

# PENRITH CITY COUNCIL

## MAJOR ASSESSMENT REPORT

<b>Application number:</b>	DA18/0098
<b>Proposed development:</b>	Provision of a Single Warehouse Unit and Remediation and Validation Works
<b>Property address:</b>	6 a Robertson Place, JAMISONTOWN NSW 2750
<b>Property description:</b>	Lot 141 DP 1007550
<b>Date received:</b>	6 February 2018
<b>Assessing officer</b>	Sufyan Nguyen
<b>Zoning:</b>	Zone B5 Business Development - LEP 2010
<b>Class of building:</b>	Class 7b
<b>Recommendations:</b>	Approve

### Executive Summary

---

Council is in receipt of a development application for the erection of a single warehouse unit and remediation and validation works at 6a Robertson Place, Jamisontown. The subject site is zoned B5 Business Development under the *Penrith Local Environmental Plan 2010* and the proposed development is permissible with Council consent.

The key issues identified and addressed as part of the assessment of the proposal were in regard to the following aspects:

- Land contamination and the requirement for remediation and validation works;
- A reduction from 3 Units to 1 Unit to better accommodate a suitable commercial land use;
- Safe Medium Rigid Vehicle manoeuvring & on-site parking in accordance with AS 2890.2 requirements; and
- Stormwater management.
- Waste servicing

The proposal was notified to nearby and adjoining properties and publicly exhibited for a period of 14 days. No public submissions were received in response.

An assessment of the proposal under Section 4.15 of the *Environmental Planning and Assessment Act 1979* has been undertaken and the application is recommended for approval, subject to recommended conditions.

## Site & Surrounds

---

The subject site has a street address of 6a Robertson Place, Jamisontown and is legally described as Lot 141, DP 1007550. The site has a land area of 1,000m<sup>2</sup>, is irregular in shape with an arc frontage of 13.66m, side boundaries of 48.375m and 37.705m and a rear boundary of 30.7m. The site is relatively flat and is currently being used as a storage premises which has been in operation for a number of years.

The site is situated at the eastern side of a cul-de-sac, whereby Robertson Place meets the T-Junction of Batt Street approximately 165.5m north-westwards. This street is oriented in a southerly direction then bends south-eastwards to form a bulb. The site is a part of a broader industrial/business area. Surveyors Creek and residential development is situated approximately 170m to the south of the site. This green open space contains a corridor of trees, which serve as a buffer to screen the commercial/industrial buildings when viewed from the residential area.

The broader road network includes Regentville Road 250m north-westwards, Mulgoa Road 480m north-westwards and the M4 Motorway 1.3km south-westwards. Public transport services include bus stops located 410m - 508 north-eastwards on York Road and Batt Street, and 503m north-eastwards on Mulgoa Road. Penrith train station is situated 2.42km north-eastwards.

## Proposal

---

The applicant seeks consent for the construction of a single warehouse unit with an ancillary office and mezzanine and remediation and validation works at 6a Robertson Place, Jamisontown.

The proposal includes the following aspects:

- Warehouse unit with a ground floor area of 464.90m<sup>2</sup>,
- Office area including amenities with a ground floor area of 74.14m<sup>2</sup>,
- Mezzanine office including amenities with a floor area of 98.26m<sup>2</sup>,
- 7 parking spaces including 1 accessible parking space,
- Landscaping works, and
- Remediation Action Plan.

## Plans that apply

---

- Local Environmental Plan 2010 (Amendment 4)
- Development Control Plan 2014
- State Environmental Planning Policy No 55—Remediation of Land
- Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

## Planning Assessment

---

### • Section 4.15 - Evaluation

The proposed development has been assessed in accordance with the matters for consideration under Section 4.15 of the EPA&A Act, 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

*State Environmental Planning Policy No. 55 – Remediation of Land* (SEPP 55) provides aims to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment. Under Clause 7 of SEPP 55, it must be considered as to whether the land is contaminated, and if so, Council must be satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which development is proposed to be carried out.

In this regard, it is noted that historical aerial photographs indicate that fill material has been imported onto the property, observed in photographs dating from 8 February, 2014. The property also appears to be previously used as a holding yard for numerous types of materials and vehicles, which raises further concerns in regard to soil contamination. As such, the applicant was requested to provide Council with documentation on the source and material of fill to determine whether the land is contaminated and if remediation is required for the purpose of the development. In response, the applicant submitted a Site Fill Report, however, this report lacked sufficient detail in regard to the source, quantity and nature of the fill and dates the fill was imported onto the site.

