

PENRITH CITY COUNCIL

MAJOR ASSESSMENT REPORT

Application number:	DA20/0189
Proposed development:	Section 4.55(2) Modification to DA05/1740 (Final Landform) for Erskine Park Landfill for Construction of Mechanically Stabilised Earth Wall to Increase Landfill Air Space
Property address:	Quarry Road, ERSKINE PARK NSW 2759
Property description:	Lot 4 DP 1094504
Date received:	9 April 2020
Assessing officer	Wendy Connell
Zoning:	SEPP - (WSEA) 2009 - ZONES IN1 + E2 SEPP WSEA - Sched 1 - Certain Land at Erskine Park SEPP WSA - Affected by Obstacle Limitation SEPP WSA - Affected by Wildlife Buffer Zone
Class of building:	N/A
Recommendations:	Approve

Executive Summary

Council has received a Section 4.55(2) modification application from Enviroguard Pty Ltd for the construction of a mechanically stabilised earth wall to increase landfill air space for the Cleanaway Erskine Park Landfill site, demolition works, relocation of a litter fence and changes to leachate monitoring and management at Lot 4 Off Quarry Road, Erskine Park.

The site currently operates under an EPA Licence (Licence No. 4865). The application was submitted as integrated development in accordance with Section 4.46 of the Environmental Planning & Assessment Act 1979 (EP&A Act) and seeks concurrent approval from the Environment Protection Authority under the Protection of the Environment Operations Act 1997.

The subject site is partly zoned IN1 General Industrial and E2 Environmental Conservation under the State Environmental Planning Policy (Western Sydney Employment Area) 2009.

Permissibility is established by the provisions of Division 4.11 'Existing uses' under the EP&A Act. Division 4.11 of the EP&A Act manages matters relating to an existing use that was lawfully being carried out before it became prohibited under a new planning instrument. The use of the site is defined as a waste or resource management facility and is an existing use as defined under Section 4.65 of the EP&A Act. Part 5 'Existing uses' under the Environmental Planning & Assessment Regulation 2000, Clause 42, allows the enlargement, expansion and intensification of existing uses with consent.

The proposed modification would provide an additional 450,000 cubic metres of landfill air space representing approximately a 5% increase in overall waste capacity of the landfill. It is anticipated that the land filling operations will continue for an additional period of 3 years.

Under Clause 123BA of the Environmental Planning and Assessment Regulation 2000, Council is the consent authority for the subject Section 4.55(2) modification application.

An assessment under Section 4.15 and Section 4.55(2) of the Environmental Planning and Assessment Act 1979 has been undertaken and the application is recommended for approval subject to the recommended consent condition amendments.

Site & Surrounds

The Cleanaway Erskine Park Landfill site is located within Erskine Business Park. The development site is legally described at Lot 4 in DP 1094504. The site contains an existing waste management facility and operates under an Environment Protection Licence (Licence No. 4865) issued by the NSW Environment Protection Authority (EPA).

The subject site is partly zoned IN1 General Industrial and E2 Environmental Conservation under the State Environmental Planning Policy (Western Sydney Employment Area) 2009.

Permissibility is established by the provisions of Division 4.11 'Existing uses' under the EP&A Act. Division 4.11 of the EP&A Act manages matters relating to an existing use that was lawfully being carried out before it became prohibited under a new planning instrument. The use of the site is defined as a waste or resource management facility and is an existing use as defined under Section 4.65 of the EP&A Act. Part 5 'Existing uses' under the Environmental Planning & Assessment Regulation 2000, Clause 42, allows the enlargement, expansion and intensification of existing uses with consent.

To the north are the residential suburbs of Erskine Park and St Clair, to the south is the rural area of Kemps Creek. Access to the site is via an access road off Quarry Road. Erskine Business Park is characterised by large scale industrial development.

Background

The Cleanaway Erskine Park Landfill site is located on the site of the former Erskine Park Quarry. The Erskine Park Quarry commenced excavation in the 1920s and continued until 1994.

