

PENRITH CITY COUNCIL

MAJOR ASSESSMENT REPORT

Application number:	DA15/0474
Proposed development:	Construction of a Demountable Accommodation Building and Increased Occupant / Inmate Capacity to 380 Persons at the John Morony Correctional Centre
Property address:	464 - 570 Richmond Road, BERKSHIRE PARK NSW 2765
Property description:	Lot 1 DP 740367
Date received:	15 May 2015
Assessing officer	Belinda Borg
Zoning:	E2 Environmental Conservation - LEP 2010 SP2 Infrastructure - Correctional Cent - LEP 2010
Class of building:	Class 9b
Recommendations:	Approve

Executive Summary

Council is in receipt of a development application for the Construction of a Demountable Accommodation Building and Increased Occupant / Inmate Capacity to 380 Persons at Lot 1 DP 740367 (No.0464 - 570) Richmond Road Berkshire Park (John Morony Correctional Centre). The subject site is zoned SP2 Infrastructures - Correctional Centre and E2 Environmental Conservation under Penrith Local Environmental Plan 2010.

The proposed development is limited to the area of the site zoned SP2 Infrastructures - Correctional Centre under Penrith Local Environmental Plan 2010. The proposed demountable building to accommodate additional detainees is a permissible form of development.

An assessment under Section 79C of the Environmental Planning and Assessment Act 1979 has been undertaken and the application is recommended for approval subject to conditions of development consent. In accordance with Clause 89 of the Environmental Planning and Assessment Act, concurrence with the recommended conditions of consent has been provided by the applicant.

Site & Surrounds

The development site is known as Lot 1 DP 740367, No. 464 - 570 Richmond Road Berkshire Park being the John Morony Correction Centre. The site is located approximately 13km northeast of the Penrith City Centre.

The correctional facility is located on the south-western side of Richmond Road with a total land area is approximately 133 hectares. Existing vehicular access to the site is provided from The Northern Road.

The locality is a mixture of rural residential dwellings (opposite the Northern Road Entrance) Castlereagh Landfill site and bushland.

Proposal

The proposed development is for the construction of a demountable accommodation building and increased occupant / inmate capacity to 380 persons

The demountable building is located within the rear of the site, with the closest existing buildings being Block D. The demountable building will be located within an area of the site than has appropriate security fencing.

The capacity of the centre will increase from 330 inmates to 380 inmates. No additional staff would be required as a result of the proposal.

Plans that apply

- Local Environmental Plan 2010 (Amendment 4)
- Development Control Plan 2010
- 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 Environmental Planning and Assessment Act 1979, and having regard to those matters, the following issues have been identified for further consideration.

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

Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

An assessment has been undertaken of the application against relevant criteria within Sydney Regional Environmental Plan No 20—Hawkesbury-Nepean River (No 2—1997) and the application is satisfactory subject to recommended conditions of consent.

Local Environmental Plan 2010 (Amendment 4)

Provision	Compliance
Clause 1.2 Aims of the plan	Complies
Clause 2.3 Permissibility	Complies
Clause 2.3 Zone objectives	Complies
Clause 5.9 Preservation of trees or vegetation	Complies
Clause 5.9AA Trees or vegetation not prescribed by development control plan	Complies
Clause 5.11 Bush fire hazard reduction	Complies
Clause 5.12 Infrastructure development and use of existing buildings of the Crown	Complies - See discussion

Clause 5.12 Infrastructure development and use of existing buildings of the Crown

Clause 5.12 relates to Infrastructure development and use of existing buildings of the Crown. It states:

(1) This Plan does not restrict or prohibit, or enable the restriction or prohibition of, the carrying out of any development, by or on behalf of a public authority, that is permitted to be carried out with or without development consent, or that is exempt development, under State Environmental Planning Policy (Infrastructure) 2007.

(2) This Plan does not restrict or prohibit, or enable the restriction or prohibition of, the use of existing buildings of the Crown by the Crown.

The proposed development includes the construction of one (1) demountable building. It is noted that the architectural plans detail an additional building which is being assessed under the Infrastructure SEPP.

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

Development Control Plan 2010

Provision	Compliance
Part B - DCP Principles	Complies
Part C 1 - Site planning and design principles	Complies
Part C2 - Vegetation management	Complies
Part C3 - Water management	Complies
Part C4 - Land management	Complies
Part C5 - Waste management	Complies
Part C6 - Landscape design	N/A
Part C7 - Culture and heritage	Complies
Part C8 - Public domain	N/A
Part C9 - Advertising and signage	N/A
Part C10 - Transport, access and parking	Complies
Part C11 - Subdivision	N/A
Part C12 - Noise and vibration	Complies
Part C13 - Infrastructure and services	Complies

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

This section is not applicable for the subject application.

