

# PENRITH CITY COUNCIL

## MAJOR ASSESSMENT REPORT

<b>Application number:</b>	DA18/1114.01
<b>Proposed development:</b>	Modification to an Approved Warehouse & Distribution Facility to Provide Additional Vents, Relocate the Internal Access Road & Associated Additional Roller Shutter Doors
<b>Property address:</b>	130 - 172 Andrews Road, PENRITH NSW 2750 128 Andrews Road, PENRITH NSW 2750
<b>Property description:</b>	Lot 13 DP 217705 Lot 20 DP 1216618
<b>Date received:</b>	4 December 2019
<b>Assessing officer</b>	Jane Hetherington
<b>Zoning:</b>	IN1 General Industrial - LEP 2010
<b>Class of building:</b>	Class 7b
<b>Recommendations:</b>	Approve

### Executive Summary

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Council is in receipt of a Section 4.55(1A) application to modify the approved warehouse and distribution facility at 128 & 130-172 Andrews Road, Penrith.

The proposed modification seeks to provide additional vents, relocate the internal access road and associated additional roller shutter doors.

The subject site is zoned IN1 General Industrial under the provisions of Penrith Local Environmental Plan 2010. The proposal is defined as a warehouse or distribution centre and is a permissible land use in the IN1 zone, subject to Council consent.

In accordance with Clause 4.5(b) of the Environmental Planning and Assessment Act 1979, the original application was determined by the Sydney Western City Planning Panel (SWCPP) as the proposal has a CIV over \$30 million. Clause 123BA of the Environmental Planning and Assessment Act Regulations 2000, specifies that Council has the authority to exercise the functions of a regional panel for the determination of applications to modify a development consent under Section 4.55(1A) of the Act.

The application has been notified in accordance with Penrith Development Control Plan 2014. No submissions were received in response.

An assessment under Section 4.15 and Section 4.55(1A) of the Environmental Planning and Assessment Act 1979 has been undertaken and the application is recommended for approval, subject to modified conditions.

## Site & Surrounds

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### **Properties of the site**

The subject site consists of 128 Andrews Road, Penrith (Lot 20, DP 1216618) and 130-172 Andrews Road, Penrith (Lot 13, DP 217705). The site is located on the southern side of Andrews Road, approximately 500m east of Castlereagh Road and 1.2km west of Richmond Road.

The new warehouse component of the development will be located at 128 Andrews Road, Penrith, which has an area of approximately 27.04 hectares and is irregular in shape. The site is currently undeveloped however contains vegetation identified as Cumberland Plain Woodland, Freshwater Wetlands and River-flat Eucalypt Forest. Access to the site will be provided via an existing right of carriageway over 112-124 Andrews Road (Lot 3 DP 747153).

Some alterations are also proposed to the existing manufacturing facility located at 130-172, Andrews Road, Penrith. The site has an area of 19 hectares and currently contains a glass factory and associated car parking. Access is provided via Andrews Road.

The site is bound by Penrith Wastewater Treatment Plant to the south, Nepean Rugby Park to the east and warehouses and industrial uses to the north and west. The Nepean River is approximately 1km west of the subject site. The nearest residential development is located approximately 500m to the east and consists of a variety of detached single dwellings.

### **Site constraints**

- The site is mapped as bushfire prone land.
- The land is identified as "Land with Scenic and Landscape Values" on Penrith LEP 2010 Scenic and Landscape Values Map.
- The site is affected by mainstream flooding from Nepean River.
- The site is burdened by easements for drainage, services, a transmission line and a right of carriageway.
- The site contains Cumberland Plain Woodland, Freshwater Wetlands and River-flat Eucalypt Forest.
- The site contains a Regionally Significant Wetland in the SREP 20 - Wetland 158.

### **History**

DA18/1114 was approved by the Sydney Western City Planning Panel (SWCPP) on 17 June 2019.

