

PENRITH CITY COUNCIL

MAJOR ASSESSMENT REPORT

Application number:	DA15/0377.01
Proposed development:	Modification of Conditions 40-43 & Condition 52
Property address:	1 / 301 - 335 Mulgoa Road, JAMISONTOWN NSW 2750 301 - 335 Mulgoa Road, JAMISONTOWN NSW 2750
Property description:	Lot 1 SP 72448 Lot SP 72448
Date received:	25 September 2015
Assessing officer	Mathew Rawson
Zoning:	SEE MEMO(S) AND/OR SEPPS CODE FOR ZONING DETAILS Zone B5 Business Development - LEP 2010
Class of building:	Class 6
Recommendations:	Approve

Executive Summary

Council is in receipt of a Section 96 application to modify conditions of consent relating to approved alterations and additions to an existing Bunnings warehouse. Under the Penrith Local Environmental Plan 2010 the subject site is zoned B5 Business Development. Hardware and building supplies are a permitted land use in the B5 zone with Council consent.

The proposed modification involves the amendment of Conditions 40, 41, 42, 43 and 52 of the development consent to allow for the issue of an 'interim occupation certificate' over parts of the site and enable a staged re-opening of the premises. There are no changes proposed to the approved floor area, on site parking, staff numbers or trading hours of the development.

An assessment under Section 79C and Section 96(1A) of the Environmental Planning and Assessment Act 1979 has been undertaken and the application is recommended for approval, subject to recommended condition amendments.

Site & Surrounds

The subject site is an irregular allotment located to the west of Mulgoa Road and Gibbes Street at the western end of the existing bulky goods retail complex off Pattys Place. The total land area is 64,490 sqm. Directly adjoining the site to the north-west and north-east is vacant land, whilst further to the north east of the site, fronting Pattys Place are various industrial, business and bulky goods retail developments.

The 'Penrith Home Maker Centre' is a significant bulky goods retail centre accommodating approximately 44,000 sqm of retail floor space and incorporates a total of 1068 parking spaces. The complex is predominantly occupied by bulky goods retailers, such as Harvey Norman, Bunnings Warehouse, Domayne, Fantastic Furniture and Bing Lee.

Proposal

On 27 July 2015 Council granted consent to undertake a boundary adjustment and alterations and additions to the existing Bunnings Warehouse (DA15/0377). Construction has commenced and the business is trading but in a reduced capacity. Consequently the applicant is seeking to allow for a staged re-opening of the renovated sections of the warehouse in order to minimise the overall period of disruption to trading during construction works. A number of the conditions of consent require certain works to be completed prior to the issue of 'an occupation certificate'. The wording of these conditions do not allow for the issue of an 'interim occupation certificate' over parts of the site which effectively prevents a staged re-opening. As a result of this situation it is proposed to amend Conditions 40, 41, 42, 43 and 52 of the development consent to allow for the release of interim occupation certificates.

There are no changes proposed to the approved floor area, on-site parking, staff numbers or trading hours of the development.

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 96(1A) - Modifications involving minimal environmental impact**

The modified development has been assessed in accordance with the matters for consideration under Section 96(1A) and Section 79C of the Environmental Planning and Assessment Act 1979, and having regard to those matters, Council can be satisfied that the proposed modification is of minimal environmental impact and relates to substantially the same development as the development for which the consent was originally granted. Notification under the Regulations and Council's Penrith Development Control Plan (DCP) 2014 was not required.

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 with 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

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	Complies
Part C7 - Culture and heritage	N/A
Part C8 - Public domain	N/A
Part C9 - Advertising and signage	Complies
Part C10 - Transport, access and parking	Complies
Part C11 - Subdivision	Complies
Part C12 - Noise and vibration	Complies
Part C13 - Infrastructure and services	Complies
Part D3 - Commercial and retail development	Complies

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

Fire Safety

Under Part 9 of the Environmental Planning and Assessment Regulation 2000 owners of buildings must provide the FRNSW Commissioner with a copy of the Fire Safety Certificate for the building (along with the current Fire Safety Schedule). The Fire Safety Certificate is issued when essential fire safety measures have been assessed by a qualified person as being capable of performing to the standard defined by the Schedule. A condition of consent has been previously imposed to ensure that this occurs on an annual basis.

Prescribed Conditions

The relevant prescribed conditions of the Regulations, such as the requirement for compliance with the BCA, has been previously imposed as conditions of consent where applicable.

