

PENRITH CITY COUNCIL

MAJOR ASSESSMENT REPORT

Application number:	DA15/0856
Proposed development:	Before & After School Care for 60 Children
Property address:	171 Great Western Highway, EMU PLAINS NSW 2750
Property description:	Lot 7042 DP 93967
Date received:	31 July 2015
Assessing officer	Lauren Van Etten
Zoning:	RE1 Public Recreation - LEP 2010
Class of building:	Class 9b
Recommendations:	Approve

Executive Summary

Council is in receipt of a development application for the change of use of a building as an Out-of-School Hours Child Care Centre (OOSH) at the above site.

Under Penrith Local Environmental Plan 2010, the proposal is defined as a **child care centre**.

Key Issues identified for the proposed development and site include:

1. The site is situated within a low flood island and the application did not demonstrate that the centre will be able to evacuate the additional children during flood events

The applicant was advised of the issues and was requested to submit additional information. Council received revised information including the applicant's operational details and a flood evacuation strategy and found that the additional information adequately addressed the issues raised, subject to conditions of consent.

The subject site currently zoned RE1 Public Recreation and the proposed development is a permissible land use in the zone with consent.

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 conditions.

Site & Surrounds

The subject site is situated on the northern side of the Great Western Highway in Emu Plains, east of Lennox Village shopping complex, with vehicular access from Lawson Street.

The site is triangular in shape with a 20m frontage to Lawson Street, and a total area of 6171sqm.

The site is community land in Councils Land Register and includes an existing child care centre, an existing community centre, an existing OOSH, and a car parking lot with 16 spaces. The surrounding area is characterised by large recreational areas and low density residential development.

Previous development approvals granted by Council that relate to the subject property are listed below.

- 308/82 Child Care Centre
- 318/86 Branch Library
- 20/84 Neighbourhood Centre
- 12/88 Conversion of School Building (B&A School)

Proposal

The proposal involves the following:

- Fit out and minor reconfiguration of an existing library to accommodate an OOSH to cater for a maximum of 60 children, including facilities such as an office, a kitchen, an art room, an open play area, storage areas and 3 additional toilets, 1 of which is accessible for persons with a disability. It is noted that there is an existing OOSH on the adjoining property 20m to the west (4 Lawson Street) and this OOSH will re-locate into this building, as indicated on the stamped approved plans that show the existing OOSH as a 'vacant building';
- Provision of an outdoor playing area and a 1.8m high security fencing around this area and around the library's existing paved verandah;
- Use of the existing on-site parking area (consisting of 16 spaces);
- Construction of an additional bus loading area attached to the car parking area, with an area of approximately 85m²;
- 4 staff;
- The proposed hours of operations are 6:30am to 9am and 3pm to 6pm, Monday to Friday, and 6:30am to 6:00pm during school holidays;
- Provision of a bus service to drop children at two schools (Our Lady of the Rosary and Emu Heights Public School) at 8:30am and pick them up at 3:30pm. In addition, the proposed centre also caters to children attending Emu Plains Public School however the bus will not service this school as it is within walking distance to the proposed development; and
- Private cars are permitted to drop off children between 6:30am and 8am and pick them up between 5pm and 6pm.

Plans that apply

- Local Environmental Plan 2010 (Amendment 4)
- Development Control Plan 2010
- State Environmental Planning Policy No 55—Remediation of Land
- Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

- **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 No 55—Remediation of Land

Clause 7 of State Environmental Planning Policy No 55 - Remediation of Land (SEPP) requires Council to not grant consent to carrying out any development on land unless it has considered whether the land is contaminated. If the land is contaminated Council must be satisfied that land is suitable in its contaminated state and will be remediated in order for it to be suitable for the purpose for which the development is proposed.

Whilst the application does not address SEPP 55 - Remediation of Land, Council's Environment Management Officer reviewed the application and considered that the proposed development is suitable on this site. More specifically, as this building has been previously used as a library and is located within an established residential area, adjacent to public space it was considered that the site is suitable for residential use.

Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

The provisions of SREP No.20 apply to the property as it falls within the Hawkesbury-Nepean River Catchment. 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. As such, the site is located within an established residential area and is not within a scenic corridor of the river. It is considered that the proposal would not compromise the water or scenic qualities of the river environment and is therefore consistent with the strategies of SREP 20.

Local Environmental Plan 2010 (Amendment 4)

Provision	Compliance
Clause 1.2 Aims of the plan	Complies - See discussion
Clause 2.3 Permissibility	Complies - See discussion
Clause 2.3 Zone objectives	Complies - See discussion
Clause 7.2 Flood planning	Complies - See discussion

Clause 1.2 Aims of the plan

The proposed OOSH will provide a service that is suitable for the needs of residents and commits to healthy and safe communities subject to conditions of consent regarding the operational management of flood risk on the site.

The proposed development is considered to be compatible with the environmental capabilities of the land without having adverse impact on the other properties in the area.

The amount of traffic generated is unlikely to have adverse impacts on the safety and efficiency of the roads.

The application is therefore consistent with the aims and objectives of the LEP.

Clause 2.3 Permissibility

The subject site currently zoned RE1 Public Recreation under Penrith Local Environmental Plan 2010. The proposed development is defined as a Child Care Centre which is a permissible land use in the zone with Council's consent.

Clause 2.3 Zone objectives

The proposed OOSH will enable land to be used for a compatible land use within the recreational zone.

The proposal, being the change of use of an existing building, will not adversely affect the surrounding natural environment for recreational purposes.

The proposal provides land for the development of services and facilities by public authorities for the benefit of the community.

Clause 7.2 Flood planning

The subject property is identified as being on a low flood island. A low flood island is defined as a locality which becomes isolated in a flood event and which can be completely inundated by larger floods up to the probable maximum flood (PMF) level. It is noted that an OOSH already exists on the site and it intends to simply re-locate to the library building. However, given the vulnerable nature of the users of this development, as children, Council's Development Engineers required the applicant to address the flood prone nature of the site, including but not limited to, Flood Evacuation, Levels to Australian Height datum (AHD) and the requirements of the flood plain Development Manual.

The applicant has provided the following information in relation to the management of the centre during times of flooding:

The child care centre operates only as an OOSH and therefore does not have children on site for periods of time greater than 3-4 hours. This limited time frame enables centre operators and parents/care givers to make informed decisions regarding child drop-off and centre operation in relatively quick and timely manner and informed by current advice by Bureau of Meteorology and State Emergency Services. The communication system will include multiple channels of communication with parents, in the event of a flood, including via phone, social media, and via a message centre through a software provider.

In this regard it is unlikely that parents/care givers would seek to drop off children at the centre if there were warnings or risk that the site or nearby roads would be subject to flooding within a three hour period. Similarly, the centre would not seek to collect children from local schools in the afternoon if the site were likely to be exposed to flood hazard within a 3-4 hour periods.

In the event that the flood warning were issued by SES or BoM within the 3-4 hour timeframe within which the site was occupied, then the centre could utilise the services of existing mini-bus fleet to evacuate the site prior to that hazard. Accordingly, the site could be self-evacuated without any additional demands on State Emergency Services.

If the flood event occurs whilst there are children and staff on site, then provided that an adequate flood evacuation plan is in place, it is considered that the site will be able to safely evacuate along Lawson Street before it is cut off. Recommended conditions of consent will ensure a flood evacuation plan is prepared and implemented prior to the issue of an Occupation Certificate.

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	Complies
Part C8 - Public domain	Complies
Part C9 - Advertising and signage	N/A
Part C10 - Transport, access and parking	Complies
Part C11 - Subdivision	N/A
Part C12 - Noise and vibration	Complies
Part C13 - Infrastructure and services	Complies
Part D5 - Other land uses (e.g. Health consulting rooms, vehicle repair stations)	Complies - see Appendix - Development Control Plan Compliance

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

Council's Building Surveyor did not raise any objections to the proposal and recommended conditions be imposed in the consent. There are no further matters under the EP&A Regulations requiring consideration.