In November 1992, consent was granted (under DA163/92) by Council for the filling and eventual rehabilitation of the quarry using non-putrescible waste disposal. A number of conditions were applied to the consent specifically relating to the site rehabilitation at the cessation of landfilling operation. The EIS that accompanied the application specified the maximum height of the final landform to be 65m AHD.

In May 2006, Council approved a modification to the final landform (under DA05/1740) to a post closure and post settlement height equivalent to the pre-quarry landform peaks of 87m AHD and 92m AHD with no change to the landfilling rates.

Consent was granted by the Joint Regional Planning Panel in June 2011 for a leachate treatment plant associated with the landfill operations. Part of this approval was located on the land within the E2 conservation zone and in approving the development it was determined that the waste management facility was permissible with consent by virtue of existing use rights.

In July 2014, consent was granted by Council for an underground gas pipeline between the Erskine Park Landfill site and the Austral Bricks manufacturing plant at Horsley Park. The pipeline recovers landfill gas from the Erskine Park Landfill site and is utilised to fire kilns used for brick manufacturing.

In August 2019, consent was granted by Council for an increase to the final landform from a two peak design at a final landform height of 92m AHD and 87m AHD to a single peak ridge at 92m AHD.

In August 2020, consent was granted by Council for the re-alignment of an 800m gas pipeline that runs from the Erskine Park Landfill site to the Austral Bricks manufacturing plant at Horsley Park.

Proposal

The proposal seeks to modify the existing development approved under DA05/1740 to provide a mechanically stabilised earth wall, to increase landfill air space, which is to be approximately 920m in length and will wrap around the south-western, southern and eastern perimeter of the landfill, with construction over two stages. The modification also includes changes to leachate monitoring and management, demolition works and relocation of a litter fence.

The proposed wall varies in height from the existing ground levels from 0m to 20m, with a maximum elevation of 81m AHD, tapering to zero at both ends. The proposed modification would provide an additional 450,000 cubic metres of landfill air space representing approximately a 5% increase in overall waste capacity of the landfill. It is anticipated that the land filling operations will continue for an additional period of 3 years.

The application has demonstrated that the proposed modification does not significantly increase the environmental impacts of the total development, and therefore the proposal satisfies the factors for consideration under Schedule 3, Part 2 of the Environmental Planning and Assessment Regulation 2000, and therefore it does not trigger the designated development provisions.

Plans that apply

- Development Control Plan 2014
- State Environmental Planning Policy (Western Sydney Aerotropolis) 2020
- State Environmental Planning Policy (Western Sydney Employment Area) 2009
- State Environmental Planning Policy No 33—Hazardous and Offensive Development
- State Environmental Planning Policy No 55—Remediation of Land
- Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

Planning Assessment

• **Section 4.46 - Integrated development**

The modification application was submitted as integrated development in accordance with Section 4.46 of the EP&A Act 1979, and seeks concurrent approval from the Environment Protection Authority under the Protection of the Environment Operations Act 1997, as the site currently operates under an EPA Licence (EPA Licence No. 4865).

General Terms of Approval (GTAs) were issued by the EPA for the proposal in its letter dated 31 July 2020.

• **Section 4.55(2) - Other modifications**

The modified development has been assessed in accordance with the matters for consideration under Section 4.15 (see sections below) and Section 4.55(2) of the Environmental Planning and Assessment Act 1979. Having regard to those matters under Section 4.55(2), the following assessment has been made:

- The modified development is substantially the same as in the original approval in that the ongoing operation, and type and quantity of waste received at the facility are essentially the same.
- The original proposal was integrated development requiring General Terms of Approval (GTAs) from the Environment Protection Authority (EPA) as a licensed waste facility. The modification seeks to increase the amount of waste material received at the facility and expand the lifespan of the facility by approximately 3 years, and as such the application was referred to the EPA on 1 May 2020. The EPA in its letter dated 31 July 2020 provided GTAs for the development.
- The modified development was advertised in the local newspaper and adjoining and surrounding property owners were notified. The public exhibition period was between 1 May and 1 June 2020. No submissions were received in response.

