

PENRITH CITY COUNCIL

MAJOR ASSESSMENT REPORT

Application number:	DA16/0558
Proposed development:	Warehouse, Office, Truck Wash Bay & Yard Area for General Plant, Equipment & Earthmoving Equipment (Proposed Lot 201)
Property address:	54 Tyrone Place, ERSKINE PARK NSW 2759
Property description:	Lot 22 DP 1178567
Date received:	14 June 2016
Assessing officer	Mathew Rawson
Zoning:	SEPP - (WSEA) 2009 - ZONES IN1 + E2
Class of building:	Class 7b , Class 5
Recommendations:	Approve

Executive Summary

Council is in receipt of a development application for the construction of a warehouse and office facilities including the development of hardstand, crushed rock area, car parking and site landscaping at 54 Tyrone Place, Erskine Park. The subject site is zoned IN1 General Industrial under the State Environmental Planning Policy (SEPP) (Western Sydney Employment Area) 2009. Warehouse or distribution centres are permissible with consent in the zone.

Key issues identified for the proposed development and site include:

- Previous subdivision approval (DA15/0907) dealt with biodiversity impacts, drainage infrastructure within riparian corridor and the construction of a cul-de-sac head and other services. This subdivision is yet to be finalised by a Subdivision Certificate, accordingly a condition of consent will be imposed to ensure that the works occur before an OC is issued for the subject development.
- The proposed development involves works within 40 m of a mapped watercourse. Accordingly the application required the issue of a Controlled Activity Approval from the Department of Primary Industries - Water (DPI). Any development which requires an Activity Approval under the Water Management Act 2000 is Integrated Development under Section 91 of the Environmental Planning and Assessment Act 1979, accordingly the application was notified to adjoining and adjacent neighbours as well as placed on public exhibition for a period of 14 days, no submissions were received.
- The land use is for a company which deals in the hire of plant, equipment and earthmoving machinery. Vehicle sales or hire premises are a prohibited land use in the IN1 zone. However the subject DA is for the warehouse and distribution centre for Tutt-Bryant, NOT a retail sales office accordingly the development is consistent with the definition of the warehouse or distribution centre subject to a condition of consent which prohibits retail sales or hire.
- Certification is required from the Department of Planning and Environment for the provision of regional infrastructure. The Department issued this certificate for DA16/0558 on 29 July 2016.

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

Background

Approval for subdivision and civil works was granted for the subject site under DA15/0907.

Site

The development is site is proposed Lot 201 approved under DA15/0907. The site is a 4.16 Ha lot zoned IN1 General Industrial with frontage to Tyropne Place tot he north-eastern corner.

Surrounds

The site immediately adjoins a riparian corridor to the west and north which is zoned E2 Environmental Conservation and used as a biodiversity corridor to offset the development of the surrounding industrial land. The impact of the development of this site for industrial land uses was investigated under DA15/0907.

The east and south the site adjoins vacant industrial land. On a broader scale the site is located at the western end of the Erskine Business Park industrial precinct which consists primarily of warehouse land uses. The site is approximately 400 m from the nearest residential area to the north.

Proposal

The proposal seeks development consent for the construction and use of a warehouse and office facility. Specifically the proposal entails the following:

- Construction, fit-out and use of a warehouse with ancillary office and washbay;
- Construction of hardstand and heavy vehicle access roads;
- Construction of an at-grade car parking area;
- Provision of a crushed rock area;
- Signage;
- Site Landscaping.

It is noted that the development reflect the built form proposed subject to this DA only. It is noted that this development represents a second built form development for the site, additional to that previously proposed under DA 16/0333 (currently under assessment). Accordingly, in conjunction with DA 16/0333 and this DA, it is proposed to provide two (2) facilities on the site (approved lot 201). Resultantly approved lot 201 is proposed to be developed for the purposes of a warehouse and office facility to be occupied by Loscam Ply Ltd and a second warehouse and office facility to be occupied by Tutt Bryant. These facilities are to be located on the same lot divided by a lease boundary only.