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

Social and Economic

The proposal will provide additional child care facilities for people living in the area.

Context and Setting

As the proposal includes the use of an existing building with minor external alterations, the proposal is consistent with the existing character of other development in the locality. The proposal is compatible with the surrounding and adjacent land uses and is not considered to have significant impacts on the amenity of the area.

Noise

An acoustic report was originally requested with this application to remain consistent with what has been sought for similar developments of this nature. However, Council's Environment Officer then provided additional comment that, given the location of the proposed development, the noise impacts associated with the use of the outdoor play area of the OOSH facility could be managed through a restriction on the use of the outdoor play area and the implementation of a noise management plan.

In addition, while the additional vehicle movements may cause some additional traffic noise, it is considered that this noise would be insignificant given the proximity to the shopping centre and the increased traffic in its vicinity.

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

The proposal is suitable for the following reasons:

- The proposed alterations to an existing building will suit its setting and context in term of the bulk and scale of the building in that area.
- The proposal fits within the locality as adequate public space opportunities exist for the children, and there are no adjoining hazardous land uses.
- The site is conducive to community facilities, given the existing transport facilities exist and the nature of the site as a community precinct.
- Flood hazard can be managed subject to Condition 11, which requires an evacuation management plan to be provided to Council prior to the issue of an Occupation Certificate.

Section 79C(1)(d) Any Submissions

Community Consultation

In accordance with Section 2.7 (Notification and Advertising) of Penrith Development Control Plan 2006, the proposed development was notified nearby and adjoining residents from 06/08/15 – 20/08/15. There were no submissions received.

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
Environmental - Environmental management	No objections - subject to conditions
Environmental - Public Health	No objections - subject to conditions

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

The proposed childcare centre is in the interest of the public as it provides a community service to the local area and is within close proximity to other community services. The childcare centre will have negligible impacts on the natural and built environment.

Conclusion

The proposal has been assessed against the relevant heads of consideration contained in Section 79C of the Environmental Planning and Assessment Act 1979 and has been found to be satisfactory. The site is suitable for the proposal and the proposal is in the public interest. The proposal is therefore worthy of Council's support.

Recommendation

That DA15/0856 for Out-of-School Hours Child Care Centre (OOSH) at 171 Great Western Highway, EMU PLAINS NSW 2750, be approved subject to the attached conditions.

CONDITIONS

General

1 [A001](#)

The development must be implemented substantially in accordance with the plans numbered E000 to E005 drawn by Designcorp and dated 02/07/15 and stamped approved by Council, the application form, and any supporting information received with the application, except as may be amended in red on the attached plans and by the following conditions.

2 [A012 - Food Act](#)

The proprietor of the food business shall ensure that the requirements of the NSW Food Act 2003, NSW Food Regulation 2010 and the Australian and New Zealand Food Standards Code are met at all times.

3 [A019 - OCCUPATION CERTIFICATE \(ALWAYS APPLY\)](#)

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

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

4 [A021 - Business Registration](#)

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

5 [A026 - Advertising sign \(not for residential\)](#)

A separate development application for the erection of a sign or advertising structure, other than an advertisement listed as exempt development, is to be submitted to Penrith City Council, complying with the requirements of Penrith Development Control Plan-Advertising Signs.

6 [A029 - HOURS OF OPERATION AND DELIVERY TIMES](#)

During the school term, the operating hours are from 6:30am to 9:00am and 3:00pm to 6:00pm Mondays to Fridays. During the school holidays, the operating hours are from 6:30am to 6:00pm.

The outdoor play area is not to be used prior to 7:00am when the facility is operational.

