

PENRITH CITY COUNCIL

MAJOR ASSESSMENT REPORT

Application number:	DA14/1267
Proposed development:	Motor Showroom
Property address:	229 - 231 Mulgoa Road, JAMISONTOWN NSW 2750
Property description:	Lot 211 DP 815492
Date received:	10 October 2014
Assessing officer	Mathew Rawson
Zoning:	Zone B5 Business Development - LEP 2010
Class of building:	Class 6 , Class 8
Recommendations:	Approve

Executive Summary

Council is in receipt of a development application for a Motor Showroom at 229-231 Mulgoa Road, Jamisontown. The proposed development is defined as a vehicle sales or hire premises and is a permissible land use under the Penrith Local Environmental Plan (LEP) 2010.

Key issues identified for the proposed development and site include:

- The proposed development includes a workshop area for the servicing of motor vehicles. This is a prohibited use in the B5 Business Development zone which the subject site is zoned under Stage 2 of the Penrith LEP 2010 which commenced following the lodgement of the application. However as the workshop aspect of the development is considered to be ancillary to the vehicle sales aspect, the development remains permissible with consent.
- Potential amenity impacts on the adjoining and adjacent residential properties. Impacts in terms of noise and lighting from the loading of vehicles, workshop activities and proposed flood lights are adequately addressed by way of the landscaped setback between the adjoining residential property, acoustic wall and positioning of lighting to ensure compliance with the relevant Australian Standard (AS).
- Access, loading and unloading of motor vehicles. The proposal was required to undergo numerous redesigns to arrive at an outcome which is supportable. Despite these redesigns the site is still unable to provide access for the maximum length 25 m car carriers. As such the consent will be conditioned to only allow for access by vehicles up to 19 m in length. This is not considered to be an issue given Council has received correspondence from numerous car carrier trucking companies who have advised their longest vehicles used to deliver to individual dealerships are limited to 19 m in length. Additionally a Service Vehicle Plan of Management will be required prior to the issue of a Construction Certificate which formalises these access arrangements.
- Aesthetics. The proposed development is situated on a highly prominent gateway site which forms the interface between large floor plate commercial / light industrial uses to the south and residential uses to the north. Accordingly the applicant presented the development to Council's Urban Design Review Panel. The comments from the Panel were incorporated into the revised design and it is now considered to be a commendable design which complements and enhances the visual aesthetics of the locality.

The application has been notified to adjoining properties and was exhibited between 16 and 30 October 2014 in accordance with relevant legislation. Council received one submission in response.

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

Site & Surrounds

The site is situated on the south-west corner of Mulgoa Rd and Willoring Cres and is part of the southern entry to Penrith and is roughly rectangular with an area of 4054 sqm and is currently vacant. With the exception of the residential zone continuing north on the west side of Mulgoa Rd, the area is characterised by commercial, bulky goods, motor vehicle and warehouse type developments.

The site was previously used as a Caltex service station which was closed approximately 7 years ago and remediation works have now been completed to render it safe for future development. The site is relatively flat with a slight fall to the west, with the remnants of the previous concrete forecourt areas, excavation and remediation works still visible.

The front of the site is on a visually prominent corner with visual sight lines from north and south bound traffic on Mulgoa Rd and good visibility from the intersection with Batt St to the north-east. The site is highly visible from and to the townhouses opposite on Willoring Crescent and any development on the site higher than single storey will be visible from the western direction of Willoring Crescent.

Access to the site is currently from 2 driveways off Mulgoa Rd and 1 from Willoring Crescent. Mulgoa Rd is a classified road controlled by the RMS and Willoring Crescent is a local traffic road controlled by Council.

Proposal

It is proposed to construct a Motor Showroom on the site. The main building will have a total area of 1091.24 sqm.

The building has been located on the north east section of the site with the vehicle driveway and manoeuvring areas located to the rear and western side of the site, thus being screened from view of the main road. Presentation to Mulgoa Rd is a glass facade with skillion roofline and low level shrubs forming the landscaped area in front of the building.

The building adopts significant glazing of the front half of the building which houses the showroom areas whilst the western area presents as masonry wall to enclose the service areas of the development.

A 3.5 m acoustic and security wall/fence wraps around the western end of the site with a 3 m landscaped setback facing the adjoining residential development. This setback softens the impact of the rear wall/fencing. This is also reflective of the acoustic requirements for the residential area to the west. Fencing to the southern boundary is 2.1 m high decorative metal panel security fencing.

Access to the site will be via a one way 'IN' driveway from Mulgoa Rd and one 2 way 'IN/OUT' driveway from Willoring Crescent; The other two existing accesses will be closed off. Entry to the building will be via a main entry adjacent the Mulgoa Rd entrance with a roller door entry to the workshop at the western end of the building.

A secondary small building is located in the south-west corner of the site which will enclose the car wash and a storage room for large equipment such as mowers, etc.

Fencing to the road frontages of the site is limited to only part of the Willoring Crescent frontage which is 1.8m high palisade fencing which protects the landscaping and Rain Garden area of this frontage. The Mulgoa Rd frontage has no fencing but is considered to be much more visible and therefore less prone to opportunistic vandalism.

The hardstand area provides parking for 12 display vehicles in the Mulgoa Rd setback area behind the landscaping, 19 customer car park spaces adjacent the main entry, 12 spaces associated with the servicing area, and 24 spaces for vehicle stock storage.