Plans that apply

- Development Control Plan 2014
- State Environmental Planning Policy (Infrastructure) 2007
- State Environmental Planning Policy (Western Sydney Employment Area) 2009
- 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 91- Integrated development**

Section 91 of the Environmental Planning and Assessment Act 1979, identifies the subject development as Integrated Development as it requires a Controlled Activity Approval under Section 91 of the Water Management Act 2000.

Accordingly the development was advertised in accordance with the Regulations and referred to the NSW Department of Primary Industry - Water (DPI). The DPI issued an approval for the Controlled Activity Approval and GTAs for the development subject to certain requirements which will be imposed by way of a recommended condition of consent.

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

State Environmental Planning Policy (Infrastructure) 2007

State Environmental Planning Policy (Infrastructure) 2007 provides for certain proposals, known as Traffic Generating Development, to be referred to NSW Roads and Maritime Services (RMS) for concurrence.

The referral thresholds for 'industry' are:

- 20,000 sqm in area; or
- 5,000 sqm (site with access to classified road or to road that connects to classified road (if access within 90m of connection, measured along alignment of connecting road)).

The proposed development contains a total building area of 850 sqm and therefore does not trigger the referral threshold for industry. Accordingly referral to the RMS is not required.

State Environmental Planning Policy (Western Sydney Employment Area) 2009

Zoning and Permissibility

The land is zoned IN1 General Industrial under the provisions of the SEPP (Western Sydney Employment Area) 2009. The Warehouse, Office, Truck Wash Bay & Yard Area for General Plant & Equipment Hire & Earthmoving Equipment Hire Facility is considered to be best described as a warehouse or distribution centre under the standard instrument dictionary given that no retail sales or hire will be permitted from the site. The definition of warehouse or distribution centres is:

"a building or place used mainly or exclusively for storing or handling items (whether goods or materials) pending their sale, but from which no retail sales are made".

Warehouse or distribution centres are permissible with consent and the proposal is considered to be consistent with the objectives of the zone.

Development Involving Subdivision

The consent authority must not grant consent to the carrying out of development involving the subdivision of land unless it has considered the following:

- (a) the implications of the fragmentation of large lots of land,*
- (b) whether the subdivision will affect the supply of land for employment purposes,*
- (c) whether the subdivision will preclude other lots of land to which this Policy applies from having reasonable access to roads and services.*

The proposal does not involve subdivision but does result in the creation of some 'residue' land to be used for other purposes and to be managed via lease arrangements. Given that another DA is currently before Council for the use of this land it is not considered to affect the supply of land for employment purposes nor preclude the residue land from having reasonable access to services.

Industrial Release Area

The subject site is identified in an Industrial Release Area in the SEPP (WSEA) 2009 Industrial Release Areas Map, therefore Clause 29 applies.

Clause 29 of the SEPP (WEA) 2009 requires the Secretary to certify that satisfactory arrangements are in place to contribute to the provision of regional transport infrastructure and services, prior to Council granting consent to a development application. Accordingly Council requested the issue of a Satisfactory Arrangements Certificate from the Department of Planning and Environment.

The Department noted that Penrith City Council has collected all relevant contributions under the Erskine Business Park Contributions Plan 2008, and that the contributions plan is the mechanism by which contributions for regional transport infrastructure and services are collected. On this basis, the Department issued a signed Satisfactory Arrangements Certificate for DA16/0588 on 29 July 2016.

Design Principles

The proposed development will be of a high quality design and construction, responding to the functional requirements of the proposed development. Significant landscaping will be provided, acting as a buffer between adjoining sites and providing visual relief.

The proposal will deliver an industrial development that is coherent with the site's surrounding context and that will not adversely impact any surrounding land uses.

State Environmental Planning Policy No 55—Remediation of Land

The site is not known to be contaminated as confirmed under previous investigations as it has been used for farming and has largely been vacant. It is considered that the proposal is acceptable in respect of SEPP 55 to enable the development to proceed.

State Environmental Planning Policy No 64—Advertising and Signage

Clause 3 – Aims, Objectives etc

The proposed development is considered to be consistent with the aims and objectives of the SEPP.

Clause 13 – Matters for Consideration

The development is considered to be consistent with the aims of the Policy and satisfies all relevant requirements of the Policy. It has been assessed against the criteria outlined in Schedule 1 (see below).