Section 92 - Additional Matters

- Any demolition has been previously conditioned to be in accordance with the provisions of AS 2601.
- The development is not subject to the NSW Government's Coastal Policy
- The development is not situated on land subject to an order made under Schedule 5 of the Act (paper subdivisions).

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

Subject to the recommended conditions of consent, it is not considered that the modified proposal will result in any significant impacts on the natural, social or economic environments of the locality.

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

The subject site is remains suitable for the following reasons:

- The zone permits the proposed use.
- The use is consistent and compatible with surrounding/adjoining land uses.
- The grade of the site is suitable for the design proposed.
- Stormwater from the site is able to drain to Council's satisfaction.
- The site is adequately serviced by access, water and sewer infrastructure which has the capacity to cope with any increase in demand associated with the proposed development.
- Recommended conditions of consent will ensure that the proposal will have minimal effects on the surrounding environment during the construction stage.

Section 79C(1)(d) 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
Development Engineer	No objections
Environmental - Environmental management	No objections
Environmental - Waterways	No objections
Environmental - Public Health	No objections

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

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

Conclusion

The modified proposal has been assessed having regard to the matters for consideration under Section 79C and Section 96(1A) of the Environmental Planning and Assessment Act 1979 and relevant documentation. Having regard to the above, it is considered that the proposed changes do not substantially change the use and functions of the development and consequently the proposal is essentially and materially the same development as that approved. The assessment of the proposal demonstrates that the modifications have merit, will have minimal environmental impact and should be approved.

Recommendation

1. That DA15/077.01 for modifications to approved alterations and additions to an existing Bunnings Warehouse at 301-335 Mulgoa Road, Jamisontown, be approved subject to the following condition amendments:

Condition 40

Prior to the issue of a Final 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.

Condition 41

Prior to the issue of a Final 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.

Condition 42

Prior to the issue of a Final 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 for Building Development.

Condition 43

Prior to the issue of a Final 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.

Condition 52

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

i. Implementation Report

Upon completion of the landscape works associated with the development and prior to the issue of a Final 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 suitably qualified landscape professional.

A Final 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 a Final 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 suitably qualified landscape professional.

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 approved plans and by the following conditions.

Description	Reference	Date	Author
Overall Site Plan	13054 TP-01 P4	07.04.15	Michael Carr Architect Pty. Ltd.
Existing / Demolition Plan	13054 TP-02 P4	11.06.15	Michael Carr Architect Pty. Ltd.
Proposed Site Plan	13054 TP-03 P12	11.06.15	Michael Carr Architect Pty. Ltd.
Existing & Demo Roof Plan	13054 TP-04 P3	02.03.15	Michael Carr Architect Pty. Ltd.
Proposed Roof Plan and Elevations	13054 TP-05 P7	11.06.15	Michael Carr Architect Pty. Ltd.
Waste Management Plan	13054 TP-06 P1	07.04.15	Michael Carr Architect Pty. Ltd.
Landscape Plan	2208 LP - 01 C	05.06.15	John Lock & Associates
Landscape Details	2208 LP - 02 B	16.04.15	John Lock & Associates
Waste Management Plan	--	17.04.15	PGH Environmental Planning
Strata Subdivision Plan	23106-41778SP	--	Glenn Cox

2 A019 - OCCUPATION CERTIFICATE (ALWAYS APPLY)

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

3 A029 - HOURS OF OPERATION AND DELIVERY TIMES

The operating hours of the store, deliveries and services are from 6 am to 10 pm, Mondays to Sundays.

4 A032 - Goods in buildings

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

5 A046 - Obtain Construction Certificate before commencement of works

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

6 A Special (Nursery Trolley Bay)

An additional trolley bay is to be provided within one of the car parking spaces in proximity to the new nursery entrance.

7 A Special (operational plans)

The following operational details must be submitted to and approved by the PCA prior to the issue of a Construction Certificate.

(a) Spill Prevention and Clean Up Procedures

A plan detailing spill prevention, contingency and emergency clean-up procedures shall be prepared for the development.

(b) Special Events Plan

The location and types of structures proposed to be used during special events (e.g. fundraising barbecues) is to be denoted on a plan as well as any management controls required to be imposed to ensure the operation or safety of staff, pedestrians, deliveries or any persons transiting the site is not compromised.