7 [A038 - LIGHTING LOCATIONS](#)

Prior to the issue of an Occupation Certificate, a lighting system shall be installed for the development to provide uniform lighting across common areas and driveways. 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).

8 [A039 - Graffiti](#)

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

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

The development is to be licensed by the NSW Department of Education and Communities under the Children (Education and Care Services) National Law (NSW); Education and Care Services National Regulations and National Quality Framework prior to commencing operation.

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

Childproof fencing and gates shall be provided around the outdoor play areas, and to the entrance of the child care centre.

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

Prior to the issue of an Occupation Certificate, a flood evacuation plan shall be submitted to Penrith Council for approval to ensure that the site can be safely evacuated during the 1 in 100 year annual recurrence interval flood event.

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

A maximum of sixty (60) children are permitted in the centre at any one time.

Environmental Matters

13 **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.

14 **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.

15 **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.

16 **D Special BLANK**

A Noise Management Plan (NMP) is to be prepared and submitted to Penrith City Council for consideration and approval **prior to the issue of the Occupation Certificate**. The NMP is to:

- address all noise related aspects of the development's operational phases, including a schedule describing the times of outdoor play for the children; and
- address the relevant conditions of this consent; and
- recommend any systems/controls to be implemented to minimise the potential for any adverse noise impact(s); and
- incorporate a program for ongoing monitoring and review to ensure that the NMP remains contemporary with relevant environmental standards.

The approved Noise Management Plan is to be implemented and complied with at all times.

17 **D Special BLANK**

In the event of ongoing noise complaints relating to the development being received by Council, the owner and/or occupier of the development maybe required by Council to obtain the services of a suitably qualified acoustic consultant to undertake a noise impact assessment on the development to address the concerns of the community.

The noise impact assessment report is to be prepared and provided to Council for approval within 45 days of being requested. Any mitigation works are to be undertaken within thirty (30) days from the date of notice from Council, unless otherwise specified.

BCA Issues

18 **E002 - BCA ISSUES TO BE ADDRESSED**

The following design issues need to be addressed **prior to the issue of any Occupation Certificate to ensure compliance with the Building Code of Australia**:

- (a) Emergency and exit lighting is to be installed.
- (b) Portable fire extinguishers are to be installed.

Upon completion an Installation Certificate is to be obtained.

19 **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".

20 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.

21 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

22 F001 - General Fitout

The construction, fit out and finishes of the food premises must comply with Standard 3.2.3 of the Australian and New Zealand Food Standards Code, and AS 4674-2004 *Design, Construction and Fitout of Food Premises*.

23 F022 - Commercial kitchen(exhaust system)

Cooking appliances which exceed a total maximum power input of 8kw for electrical, or a total gas input of 29MJ/h for a gas appliance are required to have a kitchen exhaust system installed in accordance with Clause F4.12 of the Building Code of Australia and Australian Standard 1668 Parts 1 & 2.

Detailed plans together with calculations for the system must be provided **prior to the issue of an Occupation Certificate**.

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

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

Prior to the issue of an Occupation Certificate, and operation of the business, the exhaust system shall be certified by an appropriately qualified person to comply with the Building Code of Australia and Australian Standard 1668 Parts 1 & 2. A copy of the certification and supporting documentation must be provided to Council's Environmental Health Department if Council is not the Principal Certifying Authority

24 F024 - Food authority notification

Prior to the operation of the food business the business must notify the NSW Food Authority of their details including:

- (a) Contact details for the food business, including the name and address of the business and the proprietor of the business.
- (b) The nature of the food business.
- (c) The location of any other food premises associated with the food business, within the jurisdiction of NSW Food Authority.

Should these details change during the operation of the business the business operator must provide the NSW Food Authority with an update of these details.

Notification can be completed free of charge on the NSW Food Authority's Food Notify website at www.foodnotify.nsw.gov.au.