A Environmental Site Assessment was then submitted to Council which sampled 6 test pits and detected chrysotile and crocidolite asbestos in test pit 1 and synthetic mineral fibres detected in test pit 5. The identification of these contaminants triggered a Remediation Action Plan (RAP) to ensure that the site will be adequately remediated before the land is used for the proposed development. In this regard, a RAP was provided, however, this documentation did not detail the extent of remediation required, such as the diameter or depth of the contamination hotspot on the site plan or the validation process required. A revised RAP was therefore provided, detailing these requirements, including a revised site plan to illustrate the diameter of contamination hotspot, which adequately addresses the remediation process for Asbestos detected at Test Pit 1, as reviewed and advised by Council's Environmental Management Section.

## Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

An assessment has been undertaken of the proposal against relevant criteria within *Sydney Regional Environmental Plan No. 20—Hawkesbury-Nepean River (No. 2—1997)* and the proposal is satisfactory subject to recommended conditions of consent.

## Local Environmental Plan 2010 (Amendment 4)

Provision	Compliance
Clause 1.2 Aims of the plan	Complies - See discussion
Clause 2.3 Permissibility	Complies
Clause 2.3 Zone objectives	Complies - See discussion
Clause 4.3 Height of buildings	Complies - See discussion
Clause 5.10 Heritage conservation	N/A
Clause 7.1 Earthworks	Complies - See discussion
Clause 7.2 Flood planning	Complies - See discussion
Clause 7.7 Servicing	Complies - See discussion

**Clause 1.2 Aims of the plan**

The proposal aims to provide for a business opportunity, which will in turn contribute to socio-economic activity. The proposal is of a suitable scale and the associated works will be of minimal impact on the natural and built environments. Further, the applicant has demonstrated that an appropriate remediation action plan is in place to address minor land contamination on the site, as endorsed by Council's Environmental Management Section. This will ensure that there will be no environmental hazards or public health risks.

**Clause 2.3 Zone objectives**

The proposed warehouse is of an appropriate size and the site is in proximity to a range of facilities and services to support business activities. The proposal is therefore considered to meet the objectives of the B5 Business Development zone.

**Clause 4.3 Height of buildings**

The proposed warehouse building has a maximum height of 7.3m which complies with maximum building height of 12m standard applicable to the site.

**Clause 7.1 Earthworks**

The subject site is a vacant lot and is relatively flat, which minimises earthworks required for the development. Given the minor nature of earthworks, noting that that the development poses no flooding risks, the proposal will have negligible impacts on the immediately surrounding environment.

**Clause 7.2 Flood planning**

It is noted that local overland flooding flows are approximately 36m from the front of the site, to the west. However, the proposed finished floor level is level with the 500mm freeboard level requirement which satisfies flood planning controls, as advised by Council's Development Engineer.

**Clause 7.7 Servicing**

Connection to existing services and facilities will provide adequate servicing for the development proposal.

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

It is noted that both the *Draft Environmental SEPP* and *Draft Remediation Land SEPP* are at present applicable to the subject site, but while so, does not affect or alter the recommendations of this report.

## 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 - see Appendix - Development Control Plan Compliance
C6 Landscape Design	Complies - see Appendix - Development Control Plan Compliance
C7 Culture and Heritage	N/A
C8 Public Domain	N/A
C9 Advertising and Signage	Complies - see Appendix - Development Control Plan Compliance
C10 Transport, Access and Parking	Complies - see Appendix - Development Control Plan Compliance
C11 Subdivision	N/A
C12 Noise and Vibration	Complies
C13 Infrastructure and Services	Complies
D4.2. Building Height	Complies - see Appendix - Development Control Plan Compliance
D4.3. Building Setbacks and Landscape	Complies - see Appendix - Development Control Plan Compliance
D4.4. Building Design	Complies - see Appendix - Development Control Plan Compliance
D4.6. Accessing and Servicing the Site	Complies - see Appendix - Development Control Plan Compliance
D4.7. Fencing	Complies - see Appendix - Development Control Plan Compliance
D4.8 Lighting	Complies - see Appendix - Development Control Plan Compliance

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

There are no planning agreements applicable to the proposed development.

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

The relevant prescribed conditions of the Regulations, such as the requirement for compliance with the Building Code of Australia and fire safety requirements, will be imposed as conditions of consent where applicable. Subject to the recommended conditions of consent, the proposed development complies with the requirements of the *Environmental Planning and Assessment Regulation 2000*.

Further, the development application has been notified, exhibited and advertised in accordance with the requirements of the regulations.

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

Under Section 4.15 of the Act, consideration must be given to the likely impacts of the development, including environmental impacts on both the natural and built environments, and the social and economic impacts in the locality.