The development will employ 9 persons in the sales, servicing and admin aspects of the business with operating hours 7 am to 7pm Weekdays and 8 am to 6 pm Sat and Sun. The business activity proposed is the sale and servicing of motor vehicles. There is no proposal for a separate Vehicle Repair Station nor Vehicle Repair Workshop such as panel beating or a spray painting business.

Plans that apply

- Local Environmental Plan 2010 (Stage 1 LEP)
- Development Control Plan 2010
- State Environmental Planning Policy (Infrastructure) 2007
- State Environmental Planning Policy No 55—Remediation of Land
- State Environmental Planning Policy No 64—Advertising and Signage
- 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 79C(1)(a)(i) The provisions of any environmental planning instrument

State Environmental Planning Policy (Infrastructure) 2007

In accordance with Clause 104 of the SEPP the proposed development was required to be referred to Roads and Maritime Services as traffic generating development due to having access from a classified road and having capacity for more than 50 vehicles.

The RMS advised that they would provide concurrence subject to conditions of consent. These conditions have been fully incorporated into the recommended conditions of consent.

Clause 104 goes on to require that Council consider the accessibility of the site concerned as well as any potential traffic safety, road congestion or parking implications of the development. Given that the proposed development complies with the zone objectives, the relevant AS for access and parking and the RMS and Council's DCP requirements for car parking, the proposed development is deemed to be acceptable.

State Environmental Planning Policy No 55—Remediation of Land

Due to the site's previous use as a Service Station, remediation was required to be carried out on the site as a part of DA07/1487. Documentation has been provided by Coffey Environments Australia in relation to the remediation and soil validation reports. In the Summary of Works document dated 2 October 2013 prepared by Coffey, it is stated that "Coffey has demonstrated that no unacceptable risk is posed to either on or off site receptors and that the site is suitable for commercial/industrial land use with a single level basement.". Accordingly Council can be satisfied that contamination/remediation has been addressed on this site. A Section 149 notation will be placed on this property advising of the contamination and subsequent remediation.

State Environmental Planning Policy No 64—Advertising and Signage

The development application proposes to install 2 x wall signs, 1 each incorporated into the eastern and southern facing facades. Additionally a 5 m high pylon sign is proposed within the landscaped setback to Mulgoa Rd. This signage will be externally lit by the proposed flood lighting.

The proposed signage is limited to the use to be located upon the subject site and is therefore defined as a business identification signage. An assessment has been undertaken of the proposed signage against the matters for consideration and relevant clauses of the SEPP and it is deemed to be satisfactory.

Although detailed plans of the signage is yet to be provided an adequate assessment may be undertaken as the dimensions, type and a description of the signage has been provided. Final specifications must be provided prior to the issue of a Construction Certificate.

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) and the application is satisfactory subject to recommended conditions of consent.

Local Environmental Plan 2010 (Stage 1 LEP)

Provision	Compliance
Clause 1.2 Aims of the plan	Complies
Clause 2.3 Zone objectives	Complies
Clause 2.3 Permissibility	Complies
Clause 2.5 Additional permitted uses for particular land	N/A
Clause 2.6 Subdivision - consent requirements	N/A
Clause 2.7 Demolition requires development consent	N/A
Clause 2.8 Are the temporary use of land requirements achieved?	N/A
Clause 4.1 - the minimum lot size	N/A
Clause 4.1AA Minimum subdivision lot size for community title schemes	N/A
Clause 4.2 Rural Subdivision	N/A
Clause 4.3 Height of buildings	Complies
Clause 4.4 Floor Space Ratio	N/A
Clause 4.5 Calculation of floor space ratio and site area	N/A
Clause 4.6 Exceptions to development standards	N/A
Clause 5.1 Relevant acquisition authority	N/A
Clause 5.10 Heritage conservation	N/A
Clause 5.11 Bush fire hazard reduction	N/A
Clause 5.12 Infrastructure development and use of existing buildings of the Crown	N/A
Clause 5.13 Eco-tourist facilities	N/A
Clause 5.2 Classification and reclassification of public land	N/A
Clause 5.3 Development near zone boundaries	N/A
Clause 5.4 Controls relating to miscellaneous permissible uses	N/A
Clause 5.5 Development within the coastal zone	N/A
Clause 5.6 Architectural roof features	N/A
Clause 5.7 Development below mean high water mark	N/A
Clause 5.8 Conversion of fire alarms	N/A
Clause 5.9 Preservation of trees or vegetation	Complies
Clause 5.9AA Trees or vegetation not prescribed by development control plan	N/A

Clause 6.1 Earthworks	Complies
Clause 6.10 Villages of Mulgoa and Wallacia	N/A
Clause 6.11 Orchard Hills	N/A
Clause 6.12 Twin Creeks	N/A
Clause 6.13 Waterside Corporate	N/A
Clause 6.14 Development of land in the flight paths of the site reserved for the proposed Second Sydney Airport	N/A
Clause 6.15 Location of sex services premises and restricted premises	N/A
Clause 6.2 Salinity	N/A
Clause 6.3 Flood Planning	N/A
Clause 6.4 Development on natural resources sensitive land	N/A
Clause 6.5 Protection of scenic character and landscape values	N/A
Clause 6.6 Servicing	Complies
Clause 6.7 Dwelling houses on certain land in Llandilo and Mulgoa	N/A
Clause 6.8 Dual occupancies and secondary dwellings in certain rural and environmental zones	N/A
Clause 6.9 Mulgoa Valley	N/A
Schedule 1 Additional permitted uses	N/A

