

PENRITH CITY COUNCIL

MAJOR ASSESSMENT REPORT

Application number:	DA21/0850
Proposed development:	Alterations to Existing Car Wash Business including Relocation of Office & Car Holding Bays
Property address:	1 - 11 Town Terrace, GLENMORE PARK NSW 2745
Property description:	Lot 2 DP 865459
Date received:	18 November 2021
Assessing officer	Mahbub Alam
Zoning:	SEPP WSA - Affected by Obstacle Limitation SEPP WSA - Affected by Wildlife Buffer Zone Zone B2 Local Centre - LEP 2010
Class of building:	N/A
Recommendations:	Approve

Executive Summary

Council is in receipt of a development application for alterations to an existing car wash business including relocation of office and car holding bays at 1 - 11 Town Terrace, Glenmore Park (Glenmore Park Shopping Centre).

The subject site is zoned B2 Local Centre and the proposal is defined as a '*business premises*' which is a type of '*commercial premises*' and is a permitted land use in the zone, with consent.

The application was notified to adjacent property owners and occupiers, from the 29 November 2021 until 13 December 2021, in accordance with the Penrith City Council Community Engagement Strategy. One (1) submission was received in response during this period. Correspondence was provided to this objector dated 01 March 2022 addressing concerns raised and in this regard the objection received is considered resolved.

An assessment under Section 4.15 of the *Environmental Planning and Assessment Act 1979* has been undertaken and the application is recommended for approval, subject to conditions.

Background

- The Sydney West Joint Regional Planning Panel (JRPP) approved the Development Application for Stage 2 of Glenmore Park Town Centre including a Major Supermarket, Minor Supermarket, Commercial Floor Space, Speciality Shops, Retail Kiosks & Associated Car Parking on 20 August 2015.
- On 19 November 2015, Council approved a Section 96(1A) application to modify Condition 3 of DA14/0765, which required lot consolidation.
- On 29 September 2017, Council approved a Section 96(1A) application to amend several conditions of consent and the internal layout of the shopping centre and to add a car wash and 24 hour gym.
- On 11 May 2018, Council approved a Section 4.55(1A) application to extend trading hours of the Coles supermarket

Site & Surrounds

The the car wash facility is wholly contained within the UC2 (Lower Level) Car Park of the Glenmore Park Shopping Centre, located at 1 - 11 Town Terrace, Glenmore Park.

The Glenmore Park Town Centre site consists of 7 allotments, as detailed below.

- Lot 2 DP 865459 – Site of Stage 2 proposal;
- Lot 9100 DP 1022720 (in two parts) – Woolworths, speciality stores and associated car parking; vacant land to south of McDonald's (part of Luttrell Street road reserve);
- Lot 9104 DP 1022720 – KFC restaurant;
- Lot 9105 DP 1022720 – Service station;
- Lot 9106 DP 1022720 – McDonald's restaurant;
- Lot 9107 DP 1022720 – ANZ bank;
- Lot 9108 DP 1022720 – Vacant land behind KFC restaurant.

Proposal

The proposed works comprise relocating the small office housing the waiting area and point of sale area, together with the relocation of car park holding bays. The office will be demounted and rebuilt in the exact same manner a distance of 5.4m to the west within the existing car park of the shopping centre. The rebuilding will use all of the existing materials, fixtures and fittings; only using new, to match existing, where absolutely necessary. The car parking bays will be reassigned on completion of the relocation. There will be no change to the total number of car parking spaces within the existing shopping centre.

Plans that apply

- Local Environmental Plan 2010
- Development Control Plan 2014
- State Environmental Planning Policy (Biodiversity and Conservation) 2021
- State Environmental Planning Policy (Industry and Employment) 2021
- State Environmental Planning Policy (Precincts—Western Parkland City) 2021
- State Environmental Planning Policy (Resilience and Hazards) 2021
- State Environmental Planning Policy (Transport and Infrastructure) 2021

Planning Assessment

- **Section 4.15 - Evaluation**

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

- **Section 7.12 - Developer Contributions**

Penrith City Council's City-Wide Section 7.12 Development Contributions Plan for Non-Residential Development applies to any non-residential development with a proposed cost of more than \$100,000. Based on the applicable rate under this Development Contributions Plan, a development contribution is not applicable for the proposed development as the proposed cost of works is \$70,000.

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

State Environmental Planning Policy (Biodiversity and Conservation) 2021

An assessment has been undertaken of the proposal against relevant criteria within State Environmental Planning Policy (Biodiversity and Conservation) 2021 and the proposal is satisfactory subject to recommended conditions of consent.

State Environmental Planning Policy (Industry and Employment) 2021

No changes are proposed to the signage approved under DA14/0765.02 and as such no further assessment of signage under the State Environmental Planning Policy (Industry and Employment) 2021 is required.