## Proposal

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The application seeks to modify:

- Addition of mechanical air vents with louvres on both the north and south elevations;
- Relocation of approved driveway to a more northern location, which was approved to traverse off the western portion of the proposed access road to existing facility (located on 130-172 Andrews Road, Penrith);
- 2 roller shutter doors in line with the proposed relocated driveway;
- Removal of the approved cantilevered canopy located on western elevation (north-western corner) of the existing warehouse proposed to be removed;
- 1 x additional roller shutter door located on the southern elevation of the existing facility; and
- 1 x additional access door located on the southern elevation of the existing facility.

## Plans that apply

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- Local Environmental Plan 2010 (Amendment 4)
- State Environmental Planning Policy (Infrastructure) 2007
- State Environmental Planning Policy No 55—Remediation of Land
- Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

- **Section 4.46 - Integrated development**

Section 4.46 of the EP&A Act outlines the types of developments deemed to be defined as “Integrated Development”. The original determination required concurrence Natural Resource Access Regulator (NRARs) in accordance with this section of the Act. NRARs issued their General Terms of Approval on 25 March 2019, raising no objection to the proposal subject to conditions. As the subject modification application changes the driveway location, a referral was sent to NRARs. NRARs provided correspondence dated 16/03/2020 advising that their previously issued GTAs are adequate, remain current, and no further assessment is necessary.

- **Section 4.55(1A) - Modifications involving minimal environmental impact**

This modification application has been lodged pursuant to Section 4.55 (1A) of the *Environmental Planning and Assessment Act 1979*. To be considered under this section the consent authority must be satisfied that the proposed modification:

- (a) is of minimal environmental impact;
- (b) results in the modified consent being substantially the same development as the originally granted development (before any other modifications were granted, if any); and
- (c) has been notified in accordance with the Penrith DCP and any submission taken into account.

In this regard, it is considered that the proposed modification meets all three pre-requisites above. The additional mechanical louvers and relocated driveway is considered to be of minimal environmental impact. The application was accompanied by a letter from Acoustic Logic dated 18/2/2020 and a Flora and Fauna Assessment, prepared Ecological Australia and dated 31 October 2018 confirming that the environmental impacts are consistent with those of the approved DA. The development, as proposed to be modified, is considered substantially the same development as the development for which consent was originally granted. The modification application has been notified in accordance with Council's DCP and no objections have been received.

### **Section 4.15(1)(a)(i) The provisions of any environmental planning instrument**

#### **State Environmental Planning Policy (Infrastructure) 2007**

The original application was assessed against the provisions of SEPP (Infrastructure) 2007 and found to be satisfactory subject to conditions. This modification application does not require any further assessment of the site against the provisions of the Policy.

#### **State Environmental Planning Policy No 55—Remediation of Land**

The provisions of State Environmental Planning Policy No. 55 - Remediation of Land were considered in the assessment of the original development proposal approved for the site (DA18/1114). This modification application does not require any further assessment of the site against the provisions of the Policy.

#### **Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River**

The modified proposal remains in keeping with the requirements of SREP No. 20 and appropriate conditions of consent remain in place.

## Local Environmental Plan 2010 (Amendment 4)

Provision	Compliance
Clause 2.3 Permissibility	Complies
Clause 2.3 Zone objectives	Complies
Clause 4.3 Height of buildings	Does not comply - See discussion
Clause 4.4 Floor Space Ratio	N/A
Clause 7.1 Earthworks	Complies
Clause 7.2 Flood planning	Complies
Clause 7.4 Sustainable development	Complies
Clause 7.5 Protection of scenic character and landscape values	Complies
Clause 7.7 Servicing	Complies

### Clause 4.3 Height of buildings

The Height of Buildings Map identifies a maximum height of 12m as applying to the site. The approved development, at its highest point, had a building height of 13.65m, equating to a 13.75% variation, although the extent varied across the site. The proposed modification does not alter the height of the development.

## Section 4.15(1)(a)(iii) The provisions of any development control plan

### Section 4.15(1)(b) The likely impacts of the development

#### *Flora and Fauna Impacts*

The original application was accompanied by a Flora and Fauna Assessment prepared by Ecological Australia and dated 31 October 2018. The proposed driveway (which is subject of this modification) was considered (labelled as "proposed option 2") as part of the original Flora and Fauna Assessment and it was concluded that regardless of the location of the driveway, the development is unlikely to result in a significant impact to any threatened ecological communities, threatened flora or fauna listed under the BC or EPBC Act.