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

The zoning of the allotment under Stage 2 of the Penrith Local Environmental Plan 2010 is B5 - Business Development. This zone change from IN2 Light Industrial is considered to more adequately reflect the existing and desired uses existing along the Mulgoa Rd corridor. The proposal remains consistent with the relevant aims and objectives of the Plan generally as well as the B5 zone. Although vehicle repair stations are prohibited in the B5 zone it is considered that this aspect is ancillary to the car sales aspect and therefore would remain permissible with consent.

Stage 2 of the Penrith Local Environmental Plan 2010 commenced on 25 February 2015. Clause 1.8A has the effect that any application lodged prior to this commencement date are to be assessed and approved as if the Stage 2 amendment had not been gazetted or commenced.

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

Development Control Plan 2010

Provision	Compliance
Part B - DCP Principles	Complies
Part C 1 - Site planning and design principles	Complies
Part C2 - Vegetation management	Complies
Part C3 - Water management	Complies
Part C4 - Land management	Complies
Part C5 - Waste management	Complies
Part C6 - Landscape design	Complies
Part C7 - Culture and heritage	N/A
Part C8 - Public domain	N/A
Part C9 - Advertising and signage	Complies - see Appendix - Development Control Plan Compliance
Part C10 - Transport, access and parking	Complies - see Appendix - Development Control Plan Compliance
Part C11 - Subdivision	N/A
Part C12 - Noise and vibration	Complies - see Appendix - Development Control Plan Compliance
Part C13 - Infrastructure and services	Complies
Part D4 - Industrial development	Does not comply - see Appendix - Development Control Plan Compliance
Part D5 - Other land uses (e.g. Health consulting rooms, vehicle repair stations)	N/A

Section 79C(1)(a)(iiia) The provisions of any planning agreement

There are no planning agreements applying to this application.

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

Fire safety

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

Prescribed Conditions

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

Advertising / Notification

Neighbour notification and advertising were carried in accordance with the requirements of the Regulations.

As such subject to the recommended conditions of consent, the proposed development complies with the requirements of the Regulations.

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

Likely impacts of the proposed development as identified throughout the assessment process include:

Impacts raised in submissions

The impacts raised in the one submission received have been adequately addressed by way of the extension of the landscaped buffer between the development site and the adjoining residential allotment.

Impacts raised in referral comments

A number of issues were raised by Council's Development Engineer and Traffic Engineer in relation to the proposed access and loading and unloading of vehicles for the site. These were addressed by way of revisions to the site plan and conditions of consent which will ensure that the maximum vehicle length servicing the site is a 19 m AV.

Additionally Council's Landscape Architect identified a number of deficiencies in relation to the Landscape Plan. These deficiencies will be required to be addressed by the submission of a revised Landscape Plan prior to the issue of a Construction Certificate.

Other impacts identified in assessment

Subject to the recommended conditions of consent, it is not considered that the proposal will result in any significant impacts on the natural, social or economic environments of the locality due to its scale, location and consistency with surrounding uses.

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

The subject site is deemed suitable for the following reasons:

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

Section 79C(1)(d) Any Submissions

Community Consultation

In accordance with Clause 4.4 of Appendix F4 of Penrith Development Control Plan 2010, the proposed development was notified to nearby and adjoining residents.

Council notified all adjoining and adjacent residences in the area with residents invited to lodge a submission or view the full application between 16 and 30 October 2014. Council received one submission in response.

Submission

The one submission received raised the proximity of of the acoustic barrier to the adjoining residential property's private open space as an amenity issue and requested that it be set back at a consistent 3 m from the boundary the entire length of the residential boundary. This issue and suggested revision was incorporated in the revised plans and it is therefore considered to be adequately addressed.

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
Development Engineer	Not supported
Landscape Architect	No objections - subject to conditions
Environmental - Environmental management	No objections - subject to conditions
Environmental - Waterways	No objections - subject to conditions
Traffic Engineer	Not supported
Tree Management Officer	No objections

Development Engineer

Council's Development Engineer outlined the following issues for the applicant to address:

- Prior to further engineering assessment the revised development proposal shall be re-submitted to Roads and Maritime Services for concurrence.

Comment: The application was previously referred to the Roads and Maritime Services which provided general conditions relating to the requirements of construction within the classified road reserve. The subsequent amendments to the proposal are not considered so significant as to require an additional referral.
- The turning templates must demonstrate that the turn paths of the intended largest vehicle can enter and exit the site whilst not entering the adjoining travel lane.

Comment: The applicant has provided turning paths to the satisfaction of Council's Traffic Engineer for a 19 m AV. This will be conditioned to ensure that it is the largest vehicle accessing the site.
- Confirmation of the largest vehicle accessing the site including details so an assessment of any infrastructure upgrades can be assessed. Willoring Crescent has not been designed to cater for 23m long vehicles, the development would be responsible for any pavement upgrades.