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

The likely impacts of the proposed development upon the surrounding area are discussed as follows:

Context and Setting

The development proposal is consistent with the existing character of buildings within the correctional facility. The proposal is compatible with the surrounding and adjacent land uses and will have no major impact on the amenity of the area once established. The proposal will have no adverse impacts on the natural environment, subject to adoption of recommended conditions.

Access, Transport and Traffic

Vehicular access is to be provided from Richmond Road. Existing parking and access arrangements are not altered by the proposed development and are considered to be appropriate to accommodate an increase in capacity of the correction facility. The proposal will not have a discernible impact on the operation of the local traffic network.

Flora and Fauna

The vegetation located on the site has been identified as modified Castlereagh Scribbly Gum Woodland, a Vulnerable Ecological Community under the NSW Threatened Species Conservation Act 1995 and an endangered Ecological Community under the Commonwealth Environment Protection and Biodiversity Conservation Act 1999. It also contains *Micromyrtus minutiflora*, listed as 'Endangered' under the NSW Threatened Species Conservation Act 1995 and 'Vulnerable' under the Commonwealth Environment Protection and Biodiversity Conservation Act 1999. The vegetation that will be impacted is mapped under the NSW Cumberland Plain Recovery Plan as part of the Priority Conservation Lands. Council is required to consider the Recovery Plan in its assessment of the development.

A Flora and Fauna Assessment report has been prepared by GIS Environmental Consultants (March 2015) and assessed by Council's Senior Biodiversity Office, who has determined the following:

- The proposal will not require clearing of any vegetation to facilitate the proposed building. However, vegetation management will be required to facilitate the Asset Protection Zone. This is approximately 1.8 ha of Castlereagh Scribbly Gum Woodland. However, much of the APZ work has already been undertaken to provide asset protection for other facilities on site.
- According to the Bushfire Management Report prepared by Bushfire Safety Solutions (March 2014) this vegetation is to be managed as an Outer Protection Area. It is likely that some vegetation consistent with Castlereagh Scribbly Gum Woodland will need to be removed to meet the current standards and requirements. *Micromyrtus minutiflora* is found in this area, however, it is expected that no individuals will be required to be removed if non-native and non-threatened species are removed first. According to the Flora and Fauna Assessment report slashing is regularly undertaken within the existing APZ and appears to favour the *Micromyrtus minutiflora*.

Recommended conditions have been included to reduce the impact on the endangered vegetation through the implementation of the Asset Protection Zone (APZ), whilst also ensuring that the fuel load is managed in accordance with Planning for Bushfire Protection (NSW RFS, 2006).

Bushfire Report

A Bushfire Report has been prepared by Bushfire Safety Solutions. It is noted that the location of the buildings within the Bushfire Report area different from the architectural plans and will result in reduced vegetation removal from the adjoining building land. The bushfire report recommends an asset protection zone of 70m from the building be maintained as an Outer Protection Zone.

Appropriate conditions have been included within the recommendations of the report.

View Corridors/View Sharing

It is noted that there are no iconic views to and from the site on any adjoining properties. Furthermore, the proposal will not obstruct any view corridor.

Social and Economic Impacts

The proposal will increase the capacity of the correction facility. Such an increase is considered to have a negligible social impact on the immediate residents. The increase in the capacity of the correctional facility is in direct response to the needs of the community for spaces within the prison system.

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

The site attributes are conducive to the proposed development. The proposal has been designed in a manner consistent with the existing character of the site.

Section 79C(1)(d) Any Submissions

Community Consultation

Community consultation

In accordance with Clause 4.4 of Appendix F4 of Penrith Development Control Plan 2010, the proposed development was notified to nearby and adjoining residents.

Council notified adjoining and nearby residences in the area and the exhibition period was between 22 May 2015 to 5 June 2015. Council has received no submissions in response.

Referrals

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

Referral Body	Comments Received
Building Surveyor	No objections - subject to conditions
Development Engineer	No objections
Environmental - Environmental management	No objections - subject to conditions
Environmental - Biodiversity	No objections - subject to conditions
Community Safety Officer	No objections

Development Engineer

Council's Development Engineers have detailed that a referral for their considerations was not required, due to the nature of the development.

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

As the proposal is consistent with the objectives of the relevant LEP and the provisions of the DCP, the development is considered to be in the public interest.

Conclusion

The proposed development is in accordance with the relevant provisions of Penrith Local Environmental Plan 2010 and Penrith Development Control Plan 2012 pertaining to the land. The proposed development is unlikely to have a negative impact on the surrounding environment through appropriate conditioning of the development consent. The proposed development seeks to provide additional inmate accommodation and an increase in the capacity of the correctional facility that will compliment the existing structures located on the site. The location of the additional accommodation is such that it is not visible from the surrounding properties.

