

# PENRITH CITY COUNCIL

## MAJOR ASSESSMENT REPORT

<b>Application number:</b>	DA16/1308
<b>Proposed development:</b>	Extension to Existing Industrial Building
<b>Property address:</b>	158 - 164 Old Bathurst Road, EMU PLAINS NSW 2750
<b>Property description:</b>	Lot 2 DP 588919 Lot 1 DP 588918
<b>Date received:</b>	2 December 2016
<b>Assessing officer</b>	Timothy Mahoney
<b>Zoning:</b>	IN1 General Industrial - LEP 2010
<b>Class of building:</b>	Class 8
<b>Recommendations:</b>	Approve

### Executive Summary

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Council is in receipt of a development application for an extension to an existing industrial building at 158-164 Old Bathurst Road, Emu Plains. Under the Penrith Local Environmental Plan 2010, the proposal is permissible with Council consent.

The subject site is zoned IN1 General Industrial and the proposal is a permissible land use in the IN1 zone with Council consent.

The application was not required to be notified in accordance with Appendix F4 of Penrith Development Control Plan 2014.

An assessment of the proposal 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

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The subject site is Lot 1 in DP 588918 and Lot 2 in DP 588919 and is located in the industrial area of Emu Plains on the southern side of Old Bathurst Road. Lot 1 has an area of approximately 8 ha with a 231m frontage to Old Bathurst Road and Lot 2 has an area of approximately 8 ha with a 251m frontage to Old Bathurst Road. Overall the site is 16 ha in area and is approximately 1.7km west of Emu Plains railway station.

The site is currently occupied by a pipe factory. The subject building is situated on the south-eastern portion of the site.

The immediate surrounding area is characterised by industrial development sharing similar characteristics and building forms.

### Proposal

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The applicant seeks approval for an extension to an existing industrial building at 158-164 Bathurst Road, Emu Plains.

## Plans that apply

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

## Planning Assessment

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### • 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**

#### **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 (Amendment 4)**

<b>Provision</b>	<b>Compliance</b>
Clause 1.2 Aims of the plan	Complies
Clause 2.3 Permissibility	Complies
Clause 2.3 Zone objectives	Complies
Clause 2.7 Demolition requires development consent	N/A
Clause 4.3 Height of buildings	Complies
Clause 5.9 Preservation of trees or vegetation	Complies
Clause 7.1 Earthworks	Complies
Clause 7.2 Flood planning	Complies
Clause 7.4 Sustainable development	Complies
Clause 7.5 Protection of scenic character and landscape values	Complies
Clause 7.7 Servicing	Complies
Clause 7.9 Development of land in the flight paths of the site reserved for the proposed	N/A

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

There are no draft Environmental Planning Instruments that apply to the proposal.

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

### Development Control Plan 2014

Provision	Compliance
DCP Principles	Complies
C1 Site Planning and Design Principles	Complies
C2 Vegetation Management	Complies
C3 Water Management	Complies
C4 Land Management	Complies
C5 Waste Management	Complies
C6 Landscape Design	Complies
C7 Culture and Heritage	N/A
C8 Public Domain	N/A
C9 Advertising and Signage	N/A
C10 Transport, Access and Parking	Complies
C11 Subdivision	N/A
C12 Noise and Vibration	Complies
C13 Infrastructure and Services	N/A
D4.1. Key Precincts	Complies
D4.2. Building Height	Complies
D4.3. Building Setbacks and Landscape	Complies
D4.4. Building Design	Complies
D4.5. Storage of Materials and Chemicals	Complies
D4.6. Accessing and Servicing the Site	Complies
D4.7. Fencing	N/A
D4.8 Lighting	N/A
E5 Emu Plains controls	N/A

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

There are no planning agreements applying to this proposal.

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

The proposal as submitted is assessed as being capable of complying with the applicable provisions of the BCA and those related to fire safety as required under the EP & A Regulation 2000. Standard conditions are recommended in this regard.

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

### *Traffic, Access and Parking*

The proposal does not alter the existing arrangements for access and parking on the site. *Penrith Development Control Plan 2014* states 1 space per 75 sq.m of gross floor area or 1 space per 2 employees (whichever is greater) is required to be provided for industries. However, the proposal will not result in additional employees and will not alter the existing demand for on-site parking. No additional on-site parking is therefore required.

### *Noise Impacts*

No ongoing additional noise impacts will be generated as a result of the proposal.

### *Visual Impacts*

*Penrith Local Environmental Plan 2010* maps the site as having Scenic and Landscape Values. A Visual Impact Assessment accompanied the application and satisfies the requirements of the LEP and DCP.