Comment: Vehicles will be limited to a 19 m AV. No vehicles larger than this shall be permitted to access the site.
- The applicant must demonstrate that the largest vehicle carrier can service the site as there is no details on how the site can manage stock deliveries.

Comment: The largest car carrier will not be permitted to service the site (limited to a 19 m AV). Details of this will be managed and form a component of the Service Vehicle Management Plan.
- The proposal must include any intentions to reduce on-street parking in Willoring Crescent.

Comment: No on-street parking is impacted by the proposal aside from by the removal of the existing driveway crossover and installation of new crossover. There is no net loss as a result.
- The applicant may be required to relocate the drainage pit in Mulgoa Road.

Comment: Driveway crossovers avoid both drainage pits.
- The applicant is requested to re-issue the plans to Council in the correct scale (1:400)

Comment: Revised version of plans are to scale.
- The proposed access driveways have been widened, however are still not in accordance with the requirements of AS 2890. As such, the driveways shall be widened to comply with the requirements of AS 2890.2. The access from Mulgoa Road may need to be restricted to entry only to assist in preventing vehicular conflicts.

Comment: Driveways have subsequently been widened to meet these requirements. Access from Mulgoa Rd will be ingress only.
- A service vehicle management plan shall be provided and should address routes to and from the site, via the local road network and the frequency/timing of any deliveries.

Comment: This will be conditioned prior to the issue of a Construction Certificate.

Traffic Engineer

The following advice was provided by Council's Traffic Engineer:

"The revised plans (1138 DA.01D, revision D) are satisfactory with regard to access by a 19m articulated vehicle (AV). The amended Parking and Traffic Assessment Report (dated 12 February 2015) also addresses these matters satisfactorily.

However, previous comments from Council's Traffic Engineer requested that a Management Plan be provided that adequately demonstrates how the operator will ensure that delivery vehicles will not exceed a 19m car carrier. The Transport Management Plan (by N.F. Billyard Pty Ltd) provided to Council 12 Feb 2015, is unsatisfactory.

Should consent be granted, adherence to a 'Service Vehicle Plan of Management' (by the site operators) will be a condition of consent. As such the Plan of Management needs to be formalised as a document with clear title / headings followed by information on each of the following (including the information already provided):

- *First and foremost, a clear statement that the operator will not accept deliveries from vehicles larger than 19m in length and;*
- *A clear statement that no unloading of vehicles will take place on the street or footpath / verge.*
- *A clear statement indicating that the on-site delivery area will be kept free of other vehicles and obstructions.*
- *Information as to what will be implemented operationally to prevent a wholesaler delivering vehicles on a 25m car carrier? This could be as simple as a standard note, on all orders to wholesalers, stating the delivery instructions and stating that deliveries are restricted to 19m vehicles.*
- *Outline what action will be taken by the operator in the event that a delivery vehicle / driver attempts to commence unloading on-street.*
- *Address routes to and from the site, via the local road network, and the frequency / timing of deliveries (as raised in the pre-lodgement meeting).*
- *Include any attachments, such as vehicle standards information or relevant correspondence (as provided previously). "*

Assessing Officer's Comment

Given that the development has now been assessed as being satisfactory for delivery vehicles up to 19 m AV, and that the recently submitted information addresses the points raised by Council's Development Engineer, there are not considered to be reasonable grounds to withhold development consent pending the submission of a Service Vehicle Management Plan. The Management Plan will be required to be submitted prior to the issue of a CC with other key considerations such as an explicit limitation to vehicle size forming individual conditions of consent.

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

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

Section 94 - Developer Contributions Plans

There are no Section 94 Contributions applicable to the subject development.

Conclusion

Subject to the recommended conditions of consent the proposal is considered to be consistent with the relevant sections of the Environmental Planning and Assessment Act 1979, the relevant Local Environmental Plan, relevant State Environmental Planning Policies and the Penrith Development Control Plan 2010 because it does not contravene any development standards and will not result in any significant impacts on the natural, social or economic environments.

The site is suitable for the proposed development, the proposal does not conflict with the public interest, and there is unlikely to be negative impacts arising from the proposed development. Accordingly, the application is worthy of support and is recommended for approval, subject to recommended conditions.

Recommendation

1. That DA14/1267 for a Motor Showroom at 229-231 Mulgoa Road, Jamisontown be approved subject to the attached conditions.
2. That those making submissions are notified of the determination.
3. That the RMS be provided a copy of the determination within 7 days in accordance with Clause 104 of the SEPP (Infrastructure) 2007.

General

1 A001

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

Description	Number	Date	Author
Site and Ground Floor Plan	1138.DA.01D	11/02/14	N.F. Billyard P/L
Ground Floor Plan	1138.DA02	7/10/14	N.F. Billyard P/L
Roof Plan	1138.DA03	7/10/14	N.F. Billyard P/L
Elevations	1138.DA04	7/10/14	N.F. Billyard P/L
Elevations	1138.DA05	7/10/14	N.F. Billyard P/L
Sections	1138.DA06	7/10/14	N.F. Billyard P/L
Proposed Car Yard Lighting	14993E1	04/02/2015	Hamilton Lighting Systems
Stormwater Drainage Details	100878-1-A	7/10/14	Kneebone, Beretta & Hall Pty Ltd
Waste Management Plan	–	10/10/14	Noel Billyard
Schedule of External Finishes	1138	–	N.F. Billyard P/L

2 A019 - OCCUPATION CERTIFICATE (ALWAYS APPLY)

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

3 A029 - HOURS OF OPERATION AND DELIVERY TIMES

The approved operating hours are from 7:00am to 7:00pm Mondays to Fridays, 8:00am to 6:00 pm Saturdays and Sundays. Delivery and service vehicles generated by the development are limited to these operating hours.

