & alarms**

The coolroom and freezer room must be provided with:

- A door which can at all times be opened from inside without a key and
- An approved alarm device located outside the room, but controlled only from the inside.

42 **F059 - Waste storage – cleaning**

Rubbish bins must be cleaned regularly to remove the food scraps stuck on the bin surface and to minimise the emission of odour that attracts insects and vermin. Bins may be cleaned either by the rubbish collecting contractors or inside a rubbish room constructed to the above specifications.

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

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

43 **F060 - Grease Arrestor**

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.

44 **F186 - Smoke Free Environment**

The construction and operation of the premises shall comply with the NSW Smoke-free Environment Act 2000 and Smoke-free Environment Regulation 2000.

Utility Services

45 **G002 - Section 73 (not for**

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

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

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

47 [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.

Prior to the issue of an Occupation Certificate, written certification from all relevant service providers that the telecommunications infrastructure is installed in accordance with the requirements above and the applicable legislation at the time of construction, must be submitted to the Principal Certifying Authority.

Construction

48 [H001 - Stamped plans and erection of site notice](#)

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

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

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

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

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

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

49 [H002 - All forms of construction](#)

Prior to the commencement of construction works:

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

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

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

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

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

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

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

50 [H022 - Survey](#)

The building shall be set out by a registered surveyor. A Survey Certificate shall be undertaken and submitted to the Principal Certifying Authority when the building is constructed to ground floor slab level.

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

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

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

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

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

Engineering

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

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

53 **K201 - Infrastructure Bond**

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

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

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

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

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

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

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

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

Note:

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

55 **K210 - Stormwater Management**

The stormwater management system shall be provided generally in accordance with the concept plan/s lodged for development approval, prepared by Lindsay Dynan, reference number 13384, revision A, dated 21.03.2017.

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

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

56 **K222 - Access, Car Parking and Manoeuvring – General**

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

57 **K302 - Traffic Control Plan**

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

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

Note:

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

58 **K405 - Turf to Verge**

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

59 **K501 - Penrith City Council clearance – Roads Act/ Local Government Act**

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

60 **K511 - Directional signage**

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

61 **K Special (BLANK)**

The proposed waiting bays associated with the drive-through service window are to be clearly line-marked and signposted as waiting bays in order to differentiate them from other car parking spaces.

62 **K Special (BLANK)**

The proposed footpath fronting the retail building is to be appropriately fenced at its southern end (adjacent to the ice chest) in order to prevent pedestrians from walking into the path of vehicles exiting the drive-through and/or coffee pay/pick-up window.

63 **K Special (BLANK)**

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

64 **K Special (BLANK)**

All car parking and manoeuvring must be in accordance with AS2890.1-2004; AS2890.2-2002; AS2890.6-2009 and Council's requirements.

65 **K Special (BLANK)**

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

66 **K Special (BLANK)**

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

Landscaping

67 L001 - General

All landscape works are to be constructed in accordance with the stamped approved plan and Penrith Council's Development Control Plan 2014.

Landscaping shall be maintained:

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

If any of the vegetation comprising that landscaping dies or is removed, it is to be replaced with vegetation of the same species and, to the greatest extent practicable, the same maturity as the vegetation which died or was removed.

68 L002 - Landscape construction

The approved landscaping for the site must be constructed by a suitable qualified and experience landscape professional.

69 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 suitable qualified and experience 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. The report is to be prepared by a suitable qualified and experience landscape professional.

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

ii. Maintenance Report

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

This report is to be prepared by a suitable qualified and experience landscape professional.

In this case, restoration plans are to be submitted to Council for its consideration and approval. The approved plans shall be implemented at the expense of the property owners.

70 L005 - Planting of plant

All plant material associated with the construction of approved landscaping is to be planted in accordance with the Tree Planting Specification prescribed in Penrith Council's Development Control Plan 2014.

71 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.

72 L007 - Tree protection measures—no TMP with DA

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

73 L008 - Tree Preservation Order

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

Certification

74 [Q01F - Notice of Commencement & Appointment of PCA2 \(use for Fast Light only\)](#)

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

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

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

Information to accompany the Notice of Commencement

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

Appendix - Development Control Plan Compliance

Development Control Plan 2014

Part C - City-wide Controls

The proposed development has been assessed having regard to the development standards stipulated in DCP 2014 as listed in the following.

Safety and Security (Crime Prevention Through Environmental Design)

Crime Prevention through Environmental Design (CPTED) aims to ensure development is appropriately designed to reduce the likelihood of crimes being committed. By introducing measures to achieve appropriate natural surveillance, access control, territorial reinforcement and space management, it is anticipated that this will assist in minimising the incidence of crime and contribute to perceptions of increased public safety.

Natural surveillance has been promoted through the siting of the convenience store component and building openings to address the street and overlook the main canopy area.

The proposed development is considered to be of a safe and satisfactory design which promotes crime prevention in its existing environment.

Erosion and Sediment Control

Provision will be made for strategies to manage and minimise erosion and sedimentation during the course of the development works.

Landscape

The proposed landscape works aim to improve the amenity of the development and the surrounding area. The landscape design meet Council's planning objectives through the consideration of environmental, ecological concerns and public amenity. The existing site characteristics have been considered and have been realised in the built form through a number of landscape related elements, these include:

- Boundary planting that defines and enhances the site;
- Tree planting and retention to soften the drive-through facility and provide shade;
- Planting that complements the existing character of the surrounding development;
- Plant selection of native species with low maintenance requirements; and
- Retention of existing trees wherever possible.

In summary, new landscaping will help integrate the built form and hardstand areas on the site and provide a positive contribution to the overall landscape character of the area.

Section C5.1 Waste Management Plan

Waste Management Plan has been provided with the documentation for this application.

Section C10.5.1 Car Parking

Total on-site car parking requirement = $(168 / 100 \times 4) + (31 / 3) = 17.05$ (18 spaces).

The proposed redevelopment proposes a car parking provision of 21 car spaces including 1 accessible space. Therefore, the proposed development is compliant with both the requirement of the RTA Guide to Traffic Generating Development and Penrith City Council DCP (2014) with the proposal exceeding the on-site car parking requirements.

The proposal also comprises a queuing space within the drive through lane for 8 vehicles spaces behind the collection point including 4 spaces behind the ordering point demonstrating the drive through lane complies with the requirements of the RTA s Guide to Traffic Generating Developments and therefore is considered suitable.

Accordingly, the above assessment of parking requirements against the proposed development has demonstrated compliance with the site achieving a high level of suitability with regard to future parking demand.

D3 Commercial and Retail Development

- The proposed development complies with the relevant State Government standards and guidelines for noise, as well as any relevant Australian Standards. Acoustic Report has been submitted with this application.
- The proposed development has not been measured as intrusive in accordance with the noise impact assessment undertaken on the site.
- Road traffic noise generated complies with the provisions of Section 12.1 Road Traffic Noise of this Section.
- The development complies with road noise and vibration criteria.
- As demonstrated in the Acoustic Report, the proposal does not adversely impact on the amenity of the area or cause sleep disturbance.
- The Noise Assessment has included acoustic protection measures necessary to achieve an indoor environment meeting residential standards, in accordance with relevant noise criteria, as well as relevant Australian Standards.