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

State Environmental Planning Policy (Western Sydney Aerotropolis) 2020

State Environmental Planning Policy (Western Sydney Aerotropolis) 2020 (SEPP WSA) contains a map that relates to wildlife buffer areas. This map is titled the "Wildlife Buffer Zone Map". The map shows that the subject site is within a 13 kilometre 'wildlife buffer zone' of the Western Sydney Airport site.

SEPP WSA commenced on 1 October 2020, after the subject modification application was lodged. SEPP WSA contains savings provisions which means that the SEPP does not strictly apply to the subject development. Nevertheless, consideration has been given to Clause 21 of SEPP WSA and the proposed modified development. The objective of Clause 21 is to regulate development on land surrounding the Western Sydney Airport site where wildlife may present a risk to the operation of the airport. Certain types of development then trigger the requirements for further consideration under Clause 21. The subject development is not one of the types of uses that warrant additional consideration under SEPP WSA with regard to wildlife and the operation of the airport.

The subject site is also identified as being located within the Obstacle Limitation Surface Map area. Clause 24 of SEPP WSA relates to development that would penetrate the prescribed air space for the airport and be a 'controlled activity'. The proposed modified development neither penetrates the prescribed air space, nor is it a controlled activity, therefore not triggering any additional considerations under this clause.

State Environmental Planning Policy (Western Sydney Employment Area) 2009

The subject site is zoned IN1 (General Industrial) and E2 (Environmental Conservation) under the State Environmental Planning Policy (Western Sydney Employment Area) 2009. The majority of the site is zoned E2, with a small portion in the north-west corner of Lot 4 zoned IN1.

Permissibility is established by the provisions of Division 4.11 'Existing uses' under the EP&A Act. Division 4.11 of the EP&A Act manages matters relating to an existing use that was lawfully being carried out before it became prohibited under a new planning instrument. The use of the site is defined as a waste or resource management facility and is an existing use as defined under Section 4.65 of the EP&A Act. Part 5 'Existing uses' under the Environmental Planning & Assessment Regulation 2000, Clause 42, allows the enlargement, expansion and intensification of existing uses with consent.

The objectives of the IN1 zone are as follows:

- *To facilitate a wide range of employment-generating development including industrial, manufacturing, warehousing, storage and research uses and ancillary office space.*
- *To encourage employment opportunities along motorway corridors, including the M7 and M4.*
- *To minimise any adverse effect of industry on other land uses.*
- *To facilitate road network links to the M7 and M4 Motorways.*
- *To encourage a high standard of development that does not prejudice the sustainability of other enterprises or the environment.*
- *To provide for small-scale local services such as commercial, retail and community facilities (including child care facilities) that service or support the needs of employment-generating uses in the zone.*

The objectives of the E2 zone are as follows:

- *To protect, manage and restore areas of high ecological, scientific, cultural or aesthetic values.*
- *To prevent development that could destroy, damage or otherwise have an adverse effect on those values.*

Having regard to the relevant objectives of the zones, the proposed modification will provide ongoing employment opportunities through the site's operations and on completion of the landfill activities the site will be rehabilitated and consolidated with the surrounding biodiversity corridor. The proposed modification will not result in an adverse environmental impact on the amenity of adjoining properties or suburbs due to its central location in the Erskine Business Park.

An assessment of the proposal against applicable sections under Part 5 Principal Development Standards has been undertaken and the proposal is considered satisfactory.

State Environmental Planning Policy No 33—Hazardous and Offensive Development

A Preliminary Hazard Analysis was lodged in support of the modification application. The proposal seeks to build a mechanically stabilised earth wall upon the existing operations at the site. This does not result in any change to the quantity or type of hazardous materials to be stored at the site.

Based on the hazard and risk screening, identification and assessment of potentially hazardous scenarios outlined in the report, the proposal was not considered to be an offensive or hazardous development in accordance with SEPP 33.

State Environmental Planning Policy No 55—Remediation of Land

An assessment has been undertaken of the modified proposal against the relevant criteria within the State Environmental Planning Policy No. 55 - Remediation of Land and the modified proposal is satisfactory in this regard.

Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

An assessment has been undertaken of the modified proposal against the relevant criteria within Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (No.2 – 1997). The proposal is not expected to have any adverse cumulative impacts on the Hawkesbury-Nepean River and therefore the proposal is satisfactory.

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

Development Control Plan 2014

Provision	Compliance
C1 Site Planning and Design Principles	Complies
C2 Vegetation Management	Complies
C3 Water Management	Complies
C4 Land Management	Complies
C5 Waste Management	Complies
C6 Landscape Design	Complies
C7 Culture and Heritage	N/A
C8 Public Domain	N/A
C9 Advertising and Signage	N/A
C10 Transport, Access and Parking	N/A
C11 Subdivision	N/A
C12 Noise and Vibration	Complies
C13 Infrastructure and Services	N/A
E6 Erskine Business Park controls	Complies - see Appendix - Development Control Plan Compliance

Section 4.15(1)(a)(iv) The provisions of the regulations

The modified development and subject modification application are in accordance with the relevant requirements of the EP&A Regulation 2000.

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

Visual Impacts

The landfill site is predominantly surrounded by large scale industrial buildings. Beyond the immediate surrounds of the industrial development is residential development to the north, and rural land to the south and west, with a combination of rural and industrial land to the east. The overall maximum finished height of the landfill approved under DA05/1740.01 is 92m AHD. The proposed mechanically stabilised earth (MSE) wall will be a maximum height of 81m AHD along the southern extent and then taper to existing ground levels at the eastern and western terminal points.

The development proposal was supported by a Visual Impact Assessment (VIA). The VIA was undertaken from the following key viewpoints:

- Bakers Lane;
- Intersection of Lenore Drive and Erskine Park Road;
- Tyrone Place;
- Templar Road; and
- Quarry Road.

The proposed MSE wall is located within the visual envelope of the existing landfill site and it is not anticipated that the proposed MSE wall will have negative impacts on the existing landscape setting.

Noise Impacts

The development proposal was supported by a Noise Impact Assessment to address additional and accumulative noise associated with the activities of the site. The Noise Impact Assessment has been reviewed by Council's Environmental Management Officer and the EPA. No objections were raised in this regard.

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

The site is suitable for the proposed modification as it is consistent with the intent of the original approval for the site and meets the objectives of the SEPP (WSEA).

Section 4.15(1)(d) Any Submissions

Community Consultation

In accordance with Appendix F4 of the Penrith Development Control Plan 2014, the proposed development was notified to 26 nearby and adjoining property owners and business operators, with no submissions received in response.

The application was advertised and notified with a public exhibition period between 1 May and 1 June 2020.

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 - subject to conditions
Environmental - Environmental management	No objections - subject to conditions
Environmental - Waterways	No objections - subject to conditions
Traffic Engineer	No objection

Section 4.15(1)(e) The public interest

The proposed modified development is consistent with the objectives of the EP&A Act in so far as it promotes the co-ordinated, orderly and economic use of the land. As a result, Council can be satisfied that the development will not generate any significant issues of public interest.

Conclusion

The proposed modification to development consent DA05/1740 has been assessed against the relevant heads of consideration under Section 4.15 and Section 4.55(2) of the EP&A Act 1979 and has been found to generally comply with the relevant planning instruments and is consistent with the intent of the original development approval.

Recommendation

That DA20/0189 for a Section 4.55(2) modification to DA05/1740 for the Erskine Park Landfill for the construction of a mechanically stabilised earth wall to increase landfill air space at Lot 4 Off Quarry Road, Erskine Park, be approved subject to the following consent condition amendments.

CONDITIONS

General

1 A001

The development must be implemented substantially in accordance with the Environmental Impact Statement, Volumes 1 - 4, undertaken by NECS Pty Ltd and dated 17 October 2005, the General Terms of Approval as provided by the (then) Department of Natural Resources, the General Terms of Approval as provided by the (then) Department of Environment and Conservation, the General Terms of Approval as provided by the Environment Protection Authority, the application form and any supporting information received with the application, except as may be amended in red on the approved plans and documents and by the following conditions, and as amended by the following plans and documents:

Plan/Document Name	Reference No.	By	Dated
Design Surface	Figure 01 22-19620 Revision A	GHD	March 2019
Cross Sections	Figure 02 22-19620 Revision A	GHD	March 2019
Statement of Environmental Effects	-	GHD	22 March 2019

As amended on 8 August 2019 under Section 4.55(2) of the Environmental Planning and Assessment Act 1979.