25 F027 - Hand basins

Hand basins shall be freestanding, serviced with hot and cold water through a single outlet, able to be mixed at a temperature of at least 40°C and fitted with a hands free operation. Where sensor taps are installed the basin must not be more than 6 metres from the hot water system. Disposable paper hand towels and soap must be provided and serviced from a dispenser adjacent to each hand basin.

26 F028 - Staff toilets

Staff toilets shall be provided on the premises. Where a toilet adjoins a food preparation area it must be separated by an air lock and its doors must be fitted with self closing devices. Toilets intended for customer use must not be accessed through areas where open food is handled, displayed or stored.

27 F029 - Hand basin within staff toilets

A hand basin shall be located within the toilet cubicle. Hand basins must be freestanding, serviced with hot and cold water through a single outlet, able to be mixed at a temperature of at least 40°C and fitted with a hands free operation. Where sensor taps are used the basin must not be more than 6 metres from the hot water system. Disposable paper hand towels and soap must be provided and serviced from a dispenser adjacent to each hand basin.

28 F032 - Floor covering

Approved, recessed coving shall be provided at all intersections of the floor with the walls within all food preparation, service, storage and scullery areas. All coving must have a minimum concave radius of 25mm and be installed so as to be integral to the surface finish of both floor and wall in such a manner as to form a continuous, uninterrupted surface.

29 F033 - Walls – food prep area

The walls of the food preparation area shall be of solid construction and finished with glazed ceramic tiles or other approved material to a height of 2 metres. The intersection of tiles and render must have a flush finish, or be splayed at a 45 degree angle to eliminate a ledge that would allow dust and grease to accumulate.

30 F034 - Walls – behind cooking appliances

The walls at the rear of cooking appliances must be surfaced with an impervious material, such as stainless steel, which extends from the canopy to the floor. Where a cooking appliance is sealed to the wall, the material must be lapped over the top edge of the appliance to provide a grease and vermin proof seal. Cooking appliances must only be sealed to walls made of a non-combustible material.

31 F035 - Ceilings

The ceiling in the preparation, service and scullery areas must be constructed with a rigid, non-absorbent, smooth faced material free from open joints, cracks and crevices and be painted with a light coloured washable paint. The intersection of the walls and ceiling must be tight jointed, sealed and dust proofed. Drop-in panel style ceilings are not permitted.

32 F036 - Service pipes

Service pipes, electrical conduits, refrigeration condensate pipes shall be enclosed or chased into walls, floors or plinths. Where it can be demonstrated that this is not feasible pipes and conduits fixed on brackets, providing a minimum of 25 mm clearance from the adjacent wall and 100 mm from the floor or adjacent horizontal surface, can be used. All openings in walls, floors and ceilings, through which service pipes and conduits pass, must be vermin proof.

33 F039 - Fly screens

Flyscreens or other approved means of excluding flies must be provided to all window and door openings.

34 F042 - Dishwasher

Details of the dishwashing/glass washing machines must be submitted to Council and approved **prior to installation**. All utensils and equipment must undergo a washing, sanitising and rinsing cycle. The sanitising rinse cycle must achieve a water temperature of 80°C for 2 minutes or 75°C for 10 minutes.

35 F043 - Hot & cold water at sinks

All wash sinks and food preparation sinks must be serviced with hot and cold water through a single outlet. Wash sinks must be supplied with water at a temperature of not less than 54 °C for washing.

36 F047 - Fixtures & fittings

All fixtures, fittings and equipment must be provided with smooth and impervious surfaces, free from cracks and crevices to enable easy cleaning.