4 A032 - Goods in buildings

All materials and goods associated with the use shall be contained within the building at all times unless otherwise approved by this consent.

5 A038 - LIGHTING LOCATIONS

Exterior lighting shall be located and directed in such a manner so as not to create a nuisance to surrounding landuses. The lighting shall be the minimum level of illumination necessary for safe operation. The lighting shall be in accordance with AS 4282 "Control of the obtrusive effects of outdoor lighting" (1997).

6 A039 - Graffiti

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

7 A046 - Obtain Construction Certificate before commencement of works

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

8 A Special (BLANK)

The maximum size vehicle permitted to enter or service the site is a 19 m long (unladen) articulated vehicle.

9 A Special (BLANK)

A Vehicle Service Management Plan must be submitted to and approved by Council prior to the issue of a Construction Certificate. The Vehicle Service Plan of Management shall, at a minimum, contain the following:

- A clear statement that the operator will not accept deliveries from vehicles larger than 19 m in length.
- A clear statement that no unloading of vehicles will take place on the street or footpath / verge.
- A clear statement indicating that the on-site delivery area will be kept free of other vehicles and obstructions.
- Information as to what operational measures will be implemented to prevent a wholesaler delivering via vehicles greater than 19 m in length.
- Outline what action will be taken by the operator in the event that a delivery vehicle / driver attempts to commence unloading on-street.
- Address routes to and from the site, via the local road network, and the frequency / timing of deliveries.
- Any relevant attachments, such as vehicle standards information or relevant correspondence.

The operation of the site must comply with the Vehicle Service Management Plan at all times, for the life of the development.

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

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

(a) Operational Waste Management Plan

The operational waste management plan shall be prepared in accordance with the Penrith Development Control Plan 2010, and shall address all waste materials likely to result from the proposed development, with details of the estimated waste volumes, on site storage and management, proposed re-use of materials, and designated waste contractors, recycling outlets and / or landfill sites.

The approved operational waste management plan must be implemented on-site and adhered to throughout all stages of the development, with supporting documentation / receipts retained in order to verify the recycling and disposal of materials in accordance with the plan.

(b) Spill Prevention and Clean Up Procedures

A plan detailing spill prevention, contingency and emergency clean-up procedures shall be submitted for the development. The procedures plan shall be implemented in the event of a spill or emergency.

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

Any rooftop plant and/or structures shall be appropriately screened. All screening measures shall integrate with the overall building design.

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

The site shall be serviced by a private water refuse contractor. Suitable arrangement in this regard shall be in place prior to the occupation of the building.

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

Detailed specifications of the proposed pylon sign shall be submitted prior to the issue of a Construction Certificate.

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

The workshop area is to be used for servicing of vehicles associated with the motor vehicles sales aspect of the development.

No separate vehicle body workshop or vehicle repair station are permitted to operate on site.

Environmental Matters

15 [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.

16 [D002 - Spraygrass](#)

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

17 [D007 - Cut and fill of land requiring Validation Certificate –limited to footprint](#)

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

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

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

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

18 **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.

19 **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.

20 **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.

21 **D020 - Vehicle wash bay**

All vehicle washing, engine degreasing and steam cleaning shall be conducted in a wash bay approved, installed and connected to the sewer in accordance with Sydney Water's requirements.

Details of the vehicle wash bay including the Section 73 Certificate issued by Sydney Water for the discharge of trade waste from the premises shall be submitted to the Principal Certifying Authority before the wash bay can be installed.

22 **D021 - Waste oil storage &**

Waste oil shall be stored in a covered and bunded area and regularly removed to a waste oil recycle operation.

23 **D022 - Mechanical repairs**

All mechanical repairs shall be conducted within the workshop area which shall be provided with suitable pollution control devices that removes grease, oil, petroleum products and grime prior to discharge to the sewer system in accordance with the requirements of Sydney Water.

No mechanical work shall be carried out in open driveways or car parking areas.

The following details are to be submitted to and approved by Penrith City Council before a Construction Certificate can be issued for the development:

- Proposed pollution control devices in accordance with Sydney Water requirements.

A copy of Council's approval of the information submitted for the above matter is to be provided to the Certifying Authority as part of the Construction Certificate application.

24 **D023 - Bunding**

All works and storage areas where spillages are likely to occur shall be bunded. The size of the area to be bunded shall be calculated as being equal to 10% of the total volume of containers stored, or 110% of the largest container stored, whichever is the greater. All bunded areas shall be graded to a blind sump so as to facilitate emptying and cleaning. Details are to accompany the application for a Construction Certificate.

25 **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.

26 [D131 - Approved noise level 2](#)

Noise levels from the premises shall not exceed the relevant noise criteria detailed in the Acoustic Assessment prepared by BGMA Pty Ltd, dated October 2014, ref BMGA140514A. The provisions of the Protection of the Environment Operations Act 1997 apply to the development, in terms of regulating offensive noise.

