

PENRITH CITY COUNCIL

MAJOR ASSESSMENT REPORT

Application number:	DA16/0148
Proposed development:	Enclosure of the Existing Covered Outdoor Learning Area (COLA)
Property address:	2 Water Street, WERRINGTON NSW 2747
Property description:	Lot 2 DP 1176624
Date received:	16 February 2016
Assessing officer	Mahbub Alam
Zoning:	E2 Environmental Conservation - LEP 2010 IN2 Light Industrial - LEP 2010 Zone R4 High Density Residential - LEP 2010 SP2 Infrastructure - Future Road - LEP 2010 SP2 Infrastructure - Educational Estab - LEP 2010
Class of building:	Class 9b
Recommendations:	Approve

Executive Summary

Council is in receipt of a development application for construction of new entry canopy and enclosure of an existing COLA to convert the space to a "hall" with teaching areas, covered entry and storage areas at 2 Water Street, Werrington. The subject site is zoned E2 Environmental Conservation, IN2 Light Industrial, R4 High Density Residential, SP2 Infrastructure - Future Road and SP2 - Educational Establishment under Penrith Local Environmental Plan 2010. The proposal is a permitted land use in the IN2 and R4 zones with Council consent.

The application was notified to nearby and adjoining properties and advertised between 26 February 2016 to 14 March 2016. Council received no submissions in response.

Previous approvals for the subject site include:

- DA01/7302 - Additions - Other Residential
- CC06/0257 - Civil Works Werrington Road and Gipps Street
- CC06/0258 - Civil Works Wollemi College Carpark of Gipps Street Werrington
- DA04/2239 - Educational Establishment - School
- DA06/0173 - Remediation Works for Schedule 1 of DA04/2239
- DA04/2239.1163 - Modification of Timing Provisions in Development Consent DA04/2239
- CC06/0108 - Educational Establishment - School
- DA06/1618 - Educational Establishment - School
- CC08/0182 - Educational Establishment
- CCx08/0028 - Roads and Drainage
- CCx08/0028.01 - Roads and Drainage - Modify CCx08/0028
- DA06/1618.03 - Modify Conditions
- DA08/1328 - Boundary Adjustment and Lot Consolidation
- CDP13/0230 - Wollemi College - New TAS Extension
- CDP13/0705 - Covered Outdoor Learning Area
- DA15/1273 - Covered Outdoor Learning Area

The application is classified as Integrated Development under Section 91 of the Environmental Planning and Assessment Act 1979, requiring general terms of approval from the Rural Fire Service to develop land for special fire protection purposes.

An assessment under Section 91 and 79C of the Environmental Planning and Assessment Act 1979 has been undertaken and the application is recommended for approval, subject to attached conditions of consent.

Site & Surrounds

The subject site is situated on the eastern side of Water Street, approximately 110m north of the Great Western Highway. The site is 7.9Ha in area, irregular in shape and slopes towards the north-eastern boundary.

The site is currently occupied by a private school 'Wollemi Cottage' which was approved under DA04/2239. The site contains classrooms, administration buildings, car parking, playing fields and a covered outdoor learning area.

Development in the immediate surroundings of the site consists of Kingsway Playing Fields to the north-east, Cobham Remand Centre to the west, Western Sydney University to the south-west and a Department of Education school to the east.

Access to the site is provided from Water Street and Gipps Street and car Parking is provided on-site, with 36 car parking spaces located within the immediate vicinity of the premises.

Site Constraints

- Easement for Water Supply: The land is affected by an easement for water supply 3m wide;
- Easement for Pad Mount Substation: The land is affected by an easement for Pad Mount Substation 2.75m wide;
- Bushfire Prone Land: Part of the land is identified as bushfire prone; and,
- Flooding: Part of the land is affected by overland flow.

Proposal

The applicant seeks approval from Council for a new school building which includes the following:

- Enclosure of an existing COLA to convert the space to a "hall" with teaching areas, covered entry and storage areas.

Plans that apply

- Local Environmental Plan 2010 (Amendment 4)
- Development Control Plan 2014
- Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

Planning Assessment

• Section 79C - Evaluation

The development has been assessed in accordance with the matters for consideration under Section 79C of the Environmental Planning and Assessment Act 1979, and having regard to those matters, the following issues have been identified for further consideration.