#### *Acoustic Impacts*

To address the acoustic impact of the additional mechanical air vents, the application was accompanied by an acoustic statement prepared by Acoustic Logic and dated 18 February 2018. This document states that the original acoustic report (20181396.1/2310A/R1/AW) assessed noise from both internal and external areas of the proposed operation. Noise impacts associated with the addition of air vents to the façade have been reviewed and based on the proposed size and location of the additional air vents, the noise emission requirements detailed in the report will be achieved. The acoustic statement confirms that the assumptions and recommendations of the original report are unchanged and the amended design does not impact on the results of the initial acoustic report.

### Section 4.15(1)(c) The suitability of the site for the development

The proposed amendments are minor in nature and do not alter the suitability of the site for the development.

### Section 4.15(1)(d) Any Submissions

#### Community Consultation

The development application was originally advertised in the local newspaper and notified to owners and occupiers of adjoining and nearby properties pursuant to the requirements of the Regulations and in accordance with Council's Development Control Plan. The subject modification application was notified to nearby and adjoining property owners with the exhibition period from 19 December 2019 to 31 January 2020. No submissions were received 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 - subject to conditions
Environmental - Environmental management	No objections - subject to conditions
Environmental - Waterways	No objections - subject to conditions
Environmental - Biodiversity	No objections - subject to conditions
Traffic Engineer	No objection subject to conditions

## Section 4.15(1)(e)The public interest

The proposed development will not generate any significant issues of public interest.

## Conclusion

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The proposed modification to the development have been assessed against the relevant heads of consideration contained in Section 4.55(1A) of the Environmental Planning and Assessment Act 1979 and have been found to be satisfactory. Each of the relevant criteria under Section 4.55(1A) of the Act has been satisfied. The development as modified will result in minimal environmental impact only and be substantially the same development as originally approved. The proposed modifications to the development are therefore worthy of Council's support.

## Recommendation

Section 4.55(1A) Modification to an approved warehouse and distribution facility (modification to provide additional vents, relocate the internal access road and associated additional roller shutter doors) at 128 & 130-172 Andrews Road, Penrith be approved subject to the following condition amendments:

### Condition 1:

The development must be implemented substantially in accordance with the following plans stamped approved by Council, the application form and any supporting information received with the application, except as may be amended in red on the attached plans and by the following conditions.

<b>Drawing Title</b>	<b>Drawing Reference</b>	<b>Prepared By</b>	<b>Dated</b>
Locality Plan	18161 TP0.1 (Issue A)	Watson Young Architects	02/11/2018
Master Plan	18161 TP0.3 (Issue C)	Watson Young Architects	11/11/2019
Site Plan	18161 TP1.1 (Issue D)	Watson Young Architects	21/11/2019
Warehouse Plan	18161 TP1.2 (Issue C)	Watson Young Architects	11/11/2019
Roof Plan	18161 TP1.3 (Issue C)	Watson Young Architects	11/11/2019
Office Floor Plans	18161 TP1.4 (Issue C)	Watson Young Architects	11/11/2019
Elevations	18161 TP1.5 (Issue D)	Watson Young Architects	28/10/2018
9Elevations – Part 1	18161 TP1.6 (Issue D)	Watson Young Architects	28/10/2019
Elevations – Part 2	18161 TP1.7 (Issue D)	Watson Young Architects	28/10/2019
Elevations – Office	18161 TP1.8 (Issue D)	Watson Young Architects	15/07/2019
Section	18161 TP1.9 (Issue A)	Watson Young Architects	02/11/2018
Site Plan – Site 2	18161 TP2.1 (Issue B)	Watson Young Architects	22/10/2019
Overall Elevations – Site 2	18161 TP2.2 (Issue B)	Watson Young Architects	22/10/2019
Landscape Concept Plans	181003 LDA00-08	Geoscapes Landscape Architects	04/02/2019
Stormwater Management Plan	C013620.00 DA 10-52 (Issue: up to H)	Costin Roe Consulting	31/01/2019
Waste Management Plan	WTJ18-289	Willow Tree Planning	1/11/2018

# CONDITIONS

## General

### 1 A001

The development must be implemented substantially in accordance with the following plans stamped approved by Council, the application form and any supporting information received with the application, except as may be amended in red on the attached plans and by the following conditions.