Part 3

This part is not applicable as the proposed development is defined as Business Identification Signage.

Schedule 1 Assessment Criteria (Clauses 8, 13 and 17)

An assessment has been undertaken of the application against relevant criteria and the application is considered satisfactory. The style of the proposed signage is considered to be consistent with the existing character of signage within the locality as there are existing examples of signage at a similar scale. Additionally the signage is of recessive colours.

The signage is unlikely to cause any impacts in terms of the amenity of the locality due to its design being integrated into the proposed structures and its location well away from any public roads. Additionally no flashing or moving lights are used which could result in glare for pedestrians or motorists.

The proposed signage will not be located in proximity to any heritage item.

Therefore, subject to the recommended conditions of consent the proposed signage is compliant with SEPP 64 due to the scale and type of the signage being generally consistent with the existing signage in the area.

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.

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 - see Appendix - Development Control Plan Compliance
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	Complies
C10 Transport, Access and Parking	Complies
C11 Subdivision	N/A
C12 Noise and Vibration	Complies
C13 Infrastructure and Services	Complies
D4.1. Key Precincts	N/A
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 - see Appendix - Development Control Plan Compliance
D4.6. Accessing and Servicing the Site	Complies
D4.7. Fencing	Complies
D4.8 Lighting	Complies
E6 Erskine Business Park controls	Complies

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.

Advertisement/Notification

Advertising and neighbour notification was carried out in accordance with the requirements of the Regulations.

Section 92 - Additional Matters

- Any demolition will be conditioned to be in accordance with the provisions of AS 2601.
- The development is not subject to Government Coastal Policy
- The development is not situated on land subject to an order made under Schedule 5 of the Act (paper subdivisions).

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

Impacts raised in referral comments

No issues of concern raised, subject to the imposition of recommended conditions of consent.

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.
- 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

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	No objections - subject to conditions
Environmental - Environmental management	Not supported
Environmental - Waterways	Not supported
Traffic Engineer	No objection subject to conditions

Environmental - Environmental management

Council's Senior Environmental Health Officer outlined the following concerns with the proposal:

General

On reviewing the Statement of Environmental Effects, it is noted that there is limited information regarding what the warehouse or external crushed rock areas will be used for. It is acknowledged that the application form states that the application is for a 'general hire and earthmoving equipment hire facility', however it is not clear what will be stored indoors and outdoors. Further, the Waste Management Plan references a 'service bay', however this is not shown on the plans.

To ensure that an accurate assessment of the development can be undertaken (and so that relevant conditions of consent can be applied), the following information is sought from the applicant:

- Information is required regarding what plant and equipment will be stored on the site, and how and where this plant and equipment will be stored, particularly in relation to the outdoor crushed rock area.
- Information is required regarding whether any maintenance, mechanical repairs or spray painting of equipment will be undertaken on the site.
- It is noted that the Statement advises that no chemicals will be stored on site. Given the nature of the equipment stored, it needs to be confirmed whether any fuels will be stored on site.

Comment: The applicant will be required to prepare an Environmental Management Plan which deals with each of these issues, the EMP will be required to outline that any servicing or maintenance is to take place entirely within the building and the use of the crushed rock area shall be for the storage of plant and machinery alone. Additionally no chemicals or fuels shall be allowed to be stored on site as outlined in the Statement of Environmental Effects.

Land and Water Management

As outlined above, limited information has been provided regarding how the outdoor crushed rock areas may be used. Particularly given the proximity to the riparian corridor and watercourse, it needs to be ensured that appropriate practices are in place to manage potential impacts to the environment. As the surface is not impervious, information is required regarding the environmental management practices that will be put in place to ensure that the storage of plant and equipment in this area will not cause land or water pollution.

Comment: The EMP will address the potential issues relating to the use of the crushed rock area.