• Section 91- Integrated development

The application is classified as Integrated Development under Section 91 of the Environmental Planning and Assessment Act 1979, requiring general terms of approval from the Rural Fire Service (RFS) to develop land for special fire protection purposes. RFS reviewed this application and raised no objection subject to conditions.

Section 79C(1)(a)(i) The provisions of any environmental planning instrument

Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

An assessment has been undertaken of the application against relevant criteria within Sydney Regional Environmental Plan No 20—Hawkesbury-Nepean River (No 2—1997). This policy aims to protect the environment of the Hawkesbury-Nepean River by ensuring that the impacts of future land uses are considered in a regional context. The site is located within an established rural-residential area and is not within a scenic corridor of the river. As such, it is considered the proposed development would not compromise the water or scenic qualities of the river environment. Therefore, the application is satisfactory subject to recommended conditions of consent.

Local Environmental Plan 2010 (Amendment 4)

Provision	Compliance
Clause 1.2 Aims of the plan	Complies
Clause 2.3 Permissibility	Complies - See discussion
Clause 2.3 Zone objectives	Complies - See discussion
Clause 4.3 Height of buildings	Complies
Clause 5.9 Preservation of trees or vegetation	Complies - See discussion
Clause 7.2 Flood planning	Complies - See discussion

Clause 2.3 Permissibility

The proposal is defined as an educational establishment which is permissible in the IN2 and R4 zones with consent.

Clause 2.3 Zone objectives

The subject site is zoned E2 (Environmental Conservation), IN2 (Light Industrial), R4 (High Density Residential), SP2 (Infrastructure - Future Road) and SP2 (Infrastructure - Educational Establishment) under Penrith Local Environmental Plan 2010.

Despite these provisions, Clause 2.5 and Schedule 1 of Penrith LEP 2010 states that development for the purpose of a school is permitted with consent.

The application proposes construction of a new entry canopy and enclosing to an existing COL. . The teaching spaces are ancillary to the primary use of the site and are therefore consistent with the aims and objectives of both the LEP and the zoning.

Clause 5.9 Preservation of trees or vegetation

The site is mapped as containing Shale Plains Woodland and Alluvial Woodland. However, the proposed development are positioned in an area that is clear of vegetation. Furthermore, no trees or vegetation are to be cleared for the purpose of the development.

Clause 7.2 Flood planning

The site is identified as 'Flood Planning Land' under Penrith LEP 2010's *Clause Application Map*.

The objectives of this clause are:

- (a) to minimise the flood risk to life and property associated with the use of the land,
- (b) to limit uses to those compatible with flow conveyance function and flood hazard,
- (c) to manage uses to be compatible with flood risks,
- (d) to enable safe and effective evacuation of land,
- (e) to ensure the existing flood regime and flow conveyance capacity is not compromised,
- (f) to avoid detrimental effects on the environment that would cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or waterways.

However, the area nominated for the development is not affected by any overland flow. Further, given the nature and scale of the proposal, the development is unlikely to have any adverse impacts on the environment and is not likely to produce social and economic costs to the community as a consequence of flooding. Accordingly, the application is satisfactory in this regard.

Section 79C(1)(a)(iii) The provisions of any development control plan

Development Control Plan 2014

Provision	Compliance
DCP Principles	Complies
C1 Site Planning and Design Principles	Complies - see Appendix - Development Control Plan Compliance
C2 Vegetation Management	Complies - see Appendix - Development Control Plan Compliance
C3 Water Management	Complies
C4 Land Management	Complies
C5 Waste Management	Complies
C6 Landscape Design	N/A
C7 Culture and Heritage	N/A
C8 Public Domain	N/A
C9 Advertising and Signage	N/A
C10 Transport, Access and Parking	Complies - see Appendix - Development Control Plan Compliance
C11 Subdivision	N/A
C12 Noise and Vibration	N/A
C13 Infrastructure and Services	Complies
D5.1. Application of Certification System	N/A
D5.2. Child Care Centres	N/A
D5.3. Health Consulting Rooms	N/A
D5.4. Educational Establishments	Complies
D5.5 Parent Friendly Amenities	N/A
D5.6. Places of Public Worship	N/A
D5.7. Vehicle Repair Stations	N/A
D5.8. Cemeteries, Crematoria and Funeral Homes	N/A
D5.9. Extractive Industries	N/A
D5.10 Telecommunication Facilities	N/A

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

Subject to the imposition of conditions of consent, Council's Building Surveyor has raised no objections to the proposed development.