BCA Issues

27 [E006 - Disabled access and facilities](#)

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

28 [E008 - FIRE SAFETY LIST WITH CONSTRUCTION CERTIFICATE](#)

A fire safety list of essential fire or other safety measures shall be submitted to Penrith City Council prior to the issue of the Construction Certificate. The fire safety list shall specify all measures (both current and proposed) that are required for the building so as to ensure the safety of persons in the building in the event of fire. The fire safety list must distinguish between:

- the measures that are currently implemented in the building premises,
- and the measures that are to be proposed to be implemented in the building premises, and must specify the minimum standard of performance for each measure.

29 [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.

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

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

- (a) complying with the deemed to satisfy provisions, or

(b) formulating an alternative solution which:

- complies with the performance requirements, or
- is shown to be at least equivalent to the deemed to satisfy provision, or

(c) a combination of (a) and (b).

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

Health Matters and OSSM installations

31 [F006 - Water tank & nuisance](#)

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

Utility Services

32 [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.

33 [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

34 [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.

35 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.

36 H011 - Engineering plans & specifications

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

37 H041 - Hours of work (other devt)

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

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

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

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

Engineering

38 **K027 - Car Parking**

A total of 30 off-street parking spaces are to be provided, linemarked and maintained for the development. The parking space dimensions and manoeuvring areas are to comply with AS 2890.1 and AS 2890.2 the Building Code of Australia and the Commonwealth Disability Discrimination Act.

Of the 30 spaces, 2 parking spaces for persons with disabilities are to be provided in accordance with AS 1428.1 and are to be located within the spaces marked 1,2 and 3 adjacent to the main entrance. The siting of these spaces will prevent any potential for conflict between pedestrian entrances to the building and persons with a disability utilising the shared zone.

39 **K029 – ‘In’ crossings**

The vehicular crossing Mulgoa Road is to be used for ingress purposes only and appropriately signposted "IN" prior to the issue of an Occupation Certificate.

40 **K033 - Customer parking sign**

A directional sign indicating the location of customer parking is to be provided prior to the issue of an Occupation Certificate.

41 **K202 - Section 138 Roads Act – Minor Works in the public road**

Prior to the issue of a Construction Certificate, a Section 138 Roads Act application/s, including payment of fees shall be lodged with Penrith City Council, as the Roads Authority for any works required in a public road. These works may include but are not limited to the following:

- Vehicular crossings (including kerb reinstatement of redundant vehicular crossings)
- Road opening for utilities and stormwater (including stormwater connection to Council infrastructure)
- Road occupancy or road closures

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. Contact Council's **City Works Department** on (02) 4732 7777 for further information regarding the application process.

Note:

1. Approvals may also be required from the Roads and Maritime Services for classified roads.

Council (being the Roads Authority under the Roads Act) shall approve the works completed on or over the road reserve. Contact Council's **City Works Department** on (02) 4732 7777 to arrange an inspection of the works (and payment of inspection fees, if required).

42 **K221 - Access, Car Parking and Manoeuvring – General**

Prior to the issue of a Construction Certificate, the Certifying Authority shall ensure that vehicular access, circulation, manoeuvring, pedestrian and parking areas associated with the subject development are in accordance with AS 2890.1, AS 2890.2, AS 2890.6 and Penrith City Council's Development Control Plan.

43 **K302 - Traffic Control Plan**

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

Traffic control measures shall be implemented during the construction phase of the development in accordance with the certified plan. A copy of the plan shall be available on site at all times.

Note: A copy of the Traffic Control Plan shall accompany the Notice of Commencement to Penrith City Council.

44 **K Special - K041 (Infrastructure restoration bond) (not adopted by Council. Used by planners)**

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

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

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

45 **K Special (BLANK)**

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

46 **K Special (BLANK)**

All vehicles (including delivery vehicles) are to enter/exit the site in a forward direction.

47 **K Special (BLANK)**

All car parking and manoeuvring must be in accordance with AS 2890.1-2004: AS 2890.6-2009 and Council's requirements. Vehicles are not to be parked or displayed on the verge and / or footway.

48 **K Special (BLANK)**

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

49 **K Special (BLANK)**

All unloading of stock vehicles is to take place on-site and not on adjoining roads.

50 **K Special (BLANK)**

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

51 **K Special (BLANK)**

Gates and gate fixtures must not encroach on entry/exit driveways, during operational hours, to allow full driveway width for heavy vehicle entry and egress.

52 **K special condition - Roads Act**

A Roads Act approval under Section 138 of the Roads Act is to be obtained from the Roads and Maritime Services for any works within the Mulgoa Road road reserve. In this regard, the Roads Act approval from the RMS is to be gained prior to the issue of the Construction Certificate for the development and prior to the separate Roads Act approval being granted by Council for the driveway works.

In this regard the he Roads and Maritime Services have advised as follows:

- The redundant driveway on the northern end of the site shall be removed and replaced with kerb and gutter to match existing. The design and construction of the kerb and gutter off Mulgoa Road shall be in accordance with Roads and Maritime requirements. Details of these requirements should be obtained from Roads and Maritime Project Services Manager, Traffic Projects Section, Parramatta on 8849 2138. Detailed design plans of the proposed gutter crossing are to be submitted to Roads and Maritime for approval prior to the issue of a Construction Certificate and commencement of any road works. It should be noted that a plan checking fee (amount to be advised) and lodgement of a performance bond may be required prior the release of the approved road design plans by Roads and Maritime.
- All demolition and construction vehicles are to be contained wholly within the site and vehicles must enter the site before stopping. A construction zone will not be permitted on Mulgoa Road.