State Environmental Planning Policy (Precincts—Western Parkland City) 2021

The SEPP (Precincts - Western Parkland City) 2021 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.

Consideration has been given to Clause 4.19 of the SEPP and the proposed development. The objective of Clause 4.19 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 4.19. The proposed development, relating to a minor alterations and additions to an existing car wash facilities is not one of the types of uses that warrant additional consideration under the SEPP 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 4.22 of the SEPP relates to development that would penetrate the prescribed air space for the airport and be a 'controlled activity'. The proposed 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 (Resilience and Hazards) 2021

This SEPP applies to the proposed development, however the site was considered suitable pursuant to SEPP (Resilience and Hazards) 2021 as part of the original development application (DA14/0765) and therefore no further soil investigations are necessary.

State Environmental Planning Policy (Transport and Infrastructure) 2021

The original application (DA14/0756) for the overall shopping centre development was referred to the Transport for NSW (TfNSW) as traffic-generating development under Schedule 3 of the SEPP (Transport and Infrastructure) 2021. Comments received from TfNSW formed conditions of consent. These conditions remain applicable to the overall shopping centre development.

Local Environmental Plan 2010

Provision	Compliance
Clause 1.2 Aims of the plan	Complies
Clause 2.3 Permissibility	Complies - See discussion
Clause 2.3 Zone objectives	Complies
Clause 2.7 Demolition requires development consent	Complies
Clause 4.3 Height of buildings	Complies
Clause 7.4 Sustainable development	Complies

Clause 2.3 Permissibility

The subject site is zoned B2 Local Centre and the proposal is defined as a '*business premises*' which is a type of '*commercial premises*' and is a permitted land use in the zone, with consent.

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

It is noted the *Draft Environment SEPP*, *Draft Vegetation SEPP* and *Draft Design and Place SEPP* apply to the subject site, however, these do not affect or alter the recommendation of this report.

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	N/A
C3 Water Management	Complies
C4 Land Management	N/A
C5 Waste Management	Complies
C6 Landscape Design	N/A
C7 Culture and Heritage	N/A
C8 Public Domain	N/A
C9 Advertising and Signage	Complies
C10 Transport, Access and Parking	Complies
C11 Subdivision	N/A
C12 Noise and Vibration	Complies
C13 Infrastructure and Services	Complies
E7 Glenmore Park controls	Complies

Section 4.15(1)(a)(iiia) The provisions of any planning agreement

There are no planning agreements applicable to the subject development.

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

Subject to recommended conditions of consent, the proposal is in accordance with the relevant provisions of the Environmental Planning and Assessment Regulation 2000.

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

Context and Setting

There should be no significant impact in this regard as the proposal is only a relocation of an existing facility and there is no change of use involved.

Access, Traffic and Transportation Impacts

The car parking bays will be reassigned on completion of the office relocation. There will be no change to the total number of car parking spaces within the existing shopping centre.

Water and Liquid Waste

Council received a submission regarding water being spilled out from the washing area into the car park. Water / waste liquid should not be spilled out in accordance with the consent Condition 9e of DA/0765.04. However, an additional condition will be added to ensure all water and liquid waste should be contained within the working area only.

Construction Certificate and Occupation Certificate

A Construction Certificate and an Occupation Certificate is required for the proposed development as the office area will be relocated and it may compromise the location of existing essential services. This requirement was confirmed by Council's Building Surveyor.

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

Noting that the proposal is only for a partial relocation of an existing facility, the site remains suitable for the development.

Section 4.15(1)(d) Any Submissions

Community Consultation

The application was notified to adjacent property owners and occupiers, from the 29 November 2021 until 13 December 2021, in accordance with the Penrith City Council Community Engagement Strategy. One (1) submission was received in response during this period. Correspondence was provided to this submitter dated 01 March 2022 addressing concerns raised and in this regard the submission received is considered resolved.

The following issues were raised in the submission received and have formed part of the assessment:

Issue Raised	Comments
<i>Water spills out from the wash bays creating a slip hazard on the road where people have to walk to get to the shops.</i>	<p>The subject DA does not seek to relocate the current washing area and the approved drainage line. Only the existing office area and car park holding bays will be relocated.</p> <p>Should water spill out from the wash bay, this is contrary to existing conditions of consent and should be reported to Council for compliance action.</p> <p>To reinforce this requirement, a condition of consent shall be imposed as follows:</p> <p><i>"Water / liquid wastes shall not be spilled out from any works or storage areas (including the washing area). Prior to the issue of an Occupation Certificate, all works and storage areas (including the washing area) where spillages are likely to occur shall be bunded and sealed."</i></p>

Referrals

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

Referral Body	Comments Received
Building Surveyor	No objections - subject to conditions

Section 4.15(1)(e)The public interest

The proposed development will not generate any significant issues of concern in relation to public interest considerations.