<b>Drawing Title</b>	<b>Drawing Reference</b>	<b>Prepared By</b>	<b>Dated</b>
Locality Plan	18161 TP0.1 (Issue A)	Watson Young Architects	02/11/2018
Master Plan	18161 TP0.3 (Issue A)	Watson Young Architects	02/11/2018
Site Plan	18161 TP1.1 (Issue A)	Watson Young Architects	02/11/2018
Warehouse Plan	18161 TP1.2 (Issue A)	Watson Young Architects	02/11/2018
Roof Plan	18161 TP1.3 (Issue A)	Watson Young Architects	02/11/2018
Office Floor Plans	18161 TP1.4 (Issue A)	Watson Young Architects	02/11/2018
Elevations	18161 TP1.5 (Issue A)	Watson Young Architects	02/11/2018
Elevations – Part 1	18161 TP1.6 (Issue A)	Watson Young Architects	02/11/2018
Elevations – Part 2	18161 TP1.7 (Issue A)	Watson Young Architects	02/11/2018
Elevations – Office	18161 TP1.8 (Issue A)	Watson Young Architects	02/11/2018
Section	18161 TP1.9 (Issue A)	Watson Young Architects	02/11/2018
Site Plan – Site 2	18161 TP2.1 (Issue A)	Watson Young Architects	02/11/2018
Overall Elevations – Site 2	18161 TP2.2 (Issue A)	Watson Young Architects	02/11/2018
Landscape Concept Plans	181003 LDA00-08	Geoscapes Landscape Architects	04/02/2019
Stormwater Management Plan	C013620.00 DA 10-52 (Issue: up to H)	Costin Roe Consulting	31/01/2019
Waste Management Plan	WTJ18-289	Willow Tree Planning	1/11/2018

### 2 A005 - APPROVED BODYS CONSENT (FOR INTEGRATED DAS)

A copy of the General Terms of Approval (dated 25 March 2019) issued by the NSW Natural Resource Access Regulator under the *Water Management Act 2000* shall be submitted to the Principal Certifying Authority, before the Construction Certificate can be issued for the same development. A copy of the approval shall be submitted to Penrith City Council with the copy of the Construction Certificate, if Council is not the Principal Certifying Authority.

### 3 A019 - OCCUPATION CERTIFICATE (ALWAYS APPLY)

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

### 4 A026 - Advertising sign (not for residential)

A separate development application for the erection of a sign or advertising structure, other than an advertisement listed as exempt development or located within the 'signage zone' located on the eastern elevation, is to be submitted to Penrith City Council, complying with the requirements of Penrith Development Control Plan 2014.

### 5 A029 - HOURS OF OPERATION AND DELIVERY TIMES

The approved operating hours are 24 hours a day, seven 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

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 recommendations of Bushfire Hazard Assessment Industrial Development, prepared by Blackash Bushfire Consulting and dated 31 October 2018 are to be incorporated into the Construction Certificate plans.

## 11 A Special (BLANK)

Prior to the issue of a Construction Certificate, an amended external colour schedule is to be submitted to and approved by Penrith City Council. The colours are to be of neutral tones and assist the development to blend in with the Blue Mountains escarpment.

## Environmental Matters

### 12 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).

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

The approved sediment and erosion control measures are to be installed **prior to and maintained throughout the construction phase of the development until the land, that was subject to the works, has been stabilised and grass cover established**. These measures shall ensure that mud and soil from vehicular movements to and from the site does not occur during the construction of the development.

### 13 D002 - Spraygrass

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

### 14 D004 - Dust

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

### 15 D004 – Site remediation works

Site remediation works shall be carried out generally in accordance with the approved 'Remediation Action Plan' (E31675KRpt-RAP) prepared by EIS dated 4 February 2019 as well as Penrith Development Control Plan, the applicable NSW Environment Protection Authority Guidelines and the National Environment Protection (Assessment of Site Contamination) Measure (1999) [NEPM 2013].