53 **K Special Condition (BLANK)**

The stormwater management system shall be provided generally in accordance with the concept plan/s lodged for development approval, prepared by Kneebone, Beretta and Hall, reference number 100878-1-A, dated 07/10/2014 and Water Quality Assessment Report prepared by Wyndham Prince, dated 18 July 2014, Ref 9993.

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 Policy and Water Sensitive Urban Design Policy.

54 **K Special Condition (BLANK)**

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 Policy.

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.

55 **K Special Condition (BLANK)**

Prior to the issue of an Occupation Certificate the Principal Certifying Authority shall ensure that the:

- a) Stormwater management systems (including water sensitive urban design)
 - 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.

56 **K Special Condition (BLANK)**

Prior to the issue of an Occupation Certificate a restriction as to user and positive covenant relating to the:

- a) Stormwater management systems (including water sensitive urban design)
Shall be registered on the title of the property. The restriction as to user and positive covenant shall be in Penrith City Council's standard wording as detailed in Penrith City Council's Stormwater Drainage for Building Development.

57 **K Special Condition (BLANK)**

An Operation and Maintenance Manual shall be prepared for the stormwater treatment measures and 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.

Landscaping

58 L000 - Revised Landscape Plan

A revised landscape plan is to be submitted prior to the issue of a Construction Certificate addressing the following matters:

- (a) The plan is to be substantially in accordance with the stamped approved Site and Ground Floor Plan (Rev. D)
- (b) The landscaping between colorbond fence and 3.5m high panel wall on the western boundary is to be automatically irrigated. Callistemon shall be spaced 3m apart
- (c) A minimum 1.5m wide garden bed is required along the southern boundary fence to screen the fence and improve visual amenity. The screen planting shall attain a minimum height of 3.5 m and hardy low shrubs or grasses to a minimum height of 600mm shall be provided.
- (d) Additional external screening of the eastern wall of the storage area/panel wall and western panel wall shall be provided to improve the visual amenity from the street and inside the development e.g. a minimum 300 mm wide irrigated garden bed with creeper such as Parthenocissus Veitchii or Ficus pumila. This green wall treatment should also be considered for large expanses of walls to the building that face residential areas.
- (e) All garden beds shall be irrigated.
- (f) The palisade fence along the northern facade shall be relocated to run through the landscaping at a setback of 2 metres from the boundary, providing a visual softening of the fence from outside the site.
- (g) Plant schedule: Trees:
 - Waterhousia 'Luscious' is incorrect and not available. Replace with Waterhousia floribunda 'Sweeper'.
 - Add 1 x new tree on Mulgoa Rd landscaped frontage at eastern end of customer parking.
 - The 4 trees on Mulgoa Rd landscape frontage shall be tall large canopy trees and in keeping with other canopy tree landscaping along Mulgoa Rd such as Corymbia maculata.
 - All trees on road frontages (8) shall be min. 75L container size.
 - Provide min 5 x min 45 L tall street trees capable of achieving clear trunks to Willoring Crescent. Four trees shall be located approximately as follows: 5 m, 21 m, 33 m and 48 m from the new driveway and one tree west of the driveway. The location of street trees shall take into consideration underground services and street lighting effectiveness. Suggested street tree species include Lophostemon confertus and Eucalyptus sideroxylon
 - No tree species or size substitutions shall be made without Council's Landscape Architect's approval
- (h) Plant schedule: Other:
 - Remove from Willoring Crescent frontage the row of feature shrub Lilly Pilly 'Cascade' or justify the need for screen planting in this location. It is not consistent with the streetscape in this area.
- (i) A new garden bed shall be provided between Mulgoa Road frontage external display area and customer parking with low shrubs / groundcovers and a small tree (e.g. Magnolia 'Little Gem').
- (j) A low permanent, substantial yet attractive barrier to the northern and eastern edges of the Mulgoa Road external display pavement area shall be provided. This barrier must be a minimum of 300 mm high above the pavement e.g. post and rail. No part of the barrier shall be removable.
- (k) Provide open style palisade fencing and a gate for access to prevent unauthorized access to the landscaped buffer along the western boundary.
- (l) Replace the proposed colorbond fencing with open style palisade fencing along the easternmost 15 m of the southern boundary.

59 L001 - General

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

Landscaping shall be maintained:

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

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

60 L002 - Landscape construction

The approved landscaping for the site must be constructed by a landscape professional listed in Council's Approved Landscape Consultants Register as suitable to construct category 3 landscape works. The contractor must be a member of the Landscape Association NSW and ACT or equivalent.

61 L003 - Report requirement

The following series of reports relating to landscaping are to be submitted to the nominated consent authority at the appropriate time periods as listed below. These reports shall be prepared by a landscape professional listed in Council's Approved Landscape Consultants Register as suitable to design category 3 landscape works.

i. Implementation Report

Upon completion of the landscape works associated with the development and prior to the issue of an Occupation Certificate for the development, an Implementation Report must be submitted to the Principal Certifying Authority attesting to the satisfactory completion of the landscaping works for the development. The report is to be prepared by a landscape professional listed in Council's Approved Landscape Consultants Register as suitable to design category 3 landscape works.