Noise impact

It is noted that the proposed use of the site is to operate from 6am to 6pm Monday to Friday and 6am to 5pm Saturday. As stated above, it is not clear what activities will be carried out outside of the warehouse building. It is assumed that the crushed rock area may be used for plant and equipment storage, and these operations may generate noise (such as beeper alarms and engine noise). Distance attenuation should reduce noise impacts, and the Traffic Assessment indicates that only 6 vehicle trips should occur each hour. I note that the nearest sensitive residential receiver is located more than 400 metres from the closest boundary, however without specific information regarding the outdoor area I withhold comment regarding this aspect until this information has been provided and reviewed.

Comment: The development is more than 400 m from the nearest sensitive residential receiver. Conditions of consent will ensure that the proposed development will comply with the Protection of Environment Operations Act as well as the Environmental Protection Authority's Industrial Noise Guidelines.

Environmental - Waterways

Council's Senior Waterways Officer outlined that:

"A review of the WSUD Strategy indicates the proposed treatment will meet the requirements of Council's WSUD policy, however, No MUSIC Modelling has been submitted in support of the application."

As such I request that the proponent provide the following for review

- *An electronic version of the MUSIC modelling*
- *Details on the proposed GPT, and*
- *Details on how the bioretention basin will be accessed for maintenance."*

Given that the development will comply with Council requirements and the minor nature of the additional information required as well as the fact the additional information is unlikely to necessitate significant changes which will render the development to be not substantially the same as the development approved.

It is considered to be acceptable to require the additional information prior to the issue of a Construction

Certificate rather than prior to approval of the DA.

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

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

Section 94 - Developer Contributions Plans

The Erskine Business Park – Development Contributions Plan 2008 applies to the site. Contributions have already paid for the site on the basis of developable area. No further contributions are applicable for this development upon the land.

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, relevant State Environmental Planning Policies, and the Penrith Development Control Plan 2014 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 recommended for approval, subject to recommended conditions.

Recommendation

1. That DA16/0558 for a warehouse, office, truck wash back and yard area for general plant & equipment hire & earth moving equipment hire facility at 54 Tyrone Place, Erskine Park, 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 as may be amended in red on the approved plans and by the following conditions.

Description	Reference No.	Issue	Author	Date
Cover Sheet	115110_A DA-001	1	Reid Campbell	24/05/2016
Overall Site Plan	115110_A DA-002	1	Reid Campbell	24/05/2016
Site Plan	115110_A DA-003	2	Reid Campbell	24/05/2016
Warehouse Plan	115110_A DA-101	1	Reid Campbell	24/05/2016
Roof Plan	115110_A DA-102	1	Reid Campbell	24/05/2016
Elevations	115110_A DA-201	1	Reid Campbell	24/05/2016
Sections	115110_A DA-301	1	Reid Campbell	24/05/2016
External Finishes	115110_A DA-402	1	Reid Campbell	24/05/2016
Coversheet, Locality Plan and Drawings Schedule	16098 DA1.01	1	Sparks+Partners	09/06/2016
Concept Sediment and Erosion Control Plan and Details	16098 DA2.01	1	Sparks+Partners	09/06/2016
Concept Stormwater Management and Finished Levels Plan	16098 DA4.01	1	Sparks+Partners	09/06/2016
Concept Catchment Plan	16098 DA4.05	1	Sparks+Partners	09/06/2016
Landscape Analysis Plan	1614 DA-L01	A	Eximiadesign	04/06/2016
Landscape Site Plan	1614 DA-L02	A	Eximiadesign	04/06/2016
Waste Management Plan	–	–	David Tubb	14/06/2016

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 6 am to 6 pm, Mondays to Sundays.

4 [A032 - Goods in buildings](#)

All materials and goods associated with the use shall be contained within the building at all times aside from the external storage of general plant, equipment and earthmoving equipment associated with the warehouse and distribution centre.

5 [A044 - Compliance with NSW DPI Water conditions of consent](#)

The conditions imposed by the NSW Department of Primary Industries - Water in the Integrated Development consent and in the General Terms of Approval for the said development are to be completed prior to the issue of an Occupation Certificate or in the case of subdivision, a Subdivision Certificate.

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

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

7 [A Special \(Fencing Details\)](#)

Prior to the issue of a Construction Certificate, details are to be submitted of the proposed fencing around the site. These details shall include the use of decorative palisade fencing behind a landscaped buffer for any fencing in publicly visible areas. Any security fencing shall generally be of an 'open' nature and of a dark colour, such as green or black plastic coated mesh fencing, which blend better with screening vegetation than galvanised wire.