The proposed development has been assessed against the relevant heads of consideration in Section 5A, Section 23G, Section 79C and Section 89 of the Environmental Planning and Assessment Act 1979 and has been found to be satisfactory. The site is suitable for the proposed development and the proposal is in the public interest. The proposal is therefore worthy of support, subject to the conditions of consent.

Recommendation

1. That DA15/0474 for the Construction of a Demountable Accommodation Building and Increased Occupant / Inmate Capacity to 380 Persons at the John Morony Correctional Centre at Lot 1 DP 740367, No. 464 - 570 Richmond Road Berkshire Park be approved subject to the attached conditions (Development Assessment Report Part B).

General

1 A001

The development must be implemented substantially in accordance with the stamped approved plans issue by Penrith Council and other plans or documents approved by Council, except as may be amended in red on the attached plans and by the following conditions:

Drawing Title	Drawing Number	Issue	Prepared by	Dated
Overall Site Plan	JM2 ARC DA_00_001	-	Perumal Pedavoli	1.5.2015
Roof Plan	JM2 ARC DA_00_021	-	Perumal Pedavoli	1.5.2015
Elevations and Sections	JM2 ARC DA_00_101	-	Perumal Pedavoli	1.5.2015
Statement of Environmental Effects	Job No. 15-032	-	BBC	May 2015

2 A042 - ASSET PROTECTION ZONES IN BUSHFIRE AREAS - Endangered Vegetation

An Asset Protection Zone (APZ) of 70m for protection from bushfire shall be provided to the new development and maintained in accordance with the recommendations outlined on page 16 of the Bushfire Management Report prepared by Bushfire Safety Solutions (March 2014) and page 47 of the Flora and Fauna Impact Assessment Report prepared by GIS Environmental Consultants (March 2014). In particular the APZ is to be managed as outlined below:

- (a) Prior to any APZ management works, and then once annually, an ecologist is to mark with flagging tape all individual *Micromyrtus minutiflora* plants located within the APZ to ensure these individual are not damaged during APZ maintenance activities. If any *Dillwynia tenuifolia* or *Persoonia nutans* individuals are found, these are also to be marked with flagging tape.
- (b) The entire area of vegetation within the APZ is to be managed as an Outer Protection Area with fuel loads not to exceed 8 t/Ha as outlined on page 16 of the Bushfire Management Report prepared by Bushfire Safety Solutions (March 2014):
 - Exotic species are always to be removed first to achieve the required fuel loads. Noxious weeds are to be removed as a priority.
 - Tree canopy is to be separated by 2-5m and achieve a maximum of 20% canopy cover. Pruning of trees is to be used in preference to their removal (pruning and skirting is to be done in accordance with AS4373-1996 Pruning of Amenity Trees). If trees are required to be removed, older, more mature trees are to be retained where possible, with saplings, and younger trees removed first.
 - Skirting (crown lifting) is to be used to separate the tree canopy from the ground or shrub fuels by 1-2m.
 - The shrub layer is to be managed to achieve a 20% cover and should not form a continuous layer and should not form a connection with the canopy. In areas where shrubs are to be removed, locally common species should be removed in preference to threatened species that have been marked with flagging tape. If there are dense stands of threatened species, these may be thinned by hand to achieve the a 20% cover.
 - Ground cover plants are to be maintained at a maximum height of 10cm.

Environmental Matters

3 D001 - Implement approved sediment& erosion control measures

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

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

4 D002 Spraygrass

All land that has been disturbed by earthworks is to be spray grassed or similarly treated to establish a grass cover.

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

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

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

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

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

6 **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.

7 **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.

8 **D - Dust**

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

9 **D - Mud/Soil**

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

BCA Issues

10 **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.

Utility Services

11 **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 use of the buildings.

12 **G004 - Integral Energy**

Prior to the commencement of construction works, 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 prior to construction commencing for the development is issued as the location of the substation may impact on other services and building, driveway or parking already located on the site.

Construction

13 **H001 - Stamped plans and erection of site notice**

Stamped plans, specifications, a copy of the development consent 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 is 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 construction and associated landscaping works have been completed.

14 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.

15 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

16 K101 - Works at no cost to Council

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

17 [K208 - Stormwater Discharge \(Minor Development\)](#)

Stormwater drainage from the site shall be discharged to the:

- a) Street drainage system
- b) Common drainage system
- c) Penrith Council trunk drainage system within the property
- d) Existing site drainage system, or
- e) Level spreader system.

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

Landscaping

18 [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.

19 [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.

Operation of OSSM

20 [R102 - OSSM System Type and Disposal Area \(all systems\)](#)

All wastewater generated on the site is to be diverted to the on-site sewage treatment plant and is to be managed in accordance with the existing arrangements in place for the John Morony Correction Centre.