8 A Special (Screen plant and machinery on roof)

Any rooftop plant and/or structures shall be screened when viewed from the M4 Motorway. All screening measures shall integrate with the overall building design, and further details shall be submitted to and approved by Council prior to the issue of the relevant Construction Certificate.

9 A Special Condition (BLANK)

Prior to Construction Certificate the access requirements for the ongoing cleaning and maintenance of the proposed stormwater treatment measures is to be considered and details provided in the draft operation and maintenance management plans.

Demolition

10 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**.

11 B004 - Dust

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

12 B005 - Mud/Soil

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

13 B006 - 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 works relate 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 works are not restricted to the hours stated above.

The provisions of the Protection of the Environment Operations Act, 1997 in regulating offensive noise.

Environmental Matters

14 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.

15 D007 - Cut and fill of land requiring Validation Certificate –limited to footprint

Cut and fill operations on the property are only permitted in conjunction with the building works as detailed on the approved plans and specifications, and shall not extend more than 2 metres past the defined building footprint.

Before any fill material is imported to site, a validation certificate issued by an appropriately qualified person is to be provided to the Principal Certifying Authority. The validation certificate must demonstrate that the fill material is free from contaminants and weeds, that it is suitable for its intended purpose and land use, and that it will not pose an unacceptable risk to human health or the environment.

If Penrith City Council is not the Principal Certifying Authority, a copy of the validation certificate is to be submitted to Council for their reference.

{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, soils 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."}

16 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.

17 **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.

18 **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.

19 **D026 - Liquid wastes**

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

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

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

20 **D Special BLANK**

All outdoor liquid spills are to be cleaned up using dry methods only.

21 **D Special BLANK**

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

BCA Issues

22 **E006 - Disabled access and facilities**

Access and sanitary facilities for persons with disabilities are to be provided and maintained in accordance with the requirements of the Building Code of Australia and AS 1428 "Design for Access and Mobility". Details of compliance are to be provided in the relevant plans and specifications accompanying the Construction Certificate application.

23 **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.

24 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

25 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*.

26 F006 - Water tank & nuisance

The rainwater tank must be maintained so as not to create a nuisance and it must be protected against mosquito infestation.

Utility Services

27 G002 - Section 73

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.

28 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

29 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.

30 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.

31 H011 - Engineering plans & specifications

Detailed engineering plans and specifications relating to the work shall be submitted for consideration and approval prior to the issue of a Construction Certificate.

32 H036 - Rainwater Tank

Before a rainwater tank(s) can be used, a certificate or suitable document is to be submitted to the Principal Certifying Authority stating that the rainwater tank has been installed in accordance with:

- the Manufacturer's Specifications, and
- Sydney Water and NSW Health requirements.

This certificate or documentation is to be provided by the licensed plumber who installed the rainwater tank on the property, and is to be submitted prior to the issue of the Occupation Certificate.

33 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 that 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

34 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.

35 K209 - Stormwater Management

The stormwater management system shall be provided generally in accordance with the concept plan/s lodged for development. See table below:

Prepared By	Drawing Number	Sheet Numbers	Revision	Date
C & M Consulting Engineers	01361	100, 351, 701	03	01/04/2015
C & M Consulting Engineers	01361	201	04	16/07/2015
C & M Consulting Engineers	01361	110, 202	05	16/07/2015

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 a Construction Certificate, the Certifying Authority shall ensure that the stormwater management system has been designed in accordance with Council's Stormwater Drainage for Building Developments and Water Sensitive Urban Design Policy.

36 K212 - No loading on easements

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

Council's existing 1050mm and 1200mm diameter pipe located wholly within the drainage easement shall be accurately shown on all plans and sections.

37 [K220 - Overland Flow - General](#)

Prior to the issue of a Construction Certificate, the Certifying Authority shall ensure that:

- a) The proposed filling and retaining wall will not concentrate, dam or divert overland flows onto adjoining properties.

Details prepared by a qualified person, demonstrating compliance with these requirements, shall form part of any Construction Certificate issued.

38 [K221 - Access, Car Parking and Manoeuvring – General](#)

Prior to the issue of a 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.

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

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

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

40 [K502 - Works as executed – General and Compliance Documentation](#)

Prior to the issue of a Final 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.

As amended on 22 October 2015 under Section 96(1A) of the Environmental Planning and Assessment Act 1979.

41 [K503 - Stormwater Compliance](#)

Prior to the issue of a Final 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.