- 8 **A Special (No retail sales)**
No retail sales or hire to customers is permitted from the site in order to remain consistent with the definition of 'warehouse or distribution centres' under which this development application has been approved.
- 9 **A Special (SC prior to OC)**
Prior to the issue of an Occupation Certificate for the subject development, a Subdivision Certificate for DA15/0907 must have been issued and the subdivision registered through Land and Property Information NSW. In addition, the storm water management system shall be installed and certified in accordance with DA16/0333 prior to the issue of an Occupation Certificate.
- 10 **A Special (use of crushed rock area)**
The area shown as being crushed rock refers to the finish of the ground level only.

The subject site shall not be used for the storage of landscape materials or any crushing, grinding or separating works, being works that process materials (such as sand, gravel, rock or minerals) or materials for recycling or reuse (such as slag, road base, concrete, bricks, tiles, bituminous material, metal or timber) by crushing, grinding or separating into different sizes.

Environmental Matters

- 11 **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.
- 12 **D005 – No filling without prior approval (may need to add D006)**
No fill material is to be imported to the site without the prior approval of Penrith City Council in accordance with Sydney Regional Environmental Plan No.20 (Hawkesbury- Nepean River) (No.2-1997). No recycling of material for use as fill material shall be carried out on the site without the prior approval of Council.
- 13 **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 works as detailed on the approved plans and specifications, and shall not extend more than 2 metres past the approved works footprint.
- 14 **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.
- 15 **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.

- 16 **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 nearby residential receivers. The provisions of the Protection of the Environment Operations Act 1997 apply to the development, in terms of regulating offensive noise.
- 17 **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 Notice of Requirements 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.

18 **D028 – Environment Management Plan**

Prior to the issue of a Construction Certificate, an Environmental Management Plan (EMP) for the site shall be submitted to Penrith City Council for consideration and approval. Council's approval of the (EMP) should be provided to the Certifying Authority as part of the Construction Certificate application.

The EMP shall be prepared by suitably qualified consultants in consultation with Council and other relevant agencies, and may need to be amended to include the comments provided by Council and other agencies. The EMP is to:

- address all environmental aspects of the development's construction and operational phases, and
- recommend any systems/ controls to be implemented to minimise the potential for any adverse environmental impact(s), and
- incorporate a programme for ongoing monitoring and review to ensure that the EMP remains contemporary with relevant environmental standards.

The EMP should include but is not limited to the following:

- Soil and water management.
- Dust suppression.
- Litter control.
- Noise control.
- Waste management.
- dangerous/hazardous goods storage. It is noted that the Statement advises that no chemicals will be stored on site. Given the nature of the equipment stored, it needs to be confirmed that no fuels will be stored on site.
- spill prevention, contingency and emergency clean-up procedures for the development. As well as how the approved procedures plan shall be implemented in the event of a spill or emergency.
- Information regarding what plant and equipment will be stored on the site, and how and where this plant and equipment will be stored, particularly in relation to the outdoor crushed rock area.
- Information regarding whether any maintenance, mechanical repairs or spray painting of equipment will be undertaken on the site, if it is to be undertaken on site than it must be located entirely within the approved building with appropriate management controls in place.

Council will not withhold its consent to the Environmental Management Plan provided the above-mentioned matters are reasonably addressed.

The relevant aspects of the approved EMP shall be implemented during the relevant phase(s) of the development.

19 **D Special (Waterways requirements)**

Prior to the issue of a Construction Certificate the following must be submitted to, and approved by, Council:

- An electronic version of the submitted MUSIC modelling;
- Details of the proposed Gross Pollutant Trap, and
- Details of how the bioretention basin will be accessed for maintenance.

BCA Issues

20 **E004 - Dust**

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

21 **E005 - Mud/Soil**

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

22 **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.

23 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.

24 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

25 G002 - Section 73

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.

26 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

27 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.

28 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.

29 [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

30 [K101 - Works at no cost to Council](#)

All roadworks, stormwater drainage works, associated civil works and dedications, required to effect the consented development shall be undertaken at no cost to Penrith City Council.