Plan Name	Plan Number	Revision	By	Date
General Arrangement	004	B	Golder	11.06.2020
Stage 1 - Retaining Wall Plan	011	B	Golder	11.06.2020
Stage 1 - Filling Plan (Top of Waste)	012	B	Golder	11.06.2020
Stage 2 - Retaining Wall Plan	021	B	Golder	11.06.2020
Stage 2 - Filling Plan (Top of Waste)	022	B	Golder	11.06.2020
Plan and Longsection - Sheet 1 of 2	030	B	Golder	11.06.2020
Plan and Longsection - Sheet 2 of 2	031	B	Golder	11.06.2020
Site Cross Sections	032	B	Golder	11.06.2020
Retaining Wall Typical Sections - Sheet 1 of 2	040	B	Golder	11.06.2020
Retaining Wall Typical Sections - Sheet 2 of 2	041	B	Golder	11.06.2020
Reinforcing Sections	042	B	Golder	11.06.2020
Typical Liner Details	050	B	Golder	11.06.2020
Landscape Concept Plan - Typical Cross Section Along Southern Perimeter	Figure 05	A	Tonkin	10.09.2020
Memo - Supplementary Information - Removal of Existing Litter Fence and New Litter Fence	-	-	EME Advisory	26.08.2020

- Erskine Park Landfill - Airspace Increase, Amended Noise Impact Statement, Version 1.0, dated July 2020 by SLR, Reference No. 630.30043-R01-V1.0
- Geotechnical Design of MSW Wall - Preliminary Erskine Park Landfill, Revision 2, dated 11 June 2020 by Golder, Reference No. 19135652-021-R-Rev2
- Soil and Water Management Plan Erskine Park Landfill, dated 9 April 2020, by Golder, Reference No. 19135652-020-R-Rev0
- Final Capping and Rehabilitation Landfill Closure Plan, dated 9 April 2020, by Golder, Reference No. 19135652-018-R-Rev0
- Erskine Park Landfill Environmental Management Plan, dated 9 April 2020, by Golder, Reference No. 19135652-R-015-Rev0
- Erskine Park Landfill Construction Environmental Management Plan, dated 9 April 2020, Revision 1, by Golder, Reference No. 19135652-017-R-Rev1

- Mechanically Stabilised Earth (MSE) Wall - Erskine Park Landfill Air Quality and Odour Impact Study, dated April 2020, Revision 3, by The Odour Unity Pty Ltd, Reference No. N2216L.01
- Mechanically Stabilised Earth Retaining Wall Erskine Park Landfill Preliminary Design Report, dated 8 April 2020, by Golder, Reference No. 19135652-006-R-Rev0, and supplementary memorandum, dated 16 June 2020, by Golder, Reference No. 19135652-028-M-Rev0
- Erskine Park Landfill Stormwater Management Report, dated 9 April 2020, by Golder, Reference No. 19135652-007-R-Rev0

As amended on 26 October 2020 under Section 4.55(2) of the Environmental Planning and Assessment Act 1979.

2 [A002](#)

A copy of the approval issued by the Department of Natural Resources and the Department of Environment and Conservation shall be submitted to the Principal Certifying Authority, **before the Construction Certificate can be issued** for the same development. A copy of the approvals shall be submitted to Penrith City Council with the copy of the Construction Certificate, if Council is not the Principal Certifying Authority.

3 [A003](#)

The development shall comply with those conditions set down by the Department of Environment and Conservation and the Department of Natural Resources.

4 [A004](#)

A revised Landscape Plan, prepared by an appropriately qualified and experienced landscape professional, in accordance with Council's Development Control Plan and the 'Biodiversity Restoration Plan for Erskine Park Release Area', prepared by Greening Australia, shall be submitted to Council for written approval of the Development Services Manager, within 12 months from the date of this modified consent.