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

Built and Natural Environment

Context and Setting

The proposal is consistent with the bulk, scale, colour and design of other developments in the locality.

The proposed development are situated on a large parcel of land and are substantially setback from the street.

Access, Traffic and Transportation Impacts

The development will not produce any additional traffic volumes and is unlikely to have any adverse impacts on the local road system as the facilities service the existing school population.

Access to the site is provided from Gipps Street and adequate car parking is provided on site.

Noise

The development will not significantly increase the noise levels currently generated by the school. Although the proposed activities may generate some noise through the use of musical instruments, This is can be internally managed to ensure other classrooms are not adversely impacted. It is unlikely the proposal will interfere with the acoustic amenity of the neighbourhood. However, in order to protect the amenity of nearby residents from noises generated by plant and equipment, appropriate conditions have been recommended.

Soil

The proposed development is unlikely to have any adverse impacts on soil erosion and sedimentation.

Social and Economic Impacts

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

The classrooms will have a positive impact on the school by offering additional learning environments.

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

The site is suitable for the following reasons:

- The site is zoned to permit the proposed use;
- The use of the classrooms is considered to be suitable for this location;
- The use is compatible with surrounding/adjoining land uses;
- The site is able to drain to Council's satisfaction; and
- The proposed development is generally compliant with the relevant planning provisions and design guidelines.

Section 79C(1)(d) Any Submissions

Community Consultation

In accordance with Clause 4.4 of Appendix F4 of Penrith Development Control Plan 2014, the proposed development was notified to nearby and adjoining residents. The application was advertised between 29 February 2016 to 14 March 2016. Council received no submissions in response.

Comments from the NSW RFS were received da ted 21 April 2016 raising no objection to the development subject to conditions of consent.

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
Environmental - Environmental management	No objections - subject to conditions

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

The proposal will not produce any significant issues of the public interest. The additional classrooms will improve Wollemi College's school facilities by offering additional learning environments.

Conclusion

The proposal has been assessed against relevant sections of the Environmental Planning and Assessment Act 1979 and has found to be satisfactory. The site is suitable for the proposed development and the proposal is in the public interest. The application is therefore worthy of support, subject to recommended conditions of consent.

Recommendation

That DA16/0148 for a construction of new entry canopy and enclosure walls which are south east wall and north east wall in the form of enclosure of existing cola to new hall at 2 Water Street, Werrington be approved subject to attached conditions of consent.

General

1 A001

The development must be implemented substantially in accordance with the following plans

Drawing Title	Drawing No.	Prepared By	Dated
Site Plan	2	Carrol & Carrol Architects	02 February 2016
Plans & Landscape & Partial Stormwater Concept Plan	3	Carrol & Carrol Architects	02 February 2016
Elevations and Colour Schedule	4	Carrol & Carrol Architects	02 February 2016
Elevations and Colour Schedule	5	Carrol & Carrol Architects	02 February 2016
Sections	6	Carrol & Carrol Architects	02 February 2016
Waste Management Plan & Erosion and Sediment Control Plan	7	Carrol & Carrol Architects	02 February 2016
Waste Management Plan	-	Pared Ltd	-

and any supporting information received with the application, except as may be amended in red on the attached plans and by the following conditions.

2 A005 - APPROVED BODYS CONSENT (FOR INTEGRATED DAS)

A copy of the General Terms of approval issued by the Rural Fire Service, reference no. D16/0578, DA16022500880 SD, and dated 21 April 2016 under the Section 91 of the Environmental Planning and Assessment Act 1979 shall be submitted to the Principal Certifying Authority, before the Construction Certificate can be issued for the same development. A copy of the approval shall be submitted to Penrith City Council with the copy of the Construction Certificate, if Council is not the Principal Certifying Authority.

3 A019 - OCCUPATION CERTIFICATE (ALWAYS APPLY)

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

4 A020 - Use of building

The building shall not be used under any circumstances for any commercial, industrial or habitable residential activity.