31 [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.

32 **K202 - S138 Roads Act – Works and Structures - Minor Works in the public road DRIVEWAYS ROAD OPENINGS**

Prior to the issue of any Construction Certificate, a Section 138 Roads Act applications, including payment of application and inspection fees, shall be lodged and approved by Penrith City Council (being the Roads Authority for any works required in a public road). These works may include but are not limited to the following:

- a) Vehicular crossings (including kerb reinstatement of redundant vehicular crossings)
- b) Concrete footpaths and or cycleways
- c) Road opening for utilities and stormwater (including stormwater connection to Penrith City Council roads and other Penrith City Council owned drainage)
- d) Road occupancy or road closures
- e) The placement of hoardings, structures, containers, waste skips, signs etc. in the road reserve
- f) Temporary construction access

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, guidelines and best engineering practice.

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

Note:

- a) Where Penrith City Council is the Certifying Authority for the development, the Roads Act approval for the above works may be issued concurrently with the Construction Certificate.
- b) Separate approvals may also be required from the Roads and Maritime Services for classified roads.
- c) All works associated with the Roads Act approval must be completed prior to the issue of any Occupation Certificate or Subdivision Certificate as applicable.
- d) On completion of any awning over the road reserve, a certificate from a practising structural engineer certifying the structural adequacy of the awning is to be submitted to Council before Council will inspect the works and issue its final approval under the Roads Act

33 **K209 - Stormwater Discharge – Minor Development**

Stormwater drainage from the site shall be discharged to the:

- a) Stormwater drainage pit as approved in DA/0333 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.

34 **K210 - Stormwater Management**

The stormwater management system shall be provided generally in accordance with the concept plan/s lodged for development approval, prepared by Sparks+Partners, reference number 16098-DA1.01, (DA2.01, DA4.01, DA4.05, revision 2, dated 9/06/2016).

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 any Construction Certificate, the Certifying Authority shall ensure that the stormwater management system has been designed in accordance with Penrith City Council's Stormwater Drainage for Building Developments and Water Sensitive Urban Design (WSUD) policies.

35 **K302 - Traffic Control Plan**

Prior to commencement of any works associated with the development, a Traffic Control Plan, including details for pedestrian management, shall be prepared in accordance with AS1742.3 "Traffic Control Devices for Works on Roads" and the Roads and Maritime Services' publication "Traffic Control at Worksites" and certified by an appropriately accredited Roads and Maritime Services 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) A copy of the Traffic Control Plan shall accompany the Notice of Commencement to Penrith City Council.
- b) Traffic control measures may require road occupancy / road closure approvals issued under Section 138 of the Roads Act by Penrith City Council prior to CC.

36 **K501 - Penrith City Council clearance – Roads Act/ Local Government Act**

Prior to the issue of any Occupation Certificate, the Principal Certifying Authority shall ensure that all works associated with a Section 138 Roads Act approval or Section 68 Local Government Act approval have been inspected and signed off by Penrith City Council.

37 **K504 - Stormwater Compliance**

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

- a) Stormwater management systems (including on-site detention and water sensitive urban design)
 - b) Overland flowpath works
- 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.

38 **K505 - Restriction as to User and Positive Covenant**

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

- a) Stormwater management systems (including on-site detention and water sensitive urban design)
- b) Overland flowpath works

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 and Drainage for Building Developments policy.

39 **K511 - Directional signage**

Prior to the issue of any Occupation Certificate, directional signage and linemarking shall be installed indicating directional movements and the location of customer parking to the satisfaction of the Principal Certifying Authority.

40 **K601 - Stormwater Management system operation and maintenance**

The stormwater management systems shall continue to be operated and maintained in perpetuity for the life of the development in accordance with the final operation and maintenance management plan.

Regular inspection records are required to be maintained and made available to Penrith City Council on request. All necessary improvements are required to be made immediately upon awareness of any deficiencies in the stormwater management systems.