An Occupation Certificate should not be issued until such time as a satisfactory Implementation Report has been received. If Penrith City Council is not the Principal Certifying Authority, a copy of the satisfactory Implementation Report is to be submitted to Council together with the Occupation Certificate for the development.

ii. Maintenance Report

On the first anniversary of the date of the Occupation Certificate issued for the development, a Landscape Maintenance Report is to be submitted to Penrith City Council certifying that the landscape works are still in accordance with the development consent and the plant material is alive and thriving.

This report is to be prepared by a landscape professional listed in Council's Approved Landscape Consultants Register as suitable to design category 3 landscape works.

iii. 3 Year Landscaping Report

3 years after an Occupation Certificate was issued for the development, a landscape professional listed in Council's Approved Landscape Consultants Register as suitable to design category 3 landscape works shall prepare a Landscaping Report for Council's consideration and approval, certifying to one of the following:

- (a) The landscaping on site has matured and is in accordance with the original landscape approval.
- (b) The landscaping on site has not matured in accordance with the original design philosophy and requires significant restoration.

In this case, restoration plans are to be submitted to Council for its consideration and approval. The approved plans shall be implemented at the expense of the property owners.

62 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.

63 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.

64 L Special (Tree protection - Australian Standards)

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

65 L Special (Trees of public property)

All precautions shall be taken to adequately protect trees on public property (i.e. footpaths, roads, reserves, etc.) against damage during construction. No trees on public property shall be removed, pruned or damaged during construction. This includes the erection of any fences, hoardings or other temporary works. The placement of construction materials beneath the canopy of street trees is prohibited.

Certification

66 **Q006 - Occupation Certificate (Class 2 - 9)**

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

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

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

67 **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 2010

Part C - Controls applying to all land uses

Part C9 - Advertising and signage

The proposed signage is compliant with the relevant provisions of this section being that all signage is incorporated into the facades of the proposed development aside from the single pylon sign. This pylon sign remains compliant with the DCP as the Plan allows for this type of signage in Business and Industrial zones provided it is a height less than 7 m and situated within a landscaped setback greater than 4 m in width.

Part C10 - Transport, access and parking

The applicant has advised that the largest vehicle servicing the site will be a 19 m AV. The consent will be conditioned accordingly with an additional requirement being the submission of a Service Vehicle Management Plan to ensure that no vehicles of greater size are utilised for loading, unloading or servicing of the site.

The access and egress points comply with the relevant Council requirements and the AS. The consent will also be conditioned to ensure that all parking areas, signage and line marking similarly comply.

Parking provision complies with Council's requirements for motor showrooms and workshop areas.

Part C12 - Noise and vibration

The DCP requires that noise generating development not be granted consent unless it can be shown that the development complies with the relevant standards and guidelines and does not impact on the amenity of the locality. Accordingly the applicant was required to submit an Acoustic Report prepared by BGMA Pty Ltd. This report ultimately found that even with the workshop and unloading of motor vehicles occurring on the western side of the building, compliant noise levels were achieved at the adjoining residential boundary due to the installation of a 3.5 m high acoustic barrier and 3 m landscaped setback from the western boundary.

D4 - Industrial development

The proposed development is generally consistent with the key controls of this DCP chapter however the following sections are raised for further discussion below.

4.2. Building Height

The proposed development complies with the 12 m height of building control of the Penrith Local Environmental Plan 2010. Additionally the design of the development has been through Council's Urban Design Review Panel and is accompanied by a Visual Impact Assessment which is considered to adequately demonstrate that the development will not adversely affect the scenic quality of the precinct.

4.3 Building Setbacks and Landscape

The proposed development complies with key controls for setbacks and landscaped area aside from the requirement that development fronting Mulgoa Road be setback a minimum of 20 m.

The proposed setback of 12 m to Mulgoa Road is considered to be acceptable given that the subject site is situated at the interface between the industrial/large floor plate commercial to the south and residential development to the north. The setback retains a 4 m landscaped area and the areas forward of the 20 m setback requirement are of significant architectural merit given the interesting design and large areas of glazing proposed. This corner site is an exposed location and as such it is important that the development punctuates the transition between residential and industrial/commercial with a high quality gateway treatment.

Additionally the requirement for a 20 m setback would force the workshop/service areas closer to the adjoining residential boundary and reduce the amount of on site parking/vehicle display area, forcing more of this hardstand area to be sited within the front setback. The proposed design response is therefore considered to be of merit for aesthetic and amenity outcomes as well as to facilitate logical access and egress for the site.

4.4 Building Design

As discussed above the proposed development is of considerable architectural merit. Given that it has gone before Council's UDRP and had the recommended revisions incorporated into its design, it is considered that the proposed development represents a suitable level of visual and environmental quality.

Loading and unloading is proposed to be undertaken at the rear of the site and screened from view from Mulgoa Rd, entrances are clearly marked and building doors are discernible and at a human scale. Particular care has been given to ensuring that variations in fascia treatments, roof lines and selection of building materials are used to achieve an attractive design.