At the time of approval of the Landscape Plan, a monetary bond shall be lodged with Penrith City Council for an amount equivalent to the cost of implementing the approved Landscape Plan and maintenance for a period of 12 months after planting.

As amended on 26 October 2020 under Section 4.55(2) of the Environmental Planning and Assessment Act 1979.

5 [A005](#)

Those areas used, or previously used, for the storage of concrete and bitumen shall be remediated strictly in accordance with State Environmental Planning Policy No. 55 - Remediation of Land.

6 **A006**

An amended Site Rehabilitation and Environmental Management Plan (the Plan) is to be submitted to Penrith City Council and prepared to Council's satisfaction prior to the commencement of the development. The Plan is to be consistent with the EPA/DEC approved Landfill Environmental Management Plan, is to address the environmental aspects of the development and is to include details on the environmental management practices and controls to be implemented on site. The Plan must be prepared by a suitably qualified person/s, in consultation with the relevant authorities and agencies (e.g. Department of Environment and Conservation and the Department of Natural Resources) and is to address but is not limited to the following:

- Water quality
- Wastewater management
- Stormwater management and drainage
- Noise control
- Waste management including soil and liquid waste
- Vehicle movements
- Chemical storage, transport, spill contingency and response
- Erosion and sediment control
- Air quality including odour and dust control
- Environmental monitoring
- Site rehabilitation

All activities on the site are to be implemented and managed in accordance with the Plan. The Plan is to incorporate a review process that involves, the consultation of Penrith City Council and other relevant authorities to ensure that it reflects current environmental best practice, standards and legislation. Penrith City Council must be satisfied with any changes prior to the amendment of the Plan. The Plan shall be submitted every 12 months.

Any future amendments to the Plan are to be provided to Penrith City Council.

As amended on 26 October 2020 under Section 4.55(2) of the Environmental Planning and Assessment Act 1979.

7 **A007**

An annual environmental performance report is to be prepared and a copy submitted to Penrith City Council for consideration at the end of June each year (the first report is due at the end of June 2007). The report shall address the environmental issues, implemented pollution control strategies and monitoring programmes as outlined in the Site Rehabilitation and Environmental Management Plan. The report is also to address compliance with the conditions of this consent.

8 **A008**

A copy of the Vegetation Management Plan (VMP) and Soil and Water Management Plan (SWMP) approved by the Department of Natural Resources (DNR) is to be provided to Council prior to the commencement of the development.

The VMP and SWMP are to be updated to reflect the modifications to the development approved via modification application DA20/0189 and submitted to Council for approval.

The VMP and SWMP are to be implemented to the satisfaction of DNR and Council.

As amended on 26 October 2020 under Section 4.55(2) of the Environmental Planning and Assessment Act 1979.

9 **A009**

A copy of the Landfill Environmental Management Plan (LEMP) approved by the Environment Protection Authority (part of the Department of Environment and Conservation) is to be provided to Council prior to the commencement of the development. Copies of future revised and approved LEMP's are to be provided to Penrith City Council.

10 **A010**

All conditions of consent from DA 163/92 shall be complied with throughout the lifetime of the operations and until such time as a Statement of Completion is issued for the site by the Department of Environment and Conservation.

Environmental Matters

11 **D011**

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, have been stabilised.** 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.

12 **D012**

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.

13 D013

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 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,
- clearly indicate the legal property description of the fill material source site,
- provide details of the volume of fill material to be used in the filling operations,
- provide a classification of the fill material to be imported to the site in accordance with the Environment Protection Authority's "Environmental Guidelines: Assessment, Classification & Management of Non-Liquid Wastes" 1997, and
- (based on the fill classification) determine whether the fill material is suitable for its intended purpose and land use and whether the fill material will or will not pose an unacceptable risk to human health or the environment.