41 **K Special (Consolidated Traffic Comments)**

Prior to the issue and in perpetuity the proposed development shall comply with the following:

- The access driveway shall be in accordance with Penrith City Council requirements for a heavy commercial / heavy industrial vehicle cross over and be a minimum of 15.5 metres wide.
- The proposed accessible parking spaces is to be designed to conform to AS/NZS 2890.6:2009 and Council requirements.
- All vehicles are to enter/exit the site in a forward direction.
- Sight distance requirements and driveway widths are to be met in accordance with AS/NZS 2890.1: 2004 and Council requirements.
- The required sight lines around the driveway entrance and exit are not to be compromised by street trees, landscaping, fencing or signposting.
- All car parking and manoeuvring must be in accordance with AS/NZS 2890.1: 2004, AS/NZS 2890.1: 2004/ Amt. 1:2005, AS 2890.2:2002, AS 2890.3: 1993, AS 2890.5: 1993, AS/NZS 2890.6:2009 and Council requirements.
- All car spaces are to be sealed/line marked and dedicated for the parking of vehicles only and not be used for storage of materials/products/waste materials etc.
- Consideration is to be given to the provision of secure bicycle parking in accordance with AS2890.3:1993 Bicycle Parking Facilities and Council requirements.

Landscaping

42 **L001 - General**

All landscape works are to be constructed in accordance with the stamped approved Landscape Plans and Sections C6 of Penrith Council's 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.

43 **L002 - Landscape construction**

The approved landscaping for the site must be constructed by a suitably qualified landscape professional.

44 **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 suitably qualified landscape professional.

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 suitably qualified landscape professional.

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 suitably qualified landscape professional.

45 **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.

46 [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.

Certification

47 [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.

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.

48 [Q01F - Notice of Commencement & Appointment of PCA2 \(use for Fast Light only\)](#)

Prior to the commencement of any earthworks or construction works on site, the proponent is to:

- (a) employ a Principal Certifying Authority to oversee that the said works carried out on the site are in accordance with the development consent and related Construction Certificate issued for the approved development, and with the relevant provisions of the Environmental Planning and Assessment Act and accompanying Regulation, and
- (b) submit a Notice of Commencement to Penrith City Council.

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

Information to accompany the Notice of Commencement

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

Appendix - Development Control Plan Compliance

Development Control Plan 2014

Part C - City-wide Controls

C3 Water Management

A review of the information provided in the Water Sensitive Urban Design Strategy and plans show stormwater will be treated with a 600m² bioretention basin which has an extended detention of 300mm and filter media depth of 350-600mm.

It is also noted that no access for maintenance is shown on the plans. In this regard, I requested that additional details be provided on the plan as part of my suggested conditions of DA15/0907.

The WSUD strategy also mentions that a GPT will be included in the treatment of stormwater however, no mention of the type is provided.

Water conservation measures will be achieved with the use of WELLS fittings and a 50kL rainwater tank connected for reuse.

The proposed bioretention system will be used as a sediment basin until the catchment is developed.

A review of the WSUD Strategy indicates the proposed treatment will meet the requirements of Council's WSUD policy, however, No MUSIC Modelling has been submitted in support of the application. Council's Waterways Officer requested that MUSIC modelling and details of the GPT to be used be submitted however given that the WSUD Strategy indicates the development will comply with Council's requirements this was not considered to be necessary.

Controlled Activity Approvals

Office of Water approval not required as the works will be limited to within the boundaries of proposed Lot 201 and therefore remain greater than 40 m from the watercourse in the adjoining lot. The drainage works for this development will link up with the detention basin and other civil works approved under DA15/0907.

D4 Industrial Development

D4.5. Storage of Materials and Chemicals

External storage of goods must be avoided, wherever possible. Where the nature of the activity or the materials means that internal storage is impractical, all external storage areas must be located behind the front building setback. In addition, when assessing development applications involving external storage of goods, Council will take into consideration:

- a) The proposed height and on-site arrangement of stored goods;
- b) The visual impact of the storage area and how this is proposed to be minimized (orientation, screening with landscaping and/or solid fencing, etc.);
- c) Access arrangements; and
- d) Safety issues.

Comment: The externally stored goods are located behind the forward building line and will not be visible from any public place due to the screening provided by the adjacent biodiversity corridor.