Conclusion

In assessing the proposed development against the relevant environmental planning instruments, primarily being *Penrith Local Environmental Plan 2010* and *Penrith Development Control Plan 2014*, the proposal satisfies the aims, objectives and provisions of these policies. The site is suitable for the proposed development, the proposal is in the public interest and there is unlikely to be negative impacts arising from the proposed development. Therefore, the application is worthy of support and is recommended for approval, subject to recommended conditions.

Recommendation

That DA21/0850 for alterations to an existing car wash business including relocation of office and car holding bays at 1 - 11 Town Terrace, Glenmore Park, be approved subject to the following recommended conditions of consent.

CONDITIONS

General

1 [A001 - Approved plans table](#)

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

Plan	Prepared By	Version	Drawing No.	Dated
Cover Page & Schedules	Building on Visions	-	SCW-A00	15/11/2021
Specification	Building on Visions	-	SCW-A01	15/11/2021
Location Plan - Existing (Lower Level Car Park)	Building on Visions	-	SCW-A02	15/11/2021
Location Plan - Proposed (Lower Level Car Park)	Building on Visions	-	SCW-A03	15/11/2021
Floor Plan - Proposed	Building on Visions	-	SCW-A04	15/11/2021
P.O.S. & Waiting Room Plan, Elevation & Section	Building on Visions	-	SCW-A05	15/11/2021
P.O.S. & Waiting Room Elevations	Building on Visions	-	SCW-A06	15/11/2021
Signage and Typical Details	Building on Visions	-	SCW-A07	15/11/2021

2 [A019 - OCCUPATION CERTIFICATE](#)

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

3 [A032 - Goods in buildings](#)

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

4 [A046 - Obtain Construction Certificate before commencement of works](#)

A **Construction Certificate (or where applicable, a Complying Development Certificate)** shall be obtained prior to commencement of any building works.

5 [A Special \(BLANK\)](#)

The use of the premises as a car wash facility shall be undertaken in accordance with the operational aspects (including hours of operation) approved via the development consent for DA14/0765.04, except where any conditions of that consent have been modified by this consent.

6 [A Special \(BLANK\)](#)

Water / liquid wastes shall not be spilled out from any works or storage areas (including the washing area). **Prior to the issue of an Occupation Certificate**, all works and storage areas (including the washing area) where spillages are likely to occur shall be bunded and sealed.

Demolition

7 [B002 - AS FOR DEMOLITION AND DISPOSAL TO APPROVED LANDFILL SITE](#)

All demolition works are to be conducted in accordance with AS 2601-2001 - The Demolition of Structures.

SafeWork NSW requirements apply to demolition work and compliance with those requirements, including the SafeWork NSW Code of Practice Demolition Work August 2019, is required.

Prior to demolition, all services shall be suitably disconnected and capped off or sealed to the satisfaction of the relevant service authority requirements.

8 [B004 - Dust](#)

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

9 [B005 - Mud/Soil](#)

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

10 [B006 - Hours of work](#)

Demolition works 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 demolition work is permitted on Sundays and Public Holidays.

In the event that the demolition relates to works inside the building, does not involve external walls or the roof, and does not involve the use of equipment that emits noise, then the demolition works are not restricted to the hours stated above.

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

BCA Issues

11 [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.

Construction

12 H001 - Stamped plans and erection of site notice

Stamped plans, specifications, a copy of the development consent, the Construction Certificate and any other Certificates to be relied upon shall be available on site at all times during construction.

The following details are to be displayed in a maximum of 2 signs to be erected on the site:

- the name of the Principal Certifying Authority, their address and telephone number,
- the name of the person in charge of the work site and telephone number at which that person may be contacted during work hours,
- that unauthorised entry to the work site is prohibited,
- the designated waste storage area must be covered when the site is unattended, and
- all sediment and erosion control measures shall be fully maintained until completion of the construction phase.

Signage but no more than 2 signs stating the above details are to be erected:

- at the commencement of, and for the full length of the, construction works on site, 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.

13 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 Council, or
- alternatively, any other sewage management facility approved by Council.

(b) 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.

14 H Special (BLANK)

Construction 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 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.

Certification

15 [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 and accompanying Regulation, and
- (b) submit a Notice of Commencement to Penrith City Council.

The Principal Certifier shall submit to Council an "Appointment of Principal Certifying Authority" in accordance with Section 81A of the Environmental Planning and Assessment Act 1979.

Information to accompany the Notice of Commencement

Two (2) days before any earthworks or construction/demolition works are to commence on site (including the clearing site vegetation), the proponent shall submit a "Notice of Commencement" to Council in accordance with Section 81A of the Environmental Planning and Assessment Act 1979.

16 [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 use of the building.

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.