On completion of the site remediation works, the following documentation is to be submitted to the Principal Certifying Authority and Penrith City Council, if Council is not the Principal Certifying Authority:

- Written notification that the site remediation works have been completed is to be submitted **within 30 days that the said works have been completed**.
- A validation report, prepared by an appropriately qualified person as defined in Penrith Development Control Plan, is to be submitted **prior to the issue of a Occupation Certificate** for approval. The report shall certify that the remediation works have been carried out in accordance with the approved Remediation Action Plan, relevant NSW Environment Protection Authority requirements, NEPM 2013 and Penrith Development Control Plan.

### 16 D005 - Mud/Soil

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



17 **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.

18 **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 (as defined in Penrith Contaminated Land Development Control Plan) with consideration of all relevant guidelines (e.g. EPA, ANZECC, NH&MRC), standards, planning instruments and legislation,
- 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: Penrith Contaminated Land Development Control Plan defines an appropriately qualified person as "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 the Principal Certifying Authority or Penrith City Council is not satisfied that suitable fill materials have been used on the site, further site investigations or remediation works may be requested. In these circumstances the works shall be carried out prior to any further approved works.

19 **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.

20 **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. Where the disposal location or waste materials have not been identified in the waste management plan, details shall be provided to the Certifying Authority as part of the waste management documentation accompanying the Construction Certificate application.

All receipts and supporting documentation must be retained in order to verify lawful disposal of materials and are to be made available to Penrith City Council on request.

21 **D013 - Approved noise level 1**

Noise levels from the premises shall not exceed the relevant noise criteria detailed in the Approved Acoustic Report (20181396.1/2310A/R1/AW) prepared by Acoustic Logic dated 23 October 2018. The recommendations provided in the above-mentioned acoustic report must be implemented and incorporated into the design, construction and management 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 building has been constructed to meet the noise criteria in accordance with the approved acoustic report. This certificate is to be submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

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

22 **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.

23 **D Special (BLANK)**

**Prior to the issue of a Construction Certificate**, a Sustainability Management Plan outlining the specific sustainability measures to be installed in the warehouse shall be submitted to and approved by Penrith City Council. The plan must:

- (i) confirm the total greenhouse gas savings achieved in comparison to a base case development (i.e. a development constructed in accordance with the minimum requirements of Section J of the BCA);
- (ii) include a calculation of water requirements and measures incorporated to reduce water use;
- (iii) include a program to monitor and report annually on the efficiency of the measures implemented; and
- (iv) ensure the development will continue to operate at industry best practice over time.
- (v) provide for the inclusion of solar panels on the warehouse roof.

The sustainability measures outlined in the approved Sustainability Management Plan in the Construction Certificate drawings **prior to the issue of any Occupation Certificate**.

24 **D Special Fauna protection**

Trees identified for removal are to be lowered to the ground slowly when felling to allow any resident fauna time to escape and to ensure they aren't crushed by falling trees and branches. This replaces the need for pre-clearing hollow survey and inspection. This is to be done under the supervision and to the direction of a qualified ecologist. Details on reporting of actions undertaken with tallies of fauna removed from the felled trees with details of their relocation destination (or destruction) are to be submitted to Penrith City Councils Senior Biodiversity Officer for approval prior to issue of a Construction Certificate.

25 **D Special Vegetation Management Plan implementation**

All recommendations and activities of the approved Vegetation Management Plan (VMP), prepared by Ecological Australia, dated the 31/01/2019 form the conditions of consent.

Progress reports are to be provided for on an annual basis for a period of 5 years OR until the completion of the project and are to be submitted to Penrith City Council's Senior Biodiversity Officer.

26 **D Special Wildlife sensitive lighting**

Prior to Occupation Certificate, the recommendations for lighting for microbats and wildlife of the approved Architecture Plan, prepared by Watson Young, dated the 29/01/2019 must be implemented. The following is required:

- Lights to be angled downward toward the proposed car parking area;
- Lighting fixtures to be selected to minimise light spill; and
- Canopy trees identified on the eastern edge of the car parking area planted to act as a buffer and reduce light penetration, as identified in the landscape plans.