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

The site is suitable in light of the above assessment. Council can therefore be satisfied that the site is suitable for the development subject to conditions.

## Section 79C(1)(d) Any Submissions

### **Community Consultation**

The proposal was not required to be notified in accordance with Appendix F4 of *Penrith Development Control Plan 2014*.

### **Referrals**

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

<b>Referral Body</b>	<b>Comments Received</b>
Building Surveyor	No objections - subject to conditions
Development Engineer	No objections
Environmental - Environmental management	No objections - subject to conditions
Environmental - Waterways	No objections

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

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

## **Conclusion**

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In assessing the proposal against the relevant environmental planning policies, being *Penrith Local Environment Plan 2010* and *Penrith Development Control Plan 2014*, the proposal satisfies the aims, objectives and provisions of these policies. It does not contravene any development standards and will not incur any significant impacts on the surrounding/immediate natural, social or economic environments.

The site is suitable for the proposed development, the proposal is in the public interest and there is unlikely to be negative impacts arising from the proposed development. Therefore, the application is worthy of support, subject to recommended conditions.

## Recommendation

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That DA16/1308 for an extension to an existing industrial building at 158-164 Bathurst Road, Emu Plains be approved subject to the attached conditions.

# CONDITIONS

## 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 may be amended in red on the approved plans and by the following conditions.

Description	Reference	Prepared By	Date
Site Plans	B 62186 (B)	Rocla P/L	25/10/16
Floor Plan	B 62187 (A)	Rocla P/L	26/10/16
Floor Layout	B 62193 (A)	Rocla P/L	04/11/16
Elevations	B 62189 (A)	Rocla P/L	26/10/16
Waste Management Plan	-	-	01/12/16

### 2 A008 - Works to BCA requirements (Always apply to building works)

The works must be carried out in accordance with the requirements of the Building Code of Australia.

### 3 A019 - OCCUPATION CERTIFICATE (ALWAYS APPLY)

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

### 4 A046 - Obtain Construction Certificate before commencement of works

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

### 5 A Special 1

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

### 6 A Special 2

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

### 7 A Special 3

The subject allotments are to be consolidated as one lot prior to the issue of an Occupation Certificate.

## Environmental Matters

### 8 D001 - Implement approved sediment& erosion control measures

An Erosion and Sediment Control Plan shall be submitted and approved prior to the issue of a Construction Certificate.

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.

### 9 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 Development Control Plan 2014 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."}

10 **D009 - Covering of waste storage area**

All waste materials stored on-site during demolition and construction works are to be contained within a designated area such as a waste bay or bin to ensure that no waste materials are allowed to enter the stormwater system or neighbouring properties. The designated waste storage areas shall provide at least two waste bays / bins so as to allow for the separation of wastes, and are to be fully enclosed when the site is unattended.

11 **D010 – Appropriate disposal of excavated or other waste**

All excavated material and other wastes generated as a result of the development are to be re-used, recycled or disposed of in accordance with the 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.

12 **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.

13 **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.

## **BCA Issues**

14 **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.

## 15 E01A - BCA compliance for Class 2-9

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

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

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

## Utility Services

### 16 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](http://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.

### 17 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.

## Construction

### 18 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.



## 19 H002 - All forms of construction

Prior to the commencement of construction works:

(a) Toilet facilities at or in the vicinity of the work site shall be provided at the rate of one toilet for every 20 persons or part of 20 persons employed at the site. Each toilet provided must be:

- a standard flushing toilet connected to a public sewer, or
- if that is not practicable, an accredited sewage management facility approved by Council, or
- alternatively, any other sewage management facility approved by Council.

(b) 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.

## 20 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

### 21 K201 - Infrastructure Bond

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

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

Contact Penrith City Council's City Works Department on (02) 4732 7777 or visit Penrith City Council's website for more information.

## 22 [K209 - Stormwater Discharge – Minor Development](#)

Stormwater drainage from the building shall be discharged to the:

- d) Existing site drainage system

The proposed development and stormwater drainage system shall be designed to ensure no adverse impact on adjoining properties by the diversion, damming or concentration of stormwater flows.

The proposed method of stormwater discharge shall be detailed in the Construction Certificate issued by the Certifying Authority.

## Landscaping

### 23 [L007 - Tree protection measures–no TMP with DA](#)

All trees that are required to be retained as part of the development are to be protected in accordance with the minimum tree protection standards prescribed in Penrith Development Control Plan 2014.

### 24 [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.

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

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

## Certification

### 26 [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.

### 27 [Q05F - Occupation Certificate for Class 10](#)

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 development.

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.