

PENRITH CITY COUNCIL

MAJOR ASSESSMENT REPORT

Application number:	DA20/0488.02
Proposed development:	Modifications to an Approved Industrial Development involving Updated Façade Details, Landscaping and Minor Internal Fitout Amendments
Property address:	13 Renshaw Street, CRANEBROOK NSW 2749
Property description:	Lot 17 DP 286568
Date received:	29 July 2021
Assessing officer	James Heathcote
Zoning:	IN2 Light Industrial - LEP 2010
Class of building:	N/A
Recommendations:	Approve

Executive Summary

Council is in receipt of a Section 4.55(1A) Modification to an approved industrial development involving updated façade details, landscaping and minor internal fitout amendments at 13 Renshaw Street, Cranebrook NSW 2749.

The proposed modifications include changes to the external facade materials/colours, landscape treatment configuration, changes to floor plans of Units 2 and 3 and associated parking changes. Furthermore, Condition 1 is proposed to be modified to reflect the amended plans submitted. Concern was raised by Council regarding the impact to onsite parking and the related impacts to the landscaped treatment in allowing for compliant onsite parking. Upon request from Council, the applicant submitted amended plans that satisfactorily resolved the concerns raised.

In accordance with Clause 4.4 of Appendix F4 of Penrith Development Control Plan 2014, the proposed development was not required to be notified or advertised.

As such, no planning concerns are raised regarding the proposed modification, with the proposal being substantially the same as the originally approved commercial/industrial development.

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

Site & Surrounds

Properties of the Site:

The subject site is located on the northern side of Renshaw Street, approximately 170m north-east of its intersection with Andrews Road in Cranebrook, NSW 2749. The site is 2346m² in area with a 35m frontage to Renshaw Street. The land slopes gently across the site in an north-east direction by approximately 500mm.

The site is zoned IN2 Light Industrial, and forms part of a developing industrial precinct (Industrial Precinct No.5 as per Chapter D4 of Penrith DCP 2014). The site is currently vacant. The site is classified as being bush fire affected, however, the site is located approximately 150m north from the nearest clump of trees. As such, a BAL Low is recommended for the site.

Site History:

- DA20/0488.02 - Subject application only.
- DA20/0488 - Construction of an industrial building containing 4 units, a takeaway food and drink premises, two industrial units and one warehouse unit #Approved.

Restrictions on title (Lot 17 DP 286568):

- 3. Terms of easement for padmount substation 2.75m wide (E38) numbered 3 in the plan.
- 4. Terms of restriction on the use of land (R12) numbered 4 in the plan. Refers to minimum distance from buildings to the substation, and other requirements in this regard, including requirements of Endeavour Energy.
- 7. Terms of restriction on the use of land numbered 7 in the plan. The lots burdened are not to be serviced or accessed by articulated vehicles greater than 19m in length, inclusive of B-double vehicles. Name of authority to release, vary or modify: Penrith City Council.

Proposal

The proposed modifications include the following:

- Changes to the facade materials and finishes to the commercial/industrial buildings,
- Amended landscape plan, including species and courtyard shape (to accommodate additional parking space),
- Internal fitout and layout changes to Unit 3, including changes to the ground floor toilet access and altered kitchenette and storage arrangement. Changes also to first floor offices, reconfigured to include 4 x additional small office rooms (previously open plan floor area).
- Internal changes to first floor of Unit 2, change for mezzanine to cover entire Unit 2 first floor (was 65sqm first floor, now 124sqm proposed first floor).
- Minor internal building detail changes to address matters raised in Construction Certificate process.
- Modify Condition 1 to reflect amended plans.

Plans that apply

Planning Assessment

- **Section 4.15 - Evaluation**
- **Section 4.55(1A) - Modifications involving minimal environmental impact**

The development has been assessed in accordance with the matters for consideration under Section 4.15 and Section 4.55(1A) of the Environmental Planning and Assessment Act 1979, and having regard to those matters, the following issues have been identified for further consideration:

- The proposed modifications are of minimal environmental impact, including minor changes to external finishes, landscaping, internal layout changes of Units 2 & 3 and an addition of 1 x parking space. No other changes are proposed by this modification application.
- As such, the development is substantially the same development as the original approval.

In accordance with Section 4.55(3), consideration has been given to the matters referred to in Section 4.15(1A) that are of relevance to the development subject of this application.