27 **D Special Woody Debris**

All native trees with a trunk DBH (diameter at breast height) greater than 30cm that are scheduled for removal are to be stockpiled and transported for reuse in the following manner

-All logs and branches greater than 30cm in diameter are to be trimmed into 2-4m lengths. No foliage material may remain on the logs.

- These logs are to be transported, delivered and installed under the guidance of a professional bush regenerator, by the applicant and at the applicants cost, to the revegetation zones 1 & 2 as detailed in the Vegetation Management Plan prepared by Ecological Australia, dated 31/01/2019 for fauna habitat

- Receipts of works are to be retained for council records.

28 **D Vegetation Management Plan Bond Implementation**

To ensure that works associated with the Vegetation Management Plan are constructed in accordance with the approved plans, a bank guarantee or insurance bond shall be submitted to Penrith City Council prior to the issue of a Construction Certificate. The bank guarantee or insurance bond shall be:

- To the value of \$100,000;
- Unconditional; and
- From an institution and in a form approved by Council.

5 years after the Occupation Certificate has been issued for the development, a report on the implementation and management of the vegetation management plan shall be submitted to Penrith City Council outlining all plantings that occurred and all maintenance that has occurred. Council shall return the bank guarantee or bond upon receipt of a satisfactory Report and if Council is satisfied that the VMP and associated maintenance has been implemented satisfactorily.

## BCA Issues

### 29 [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.

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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.

### 30 [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

### 31 [G002 - Section 73 \(not for](#)

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

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

### 32 [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.

## Construction

### 33 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.

### 34 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.

### 35 [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

### 36 [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.

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

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

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

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

### 38 [K203 - S138 Roads Act – Works and structures - Roadworks requiring approval of civil drawings. CIVIL CONSTRUCTION IN THE ROAD RESERVE](#)

**Prior to the issue of any Construction Certificate**, the Certifying Authority shall ensure that a Section 138 Roads Act application, including payment of application and inspection fees, has been lodged with, and approved by Penrith City Council (being the Roads Authority under the Roads Act), for provision of access upgrade works in Andrews Road road reserve.

A copy of the Roads and Maritime Services approval shall be submitted to Penrith City Council prior to issue of this Approval.

Detailed engineering plans are to be provided for works in Andrews Road and the Access Road.

The detailed plans and documents for the intersection of Andrews Road / Access Road are to include the development works to provide the proposed intersection works and traffic instructions at Andrews Road / Access Road intersection that are shown, in principle on the applicant's plan titled Functional Layout Plan Andrews Road Intersection Drawing No. C013620.00-R01 Issue C dated 1 April 2019. These plans and documents shall include:

••Consultation agreements with Endeavour Energy regarding the proposed Andrews Road / Access Road intersection works restricting the Endeavour Energy driveway on the northern side of Andrews Road at the proposed intersection to left in / left out only. Alternatively it is to be demonstrated, that the provision of acceptable vehicle turning paths into and out of the Endeavour Energy driveway including access for over size over mass (OSOM) vehicles is maintained.

•A right turn in from Andrews Road deceleration/storage lane with for a 26 metre B-Double vehicle and a 19 metre semi-trailer vehicle.

•Andrews Road / Access Road intersection that allows a 26 metre B-Double vehicle swept path from that lane at least 100 mm clear of the through lane in Andrews Road, at least 600 mm clear of the kerb lines and medians.

•If a left in/ left out arrangement is agreed to by Endeavour Energy, a raised concrete centre median in

Andrews Road east of the right turn bay that physically prevents vehicles turning right into and out of the Endeavour Energy driveway on the northern side of Andrews Road shall be provided.

- 3.0 metre wide sealed shoulders (except parallel to the left turn lane into the Access Road), kerb and gutter, verge at least 3.8 metres wide with 1.5 metre wide concrete footpath set 1.8 metres from kerb face and connections to kerb ramps on both sides of the Access Road at the intersection with Andrews Road.