An appropriately qualified person/s (as defined in the Penrith City Council Contaminated Land Development Control Plan) shall:

- Supervise the filling works,
- (On completion of filling works) carry out an independent review of all documentation relating to the filling of the site, and shall submit a review findings report to Council and any Principal Certifying Authority,
- Certify by way of certificate or written documentation that fill materials have been placed on the site in accordance with all conditions of this consent and that the site will not pose an unacceptable risk to human health or the environment. A copy of the Certificate or other documentation shall be submitted to Council and any Principal Certifying Authority.

The contact details of any appropriately qualified person/s engaged for the works shall be provided with the Notice of Commencement.

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.

{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."}

Landscaping

14 L014

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.

15 L015

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

Certification

16 Q001

The existing litter fence on the site approved via DA06/0138 is to be demolished and replaced as part of the approved mechanically stabilised earth wall works.

As inserted on 26 October 2020 under Section 4.55(2) of the Environmental Planning and Assessment Act 1979.

17 **Q002**

All demolition works are to be conducted in accordance with the provisions of AS 2601-1991 "The Demolition of Structures". All demolition and excavated material shall be disposed of at a Council approved site or waste facility.

As inserted on 26 October 2020 under Section 4.55(2) of the Environmental Planning and Assessment Act 1979.

18 **Q003**

The litter fence shall be removed from the site within 3 months of the landfill being capped.

As inserted on 26 October 2020 under Section 4.55(2) of the Environmental Planning and Assessment Act 1979.

19 **Q004**

The development must be in accordance with the General Terms of Approval, Notice No.159800, dated 31 July 2020 issued by the Environment Protection Authority.

As inserted on 26 October 2020 under Section 4.55(2) of the Environmental Planning and Assessment Act 1979.

20 **Q005**

All aspects of the litter fence 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).

As inserted on 26 October 2020 under Section 4.55(2) of the Environmental Planning and Assessment Act 1979.

21 **Q006**

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 is to be erected:

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

All construction signage is to be removed on completion of earthworks or construction works and when a Compliance Certificate has been issued by the Principal Certifying Authority certifying that the development has complied fully with the development consent and, where required, been constructed in accordance with the Construction Certificate.

As inserted on 26 October 2020 under Section 4.55(2) of the Environmental Planning and Assessment Act 1979.

22 **Q007**

Construction works 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 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.

As inserted on 26 October 2020 under Section 4.55(2) of the Environmental Planning and Assessment Act 1979.

23 **Q008**

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

As inserted on 26 October 2020 under Section 4.55(2) of the Environmental Planning and Assessment Act 1979.

24 **Q009**

A Construction Certificate is to be approved by the Certifying Authority for the provision of engineering works for the mechanically stabilised earth wall.

Prior to the issue of any Construction Certificate, the Certifying Authority shall ensure that the engineering plans are consistent with the stamped approved concept plans prepared by Golder, project number 19135652, revision B, dated 11-06-2020 and the 'Geotechnical Design of MSE Wall - Preliminary Report' prepared by Golder, reference 19135652-021-R-Rev2, dated 11 June 2020. All engineering works shall be designed 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, Australian Standards and best engineering practice.

The engineering works shall include, but not be limited to, the following:

- Public access roads and vehicular safety barriers
- Stormwater management (quantity and quality)
- Sediment and erosion control measures
- Earthworks, culverts, retaining walls (including mechanically stabilised earth retaining wall) and other structures
- Landscaping and embellishment works

The Construction Certificate must be supported by engineering plans, calculations, specifications and any certification relied upon.

As inserted on 26 October 2020 under Section 4.55(2) of the Environmental Planning and Assessment Act 1979.

25 **Q010**

The stormwater management system shall be consistent with the Stormwater Management Report lodged for development approval for the mechanically stabilised earth wall, prepared by Golder, reference number 19135652-007-R, revision 0, dated 9 April 2020.

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

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.

As inserted on 26 October 2020 under Section 4.55(2) of the Environmental Planning and Assessment Act 1979.

26 **Q011**

Prior to the commencement of any works on-site (including demolition works) or prior to the issue of any Construction Certificate, whichever occurs first, a Construction Traffic Management Plan (CTMP) shall be submitted to Council's City Assets Department for endorsement. The CTMP shall be prepared by a suitably qualified consultant with appropriate training and certification from the Roads & Maritime Services (RMS). The CTMP shall include details of any required road closures, work zones, loading zones and the like. Approval of the CTMP may require approval of the Local Traffic Committee.