All fittings and fixtures must be built into the wall and floor so as to be free from joint, gaps and cavities to enable easy cleaning or alternatively, supported on one of the following:

- a. Plinths – plinths must be an integral part of the floor, constructed of solid materials similar to the floor at least 75mm in height and coved at the intersection with the floor. All plinths must have a smooth and impervious finish. All fittings and fixtures must be properly sealed to the plinth so to be free from gaps, cracks and cavities.
- b. Wheels or castors – fittings and fixtures can be supported on wheels or castors. The wheels and castors must be capable of supporting and easily moving a full loaded fitting. All wheels and castors must be provided with a restraining device.
- c. Legs – fittings and fixtures can be supported on legs but must be constructed of a non-corrosive, smooth metal or moulded plastic. All legs must be free from cracks and crevices. All legs must have a clearance space between the floor and the underside of the fitting of at least 200 mm.

NOTE: False bottoms under fittings are not permitted (AS 4674-2004 – Section 4.2 and 4.3).

37 F048 - Food prep benches

All food preparation benches must be constructed in stainless steel or finished in a smooth and non-absorbent approved material that is free of joints.

38 F050 - Light bulbs & tubes

Light bulbs or tubes are to be shatterproof or fitted with approved light diffusers (covers or shields) to prevent contamination of food by glass from a broken light globe or tube. Light fittings must be free from any feature that would collect dirt or dust, harbour insects or make the fitting difficult to clean. Light fittings must be recessed into ceilings or equipment where possible. Heat lamps must be protected against breakage by a shield extending beyond the bulb.

39 F057 - Waste storage

All garbage must be stored in accordance with the requirements of the Food Safety Standards of the Australian and New Zealand Food Standards Code and the *Protection of the Environment Operations Act 1997* to prevent the harbourage of vermin or generation of odours.

40 F060 - Grease Arrestor

The grease arrestor must not be installed in any kitchen, food preparation or food storage area. The grease arrestor shall be installed in accordance with Sydney Water's requirements.

Construction

41 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 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

42 K222 - Access, Car Parking and Manoeuvring – General

Prior to the issue of any Occupation 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.

Landscaping

43 L001 - General

All landscape works are to be constructed in accordance with the stamped approved plan E500, dated 02/07/15 and Section F5 "Technical Information" of Penrith Council's Landscape Development Control Plan 2014.

Landscaping shall be maintained:

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

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

44 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.

45 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.

46 L012 - Existing landscaping (for existing development)

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

Certification

47 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.

48 Q05F - Occupation Certificate for Class10

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

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

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

Appendix - Development Control Plan Compliance

Development Control Plan 2010

D5 - Other land uses

Part D5, Section 5.2 - Child Care Centres

The proposal generally complies with the controls for child care centres as they are applicable to an OOSH, however the following is noted.

Shade

The development application has inconsistencies with the shading devices to be provided to outdoor play areas of child care centres. However, in this regard it is noted that there are several mature trees surrounding the outdoor play area and, additionally, the proposal nominated that further detail regarding the outdoor play areas will be provided as part of a separate future application.

Car Parking

A child care is to provide 1 space per 10 children plus 1 space per employee. Given the centre proposes to cater for 60 children, with 4 staff, 11 on-site parking spaces are required. As the existing car parking lot provides for 16 on-site spaces available, including 1 accessible parking space, the amount of on-site parking provided is in excess of what is required.

The nature of the operation of the centre would require parents to park their cars on a short term basis to drop off and collect children from the centre. It is noted that this carparking is also shared by an existing child care centre on the site. However, while there may be some overlapping use by the two separate operations, this is not considered to generate a significant amount of traffic given that the hours of operation of the OOSH differ from that of the child care centre and given the highly staggered times for children drop off and pick up. In addition, an internal assessment review panel noted that parking can be utilised along Lawson Street, if necessary, given the low density development along this street.

In addition, the centre provides for safe pedestrian access from the parking area to the entrance of the building via an existing paved pathway.

The proposal also includes a bus service which will drop off children at schools at approximately 8:30am and pick them up at 3:30pm. These requirements have formed conditions of consent. In addition, as the bus will utilise the proposed bus parking bay, this service will not affect the availability of car parking spaces.

Two-way movement of vehicles within the site and the width of the driveways will ensure safe access for emergency vehicles and emergency or other service vehicles.