- Provision of at least a 4 metre corner splay at the corner of Andrews Road site boundary and the side boundary west of the Access Road.

- A bicycle lane between the Andrews Road left turn lanes into and out of the Access Road and the Andrews Road through lane.

- Street lighting in accord with Australian Standard 1158 and Council's Lighting Policy and Council requirements.

- Traffic signage and line marking plans including left only restrictions from Access Road to Andrews Road and left in / left out only restrictions at the Andrews Road / Endeavour Energy driveway. Unless the provision of acceptable vehicle turning paths into and out of the Endeavour Energy driveway including access for over size and over mass (OSOM) vehicles can be demonstrated.

- Sight distance requirements at driveways are to be in accordance with AS 2890.2 Figure 3.3 and Figure 3.4.

The plans are to be prepared by a suitably qualified design engineer and submitted to Council for referral to the Local Traffic Committee for approval. These plans are to be in accordance with AUSTRROADS, Australian Standards, Roads and Maritime Services (RMS) technical directions, other relevant standards and Council requirements and are to include details of regulatory line marking and signposting.

**Prior to the issue of any Construction Certificate**, the Certifying Authority shall ensure that the plans are adjusted to include:

- Dimensions of driveways, ramps, aisles, parking spaces, accessible parking, bicycle parking, 1.5 metre wide concrete footpath from Andrews Road along access driveway, access gate, car park to building accesses, other internal footpaths, services vehicle manoeuvring and loading areas complying with AS 2890, AS 1428, Council Development Control Plan (DCP) C10 and other Council guidelines.

- Complying numbers of secure, all weather bicycle parking, end of journey facilities, change rooms, showers, lockers are to be provided at convenient locations in accordance with Council Development Control Plan (DCP) C10 Section 10.7, AS 2890.3 Bicycle Parking Facilities and Planning Guidelines for Walking and Cycling (NSW Government 2004).

- Accessible pedestrian paths of travel from the car park access to the building through the warehouse to all of the offices and staff facilities.

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

Contact Penrith City Council's Development Engineering Department on (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 is 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 as applicable.

39 **K204 - S138 Roads Act – RMS CIVIL CONSTRUCTION IN THE STATE ROAD**

Prior to the issue of any Construction Certificate, the Certifying Authority shall ensure that any applicable application, including the payment of application and inspection fees, has been lodged with and approved by the Roads and Maritime Services for any works within the Andrews Road road reserve.

A copy of the Roads and Maritime Services approval shall be submitted to Penrith City Council prior to Penrith City Council issuing any Roads Act approval.

40 **K208 - Road Safety Audit**

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

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

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

41 **K210 - Stormwater Management**

The stormwater management system shall be provided generally in accordance with the concept plan/s lodged for development approval, prepared by Costin Roe Consulting, reference number C013620.00 - DA 40-46, revision (up to H) and dated 31/01/2019.

The bioretention system proposed must have a minimum combined area of 1,250m<sup>2</sup>, minimum filter depth of 500mm and vegetation density of 8 plant per m<sup>2</sup>.

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.

42 **K212 - No loading on easements**

Prior to the issue of any Construction Certificate, the Certifying Authority shall ensure that the foundations of proposed structures adjoining the drainage and/ or services easement have been designed clear of the zone of influence.

43 **K213 - Flooding - Flood Report Recommendations**

**Prior to the issue of any Construction Certificate**, the Certifying Authority shall ensure that the proposed development is compatible with the recommendations of the Flood Report prepared by Costin Roe Consulting, reference number C013620.00 - 07 and dated 20/05/2019.

44 **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, AS 2890.2, AS 2890.6 and Penrith City Council's Development Control Plan.

45 **K225 - Performance Bond**

Prior to the issue of a Roads Act Approval, a Performance Bond is to be lodged with Penrith City Council for road works in Andrews Road road reserve.

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

Note: Contact Penrith City Council's Development Engineering Department on (02) 4732 7777 for further information relating to bond requirements.