As amended on 22 October 2015 under Section 96(1A) of the Environmental Planning and Assessment Act 1979.

42 K504 - Restriction as to User and Positive Covenant

Prior to the issue of a Final 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 for Building Development.

As amended on 22 October 2015 under Section 96(1A) of the Environmental Planning and Assessment Act 1979.

43 K509 - Directional signage

Prior to the issue of a Final 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.

As amended on 22 October 2015 under Section 96(1A) of the Environmental Planning and Assessment Act 1979.

44 K - Waterways - Stormwater Management system operation and maintenance

The stormwater management systems shall continue to be operated and maintained in perpetuity to the satisfaction of Council in accordance with the final operation and maintenance management plan. Regular inspection records are required to be maintained and made available to Council upon request. All necessary improvements are required to be made immediately upon awareness of any deficiencies in the treatment measure/s

45 K Special - K041 (Infrastructure restoration bond)

An Infrastructure Restoration Bond is to be lodged with Penrith City Council for development involving works around Council's Public Infrastructure Assets. The bond is to be lodged with Council **prior to the issue of a Construction Certificate**. The bond shall be determined accordance with Council's adopted Fees and Charges.

The bond is refundable once a final inspection has been carried out by Council's City Works Department and the works have been completed to Council's satisfaction. The bond may be used to repair or reinstate any damage that occurs to Council's Public Infrastructure Assets as a result of the development works.

Contact Council's City Works Department on 4732 7777 or visit Council's website to obtain the form and request for final inspection.

46 K Special (parking spaces for stock)

Customer and staff car parking spaces are not to be used for the display or storage of stock

47 K Special (sight lines)

The required sight lines around the car parking, access and loading areas are not to be compromised by landscaping, fencing or signage.

48 K Special (TRAFFIC CONTROL PLAN)

Prior to commencement of works, a Traffic Control Plan including details for pedestrian management shall be prepared in accordance with AS 1742.3 "Traffic Control Devices for Works on Roads" and the Roads and Traffic Authority's publication "Traffic Control at Worksites" and certified by an appropriately accredited Roads and Traffic Authority 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 copy of the Traffic Control Plan shall accompany the Notice of Commencement to Penrith City Council.

49 K Special (unloading)

All unloading of delivery vehicles is to take place entirely on-site within the area marked as proposed goods inwards.

Landscaping

50 L001 - General

All landscape works are to be constructed in accordance with the stamped approved plan, Sections F5 "Planting Techniques", F8 "Quality Assurance Standards" and F9 "Site Management Plan" of Penrith Council's Landscape Development Control Plan.

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.

51 L002 - Landscape construction

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

52 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 landscape professional.

i. Implementation Report

Upon completion of the landscape works associated with the development and prior to the issue of a Final 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 suitably qualified landscape professional.

A Final 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 a Final 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 suitably qualified landscape professional.

As amended on 22 October 2015 under Section 96(1A) of the Environmental Planning and Assessment Act 1979.

53 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 Landscape Development Control Plan.

54 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.

55 L Special (protect trees off site)

The street tree must be retained and protected in accordance with AS 4970 -2009, Protection of trees on development sites.

All precautions shall be taken to adequately protect trees on adjoining sites and public property against damage during construction. No trees other than those marked on the landscape plan and located on the development site shall be removed, pruned or damaged during construction. This includes the erection of any fences, hoardings or other temporary works. The placement of construction materials beneath the canopy of these trees is prohibited.

Subdivision

56 M008 - Linen Plan

The original Linen Plan and ten (10) copies shall be submitted prior to the issue of a Strata Subdivision Certificate.

All drainage easements, rights of way, restrictions and covenants are to be included on the linen plan.

All dedications of roads/drainage are to be undertaken at no cost to Penrith City Council.

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

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

Certification

57 Q006 - Occupation Certificate (Class 2 - 9)

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

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

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

58 Q009 - Strata Certificate

A Strata Certificate shall be obtained from the Principal Certifying Authority prior to lodgement of the strata plan with the Land and Property Information division of the Department of Lands. The Strata Certificate will not be issued if:

- (a) any of the conditions in this consent, issued for the buildings on the land are outstanding, and/or
- (b) if the Final Occupation Certificate for the buildings, the subject of the strata plan, has not been issued.

59 Q01F - Notice of Commencement & Appointment of PCA2

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.