Please contact Council's City Assets Department on 4732 7777 and refer to Council's website for a copy of the Temporary Road Reserve Occupancy Application Form.

As inserted on 26 October 2020 under Section 4.55(2) of the Environmental Planning and Assessment Act 1979.

27 **Q012**

Prior to the issued of any Construction Certificate for the mechanically stabilised earth wall, the site must be serviced by a legal point of discharge including the required infrastructure and drainage works. The drainage works may include inter-allotment drainage construction, upgrades and / or road drainage extensions located on lands owned by others.

As inserted on 26 October 2020 under Section 4.55(2) of the Environmental Planning and Assessment Act 1979.

28 **Q013**

Prior to commencement of any works associated with the development, sediment and erosion control measures shall be installed in accordance with any 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.

As inserted on 26 October 2020 under Section 4.55(2) of the Environmental Planning and Assessment Act 1979.

29 **Q014**

All earthworks shall be undertaken in accordance with AS 3798 and Penrith City Council's Design Guidelines for Engineering Works for Subdivisions & Developments and Engineering Construction Specification for Civil Works.

The level of testing shall be determined by the Geotechnical Testing Authority / Superintendent in consultation with the Principal Certifying Authority.

As inserted on 26 October 2020 under Section 4.55(2) of the Environmental Planning and Assessment Act 1979.

30 Q015

The stormwater management systems shall continue to be operated and be 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.

As inserted on 26 October 2020 under Section 4.55(2) of the Environmental Planning and Assessment Act 1979.

31 Q016

Prior to the issue of a Construction Certificate for the mechanically stabilised earth wall, the Principal Certifying Authority shall ensure that the detailed design, the associated access road designs and vehicular safety barrier designs are prepared by a suitably qualified structural / geotechnical engineer.

As inserted on 26 October 2020 under Section 4.55(2) of the Environmental Planning and Assessment Act 1979.

32 Q016A

The works approved via modification application DA13/0655.01 for relocating part of the site's buried landfill gas pipeline shall be satisfactorily completed prior to the commencement of works for the approved mechanically stabilised earth wall.

As inserted on 26 October 2020 under Section 4.55(2) of the Environmental Planning and Assessment Act 1979.

33 Q017

Prior to the commencement of any earthworks, construction or demolition 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 of 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.

As inserted on 26 October 2020 under Section 4.55(2) of the Environmental Planning and Assessment Act 1979.

34 Q018

On completion of the works for each stage of the mechanically stabilised earth wall, a Compliance Certificate is to be obtained from the Principal Certifying Authority certifying compliance with all relevant conditions consent. The Compliance 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 Compliance Certificate and all necessary documentation supporting the issue of the Compliance Certificate is to be submitted to Penrith City Council, if Council is not the certifier who issued the Compliance Certificate.

As inserted on 26 October 2020 under Section 4.55(2) of the Environmental Planning and Assessment Act 1979.

Appendix - Development Control Plan Compliance

Development Control Plan 2014

E6 Erskine Business Park

The key objectives of Section E6 of the DCP which are relevant to the proposal include:

(b) To ensure that the standard of development does not detract from or unduly impact upon the existing built environment in adjoining rural and residential areas.

(e) To ensure that development takes account of the physical nature of the local environment, particularly Ropes Creek, ridgelines and the natural landscape.

(j) To establish environmental criteria and controls for development within the area to ensure that environmental quality of adjoining areas is not compromised.

Having regard to the above DCP objectives, it is considered that the proposal is satisfactory. The proposal will not increase the overall height of the already approved final landform. A visual assessment of current conditions concludes that the visual impact of the proposal will not have adverse impacts. The proposed mechanically stabilised earth wall is to be located within the visual envelope of the existing landfill site, which contains industrial buildings and associated infrastructure. The proposed wall will be an integrated component to the landfill site rather than being viewed as a standalone feature.