46 **K301 - Sediment & Erosion Control**

Prior to commencement of any works associated with the development, sediment and erosion control measures shall be installed in accordance with the approved Construction Certificate and to ensure compliance with the Protection of the Environment Operations Act 1997 and Managing Urban Stormwater series from the Office of Environment and Heritage.

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

47 **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.

48 **K502 - Works as executed – General and Compliance Documentation**

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

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

49 **K504 - Stormwater Compliance**

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

- a) Stormwater management systems (including on-site detention and water sensitive urban design)
- b) Overland flowpath works
- c) Flood control works
- Have been satisfactorily completed in accordance with the approved Construction Certificate and the requirements of this consent.
- Have met the design intent with regard to any construction variations to the approved design.
- Any remedial works required to be undertaken have been satisfactorily completed.

Details of the approved and constructed system/s shall be provided as part of the Works As Executed drawings.

50 **K505 - Restriction as to User and Positive Covenant**

Prior to the issue of any Occupation Certificate, a restriction as to user and positive covenant relating to the:

- a) Stormwater management systems (including on-site detention and water sensitive urban design)
- b) Overland flowpath works
- c) Flood control works

Shall be registered on the title of the property. The restriction as to user and positive covenant shall be in Penrith City Council's standard wording as detailed in Penrith City Council's Stormwater Drainage Specification for Building Development – Appendix F.

51 **K515 - Maintenance Bond**

Prior to the issue of any Occupation Certificate, a Maintenance Bond is to be lodged with Penrith City Council for road works in Andrews Road road reserve.

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

Note:

- a) Contact Penrith City Council's Engineering Services Department on (02) 4732 7777 for further information relating to bond requirements.



52 **K601 - Stormwater Management system operation and maintenance**

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

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

53 **K Special (BLANK)**

**Prior to issue of a Construction Certificate**, a Construction Traffic Management Plan is to be provided detailing construction vehicle routes, number of trucks, hours of operation, access arrangements, construction vehicle and employee parking arrangements.

54 **K Special (BLANK)**

Prior to the issue of an Occupation Certificate, all required works are to be completed in accordance with the approved plans and Council requirements. All works including regulatory signposting associated with the proposed development are to be undertaken at no cost to Council or Roads and Maritime Services.

55 **K Special (BLANK)**

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

56 **K Special (BLANK)**

**Prior to the issue of an Occupation Certificate**, appropriate signage, visible from the public road and on-site shall to be installed to reinforce designated vehicle circulation and to direct staff / delivery vehicle drivers / service vehicle drivers / visitors to on-site parking, delivery and service areas to the satisfaction of the Principal Certifying Authority.

57 **K Special (BLANK)**

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

58 **K Special (BLANK)**

Accessible parking is to be provided with accessible paths of travel to the facility in accordance with AS 2890.6:2009.

59 **K Special (BLANK)**

The required sight lines around the driveway entrances and exits are not to be compromised by street trees, landscaping or fencing.

60 **K Special (BLANK)**

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

61 **K Special (BLANK)**

Sight distance requirements at driveways are to be in accordance with AS 2890.2 Figure 3.3 and Figure 3.4.

62 **K Special Condition BLANK**

Certify Authority shall ensure that a flood safe access shall be provided up to 1% AEP storm event from local catchment (overland flow). Additional stormwater infrastructure may be required.

## Landscaping

63 **L001 - General**

All landscape works are to be constructed in accordance with the stamped approved Landscape Plan, 181003 LDA00-08, prepared by Geoscapes Landscape Architects and dated 04 February 2019 and Penrith 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.

64 **L002 - Landscape construction**

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

#### 65 L003 - Report requirement

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

##### i. Implementation Report

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

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

#### 66 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.

#### 67 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 section F4 of Council's Landscape Development Control Plan.

#### 68 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.

#### 69 L Special (BLANK)

**Prior to the issue of a Construction Certificate**, details of the fencing are to be submitted to and approved by Council. The fencing is to comply with the requirements of Penrith Development Control Plan 2014, D4 Industrial Development, Section 4.7 Fencing.

## Certification

#### 70 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:

- 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
- 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.

#### 71 Q05F - Occupation Certificate

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

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

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