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

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

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

Context and Setting

The proposed modifications to the external facade materials and colours and reconfiguration of the landscaped treatment for the site maintains a high quality architectural and streetscape presentation which fit into the developing Waterside Industrial precinct of Cranebrook.

Access, Traffic and Parking Impacts

Traffic generation is unchanged by the proposed modifications. Regarding access and parking, the addition of first floor area of Unit 2 does impact on the required parking rate for the development and site.

The original approval (DA20/0488) includes a provision of 19 onsite parking spaces, including 1 x accessible parking space. The calculation of this parking rate, as per Chapter C10 of Penrith DCP 2014, is 1 space per 75sqm with a variation of 23 to 19 spaces accepted as part of the original application. Based on the original accepted calculations and the addition of 124sqm to Unit 2, an additional parking space is required.

The proposed modification application originally included an additional parking space, however this negatively impact the dimensional compliance for the existing accessible parking space. Upon request from Council, the applicant submitted amended plans that included an additional parking space whilst maintaining a compliant accessible parking space. This was achieved through reconfiguring the landscape and access layout to accommodate the addition space. Conditions of consent remain on the consent to ensure parking spaces complying with relevant Australian Standards. As such, a provision of 20 onsite parking spaces, including 1 x compliant accessible parking space, is provided for the site and development in response to the minor internal first floor addition to Unit 2.

Landscaping and Outdoor Seating Area

The proposed changes to landscaping include a reconfigured landscape treatment to the front setback area which incorporates the outdoor seating area for the food and drink premises, which was required in accommodating other changes such as the additional parking space at the front of the site. As requested by Council, the applicant provided amended plans which maintained the landscape buffer between parking areas and the outdoor dining area. Further, the landscaped treatment includes a dragon tree (height at maturity 5m) and an olive tree (height at maturity 6m) in between the courtyard and parking areas, ensuring there is no decrease in shading on the west side of the courtyard and providing shade from the western afternoon sun (important during summer season). High quality landscaping is maintained in the front setback for the site.

Section 4.15(1)(d) Any Submissions

Community Consultation

In accordance with Penrith Council's Community Engagement Strategy, the proposed development was not required to be notified or advertised.

Referrals

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

Referral Body	Comments Received
Development Engineer	No objections - subject to conditions
Environmental - Environmental management	No objections - subject to conditions
Environmental - Waterways	No objections - subject to conditions
Environmental - Public Health	No objections - subject to conditions
Traffic Engineer	Not supported, however conditions provided

Development Engineer

Referral commentary and conditions carried over from original development application.

Environmental - Environmental management

Referral commentary and conditions carried over from original development application.

Environmental - Public Health

Referral commentary and conditions carried over from original development application.

Environmental - Waterways

Referral commentary and conditions carried over from original development application.

Traffic Engineer

Referral commentary and conditions carried over from original development application.

Conclusion

Council is able to modify a previously issued development consent involving minimal environmental impacts. There being no outstanding planning considerations, the Section 4.55(1A) application is considered to be worthy of Council's support.

Recommendation

That DA20/0488.02 for modifications to an approved industrial development involving updated façade details, landscaping and minor internal fitout amendments at 13 Renshaw Street, Cranebrook NSW 2749, be approved subject to the attached conditions.

CONDITIONS

General

1 [A001 - Approved plans table](#)

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

Description	Plan No.	Revision	Prepared By	Date
Cover Page, Perspective and Materials and Finishes Schedule	Project No. KC-1898 A000	B	Kleyn Creations	24.11.2020
Site Plan	Project No. KC-1898 A001	B	Kleyn Creations	24.11.2020
Area Plans	Project No. KC-1898 A003	B	Kleyn Creations	24.11.2020
Proposed Ground Floor Plan	Project No. KC-1898 A101	B	Kleyn Creations	24.11.2020
First Floor Plan	Project No. KC-1898 A102	B	Kleyn Creations	24.11.2020
Elevations & Sections	Project No. KC-1898 A200	B	Kleyn Creations	24.11.2020
Landscape Plan	Job # 0600-GAM Sheet 1 of 1	A	Better Built Homes	27.11.2020
Stormwater Layout Notes	Job No. SW20155 Dwg No. SW20155-S1	B	ALWDesign Civil Engineering Consultants	11.12.2020
Site Stormwater Management Layout	Job No. SW20155 Dwg No. SW20155-S1	B	ALWDesign Civil Engineering Consultants	11.12.2020

and further amended by the following plans:

Description	Plan No.	Revision	Prepared By	Date
Cover Page, Perspective and Materials and Finishes Schedule	Job # 0600-GAM Sheet 1 of 8	H	Better Built Homes	17.09.2021
Site Plan	Job # 0600-GAM Sheet 2 of 8	H	Better Built Homes	17.09.2021
Ground Floor Area Plan, First Floor Area Plan, Area Plans	Job # 0600-GAM Sheet 3 of 8	H	Better Built Homes	17.09.2021
Ground Floor	Job # 0600-GAM Sheet 4 of 8	H	Better Built Homes	17.09.2021
First Floor	Job # 0600-GAM Sheet 5 of 8	H	Better Built Homes	17.09.2021
Elevation 1 - South Elevation, Elevation 2 - East Elevation	Job # 0600-GAM Sheet 6 of 8	H	Better Built Homes	17.09.2021
Elevation 3 - West Elevation, Elevation 4 - North Elevation	Job # 0600-GAM Sheet 7 of 8	H	Better Built Homes	17.09.2021
Section A-A	Job # 0600-GAM Sheet 8 of 8	H	Better Built Homes	17.09.2021

Mood Board	Reference: LP01 Sheet 1 of 5	C	Dapple Designs	23.09.2021
Landscaping Plan	Reference: LP01 Sheet 2 of 5	C	Dapples Designs	23.09.2021
Front Landscape Plan	Reference: LP01 Sheet 3 of 5	C	Dapples Designs	23.09.2021
Plant List / Specification	Reference: LP01 Sheet 4 of 5	C	Dapples Designs	23.09.2021
Details	Reference: LP01 Sheet 5 of 5	C	Dapples Designs	23.09.2021

As amended on 29 September 2021 in accordance with Section 4.55(1a) of the Environmental Planning and Assessment Act 1979.

2 [A019 - Occupation Certificate](#)

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

A satisfactory inspection from an authorised officer of Council's Environmental Health Team is required prior to the issue of the Occupation Certificate. The occupier is to contact the Environmental Health Team to organise an appointment at least 72 hours prior to the requested inspection time.

3 [A021 - Business Registration](#)

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

4 [A039 - Graffiti](#)

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

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 BLANK](#)

The following Public Health requirements are to be implemented for the development:

- The proprietor of the food business shall ensure that the requirements of the NSW Food Act 2003, NSW Food Regulation 2010 and the Australian and New Zealand Food Standards Code are met at all times.
- 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.
- A Food Safety Supervisor, with a current Food Safety Supervisor Certificate recognised by the NSW Food Authority, must be appointed by the business prior to commencement of the business.
- Cooking appliances which exceed a total maximum power input of 8kw for electrical, or a total gas input of 29MJ/h for a gas appliance are required to have a kitchen exhaust system installed in accordance with Clause F4.12 of the Building Code of Australia and Australian Standard AS1668 Parts 1 & 2.

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

The exhaust hood must completely cover the equipment to be ventilation and extended at least 200mm beyond the perimeter of the equipment. The exhaust hood must be provided with a condensation gutter around its base. The gutter must be at least 50mm wide by 25mm deep. Where abutting walls are located the hood must be constructed so as to finish flat against the wall surface.

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

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

- Hand basins must be freestanding, serviced with hot and cold water through a single outlet, able to be mixed at a temperature of at least 40°C and fitted with a hands free operation. Where sensor taps are installed the basin must not be more than 6 metres from the hot water system. Disposable paper hand towels and soap must be provided and serviced from a dispenser adjacent to each hand basin.
- Staff toilets must be provided on the premises. Where a toilet adjoins a food preparation area it must be separated by an air lock and its doors must be fitted with self closing devices. Toilets intended for customer use must not be accessed through areas where open food is handled, displayed or stored.
- A hand basin must be located within the toilet cubicle. Hand basins must be freestanding, serviced with hot and cold water through a single outlet, able to be mixed at a temperature of at least 40°C and fitted with a hands free operation. Where sensor taps are used the basin must not be more than 6 metres from the hot water system. Disposable paper hand towels and soap must be provided and serviced from a dispenser adjacent to each hand basin.
- The ceiling in the preparation, service and scullery areas must be constructed with a rigid, non-absorbent, smooth faced material free from open joints, cracks and crevices and be painted with a light coloured washable paint. The intersection of the walls and ceiling must be tight jointed, sealed and dust proofed. Drop-in panel style ceilings are not permitted.
- The cleaners sink must be serviced with hot and cold water through taps fitted with hose connectors. Cleaner's sinks must be located outside of areas where open food is handled.
- The grease arrestor must not be installed in any kitchen, food preparation or food storage area. The grease arrestor shall be installed in accordance with Sydney Water's requirements.
- Detailed plans of the kitchen, food preparation and food storage areas, and staff toilets must be prepared by a suitably qualified person and certified in accordance with Standard 3.2.3 of the Australian and New Zealand Food Standards Code and AS 4674-2004 Design, Construction and Fit out of Food Premises to the satisfaction of the Certifying Authority prior to a Construction Certificate being issued.