5 A044 - Compliance with NSW Rural Fire Service conditions of consent

The applicant shall comply with the conditions contained in the General Terms of Approval issued by the NSW Rural Fire Service Reference D16/0578, DA16022500880 SD, dated 21 April 2016.

6 A046 - Obtain Construction Certificate before commencement of works

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

Demolition

7 B004 - Dust

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

8 B006 - Hours of work

Demolition and construction works will be restricted to the following hours in accordance with the NSW Environment Protection Authority Noise Control Guidelines:

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

In the event that the demolition and construction relates to works inside the building and do not involve external walls or the roof, and do not involve the use of equipment that emits noise then the demolition and construction 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.

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 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.

10 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.

11 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 submitted waste management plan.

Waste materials not specified in the 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.

12 D132 - Approved noise Level 3

Noise levels from the premises shall not be audible within a habitable room of any residence (or noise sensitive place) between 10pm and 8am. The noise levels from the premises at any other time shall not be more than 5dB(A) above background when measured at the boundary of the premises.

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

BCA Issues

13 **E009 - Annual fire safety-essential fire safety (Class 2-9 buildings)**

The owner of a building, to which an essential fire safety measure is applicable, shall provide Penrith City Council with an annual fire safety statement for the building. The annual fire safety statement for a building must:

(a) deal with each essential fire safety measure in the building premises, and

(b) be given:

- within 12 months after the last such statement was given, or
- if no such statement has previously been given, within 12 months after a final fire safety certificate was first issued for the building.

•

As soon as practicable after the annual fire safety statement is issued, the owner of the building to which the statement relates:

- must also provide a copy of the statement (together with a copy of the current fire safety schedule) to the Commissioner of New South Wales Fire Brigades, and
- prominently display a copy of the statement (together with a copy of the current fire safety schedule) in the building.

14 **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

15 **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.

16 **G004 - Integral Energy**

Prior to the issue of a Construction Certificate, a written clearance is to be obtained from Endeavour Energy stating that electrical services have been made available to the development or that arrangements have been entered into for the provision of services to the development.

In the event that a pad mounted substation is necessary to service the development, Penrith City Council shall be consulted over the proposed location of the substation before the Construction Certificate for the development is issued as the location of the substation may impact on other services and building, driveway or landscape design already approved by Council.

Construction

17 H001 - Stamped plans and erection of site notice

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

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

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

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

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

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

18 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.

19 [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

20 [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 the issue of any Construction Certificate. The bond and applicable fees are in accordance with Councils adopted fees and charges.

An application form together with an information sheet and conditions are available on Councils website.

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

Landscaping

21 [L008 - Tree Preservation Order](#)

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

22 [L012 - Existing landscaping \(for existing development\)](#)

Existing landscaping is to be retained and maintained at all times.

Certification

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

Information to accompany the Notice of Commencement

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

Appendix - Development Control Plan Compliance

Development Control Plan 2014

Part C - City-wide Controls

C1 Site Planning and Design Principals

Building Form - Height, Bulk and Scale

The proposed classrooms are consistent with the height, bulk and scale of existing buildings and classrooms on the site. The development is single story and is within the setback of Wollemi College.

Penrith DCP 2014 states that where a building has a dimension of 20m or greater, the applicant must demonstrate how the building has been articulated. The proposed classrooms are to be within existing outdoor learning area that was approved under CDP13/0705. The development will be adjacent in scale, size and material to the outdoor learning space and the existing covered area will help to reduce the building's visual impact and scale.

Accordingly, Council can be satisfied that the proposal will not have any adverse impacts on the environment, existing landscape or the scenic qualities of the area.

C2 Vegetation Management

The site is mapped as containing *Alluvial Woodland* and *Shale Plains Woodland*. However, the area nominated for the proposed building has been previously cleared and no trees or vegetation are to be removed as part of the application.

C10 Transport, Access and Parking

Vehicular access is accommodated through Gipps Street on the eastern side of the site. A 36 space car parking area is provided off Gipps Street and direct pedestrian access is provided from the car parking area.

The proposed development will not produce any additional traffic volumes and will have no or minimal impact on the local road system.