Demolition

7 B004 - Dust

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

8 B005 - Mud/Soil

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

Environmental Matters

9 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 installed and maintained in accordance with 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).

The sediment and erosion control measures are to be **maintained throughout the construction phase of the development until the land, that was subject to the works, have been stabilised and grass cover established.**

10 D002 - Spraygrass

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

11 D004 - Dust

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

12 D005 - Mud/Soil

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

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

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

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

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

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

14 **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.

15 **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.

16 **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.

17 **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.

18 **D131 - Approved noise level 2**

The restaurant is limited to a maximum of 32 indoor patrons and a maximum of 10 outdoor patrons. Should Council receive complaints relating to noise generated from the premises, a new noise assessment is to be undertaken and the subsequent acoustic report is to be provided to Council.

19 [D Special BLANK](#)

Prior to the issue of a Construction Certificate, an unexpected finds protocol is to be provided to Penrith City Council. The unexpected finds protocol is to be retained onsite and implemented throughout the construction phase of the development.

BCA Issues

20 [E01A - BCA compliance for Class 2-9](#)

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

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

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

Utility Services

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

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

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

22 [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.

23 [G006 -](#)

Prior to the issue of a Construction Certificate, the Principal Certifying Authority shall be satisfied that telecommunications infrastructure may be installed to service the premises which complies with the following:

- The requirements of the Telecommunications Act 1997:
- For a fibre ready facility, the NBN Co's standard specifications current at the time of installation; and
- For a line that is to connect a lot to telecommunications infrastructure external to the premises, the line shall be located underground.

Unless otherwise stipulated by telecommunications legislation at the time of construction, the development must be provided with all necessary pits and pipes, and conduits to accommodate the future connection of optic fibre technology telecommunications.

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

Construction

24 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 is to be erected:

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

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

25 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.

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

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

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

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

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

Engineering

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

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

28 [K201 - Infrastructure Bond](#)

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

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

Contact Penrith City Council's Asset Management Department on 4732 7777 or visit Penrith City Council's website for more information.

29 [K202 - S138 Roads Act - Minor Works in the Public Road](#)

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

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

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

Contact Penrith City Council's Asset Management Department on 4732 7777 or visit Penrith City Council's website for more information.

Note:

- Where Penrith City Council is the Certifier for the development, the Roads Act approval for the above works may be issued concurrently with the Construction Certificate.
- All works associated with the Roads Act approval must be completed prior to the issue of any Occupation Certificate.
- On completion of any awning over the road reserve, a certificate from a practising structural engineer certifying the structural adequacy of the awning is to be submitted to Council before Council will inspect the works and issue its final approval under the Roads Act.

30 [K209 - Stormwater Concept Plan](#)

The stormwater management system shall be provided generally in accordance with the concept plan/s lodged for development approval, prepared by Ale Designs, reference number JB:SW20155, revision B , dated 11 December 2020.

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.

31 [K210 - Stormwater Management](#)

The stormwater management system shall be consistent with plan/s lodged for development approval, prepared by ALW Design, Revision B, dated 11/12/2020.

Prior to the issue of any Construction Certificate, the Certifier shall ensure that the stormwater management system has been designed in accordance with Penrith City Council's Stormwater Drainage Specification for Building Developments.

Engineering plans and any 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.

32 [K217 - Flooding - Flood Compatible Materials](#)

Prior to the issue of any Construction Certificate, the Certifier shall ensure that the structure/s below RL 24.3m AHD (adopted flood level + 0.5m freeboard) have been detailed with flood compatible building components in accordance with the publication 'Reducing the Vulnerability of Buildings to Flood Damage' produced by the Hawkesbury-Nepean Floodplain Management Steering Committee.

33 **K218 - Flooding - Structural Adequacy**

Prior to the issue of any Construction Certificate, the Certifier shall ensure that the structure/s can withstand the forces of floodwater, including debris and buoyancy, up to the 1% Annual Exceedance Probability event in accordance with the requirements of the Building Code of Australia (BCA).

34 **K222 - Access, Car Parking and Manoeuvring - General**

Prior to the issue of any Construction Certificate, the Certifier shall ensure that vehicular access, circulation, manoeuvring, pedestrian and parking areas associated with the subject development are in accordance with AS2890.1, AS2890.2, AS2890.6 and Penrith City Council's Development Control Plan.

The reversing bays shall be adequately delineated to prevent any parking in these bays.

35 **K228 - Dilapidation Report**

The developer shall undertake a dilapidation report for all surrounding buildings and Council owned infrastructure that confirms that no damage occurs due to the excavations associated with the development. If Council is not the Certifier for the development then the dilapidation report shall be submitted to Council prior to the issue of any Construction Certificate and then updated and submitted prior to the issue of any Occupation Certificate confirming no damage has occurred.

36 **K301 - Sediment & Erosion Control**

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

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

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

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

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

38 **K503 - Stormwater Compliance**

Prior to the issue of any Occupation Certificate, the Principal Certifying Authority shall ensure that the stormwater management system (including water sensitive urban design measures):

- 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.

39 **K504 - Restriction as to User and Positive Covenant**

Prior to the issue of an Occupation Certificate a restriction as to user and positive covenant relating to the stormwater management systems (including water sensitive urban design measures) shall be registered on the title of the property. The restriction as to user and positive covenant shall be in Penrith City Council's standard wording as detailed in Penrith City Council's Stormwater Drainage Specification for Building Development – Appendix F

40 **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

41 **K Special (BLANK)**

Prior to the issue of an Occupation Certificate the principal certifying authority shall ensure that the lot title is amended to include an 88B instrument creating a Restriction as to User such that the lot is not to be serviced or accessed by any vehicle greater than 8.8m in length. Semi-trailer and B-Double vehicles are strictly not permitted for the life of the development.

42 **K Special (BLANK)**

All vehicle parking spaces, parking aisles and driveways/circulating roads must be designed and built in accordance with AS2890.1; AS2890.2; AS2890.6 and Council's requirements.

43 **K Special (BLANK)**

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

44 **K Special (BLANK)**

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

45 **K Special (BLANK)**

All vehicles are to enter/exit the site in a forward direction.

46 **K Special Condition BLANK**

Prior to the issue of Occupation Certificate, the certifying authority shall ensure that any existing Council infrastructure, such as street signs, trees, etc., if removed to facilitate the subject development is then relocated complying with minimum clearance requirements from the driveway.

Landscaping

47 **L001 - General**

All landscape works are to be constructed in accordance with the stamped approved plans and Chapter C6 Landscape Design of Penrith Development Control Plan 2014.

Landscaping shall be maintained:

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

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

48 **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.

49 **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.

Development Contributions

50 [N001a - Section 7.11 contribution \(apply separate condition for each Contribution Plan\)](#)

This condition is imposed in accordance with Penrith City Council's Development Contributions Plan for Non-Residential Development. Based on the current rates detailed in the accompanying schedule attached to this Notice, \$19,348.00 is to be paid to Penrith City Council prior to a Construction Certificate being issued for this development (the rates are subject to quarterly reviews). If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted Section 7.12 plan.

The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule. Council should be contacted prior to payment to ascertain the rate for the current quarterly period. The Section 7.12 invoice accompanying this consent should accompany the contribution payment. The Section 7.12 Contributions Plan for Non-Residential Development may be inspected at Council's Civic Centre, 601 High Street, Penrith.

Note: The timing of contributions payable may be otherwise affected in accordance with Planning Circular PS20-003 dated 3 July 2020 and the associated NSW Government Ministerial Direction - Infrastructure Contributions.

Certification

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

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

(a) employ a Principal Certifying Authority to oversee that the said works carried out on the site are in accordance with the development consent and related Construction Certificate issued for the approved development, and with the relevant provisions of the Environmental Planning and Assessment Act 1979, 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.

52 [Q05F - Occupation Certificate for Class10](#)

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

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

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