In this regard, the development proposal has demonstrated that the proposed warehouse unit is functional via making provision for adequate floor space and off-street parking. The built form and landscaping works is considered compatible with the character of the surrounding commercial area. Further, land contamination and stormwater management has been addressed to Council's satisfaction. Given that the proposal is considered to be of a suitable scale which involves minor earthworks, it is not considered likely that the proposal will result in any adverse impacts on the natural or built environments, subject to the recommended conditions of consent. In terms of social impacts, the proposed warehouse unit is a suitable land use with respect to the context of adjoining and surrounding commercial land uses. A new business opportunity is expected to generate socio-economic activity in the business/industrial hub. Therefore, it is not considered likely that the development will significantly impact on adjoining or surrounding property values or the local community.

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

The site is a large sized lot which has the capacity to accommodate a warehouse unit of this scale. The proposal includes sufficient landscaping for the development site to minimise any significant impacts on the streetscape. Further, the applicant has demonstrated that an appropriate Remediation Action Plan is in place to address land contamination site. In addition, the proposal satisfies flood planning controls and is not subject to bushfire hazards, therefore posing no risk to human life or property. The site is therefore considered suitable for the development proposal.

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

### Community Consultation

The proposal was notified to nearby and adjoining properties in accordance with Appendix F4 of *Penrith Development Control Plan 2014*. No public submissions were received in response.

### 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	No objections - subject to conditions
Environmental - Waterways	No objections - subject to conditions
Traffic Engineer	No objection subject to conditions

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

In consideration of the nature and scale of the development, in addition to the proposal being compliant with the applicable development controls and standards, noting that land contamination has been adequately addressed, the health and safety of the public will not be adversely affected and therefore the development will not generate any significant issues of public interest.

## **Conclusion**

---

In assessing this proposal against the relevant environmental planning policies, being *Penrith Local Environmental Plan 2010*, *Penrith Development Control Plan 2014*, *State Environmental Planning Policy No 55—Remediation of Land* and *Sydney Regional Environmental Plan No. 20—Hawkesbury-Nepean River (No. 2—1997)*, the proposal satisfies the aims, objectives and provisions of these policies. The proposal does not contravene any key development controls and is unlikely to have any significant impacts on the natural, social or economic environments. The applicant is also considered to have appropriately addressed land contamination concerns. The site is considered suitable for the development and the proposal is in the public interest. Therefore, the application is worthy of support and is recommended for approval subject to conditions.

## **Recommendation**

---

That DA18/0098 for the construction of a single warehouse unit and remediation and validation works at 6a Robertson Place, Jamisontown be approved, subject to the attached conditions of consent.

# CONDITIONS

## General

### 1 [A001 - Approved plans table](#)

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

Drawing Title	Prepared By	Drawing No.	Revision	Dated
Site Plan	Arrowfield	DA101	D	27/09/2018
Landscape Plan	Arrowfield	DA103	D	27/09/2018
GA Unit- 1 Ground Floor, GA Mezzanine Level	Arrowfield	DA104	D	27/09/2018
North Elevation, East Elevation	Arrowfield	DA202	D	27/09/2018
South Elevation, West Elevation, Main ID Sign	Arrowfield	DA203	D	27/02/2018
Section 1, Section 2, Section 3	Arrowfield	DA301	D	27/09/2018
Schedule of External Finishes	Arrowfield	--	--	--
Erosion & Sediment Control Plan & Stormwater Plans	Ing Consulting Engineers P/L	(Project No. 078102017DA) 07810-01 - 04/4	B	08/09/2018

### Documents

- Remediation Action Plan prepared by eiaustralia, Report No. E24167.E06\_Rev1, Revision 1, dated 9 July 2019,
- Site Management & Response Plan (Flooding) prepared by ING Consulting Engineers, P/L, Version 1, dated 6 September, 2019, and
- Waste Management Plan prepared by Sid Dahdah.

### 2 [A017 - DA FOR USE](#)

Prior to occupation of the building or a tenancy within the building, a separate development approval is to be obtained from Penrith City Council to use the building or each tenancy within the building/complex.

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

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

### 4 [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 land uses. 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).

### 5 [A039 - Graffiti](#)

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

### 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 - Contaminated Topsoil](#)

Contaminated topsoil shall not be mixed with uncontaminated underlying natural soils.



#### 8 **A Special - Remediation Action Plan**

Site remediation works shall be carried out generally in accordance with the Remediation Action Plan prepared by eiaustralia, Report No. E24167.E06\_Rev1, Revision 1, dated 9 July 2019, *Penrith Development Control Plan 2014*, the ANZECC and NHMRC Guidelines (1992) and applicable NSW Environment Protection Authority Guidelines. On completion of the site remediation works, the following documentation is to be submitted for approval to the Principal Certifying Authority and Penrith City Council, if Council is not the Principal Certifying Authority:

- Written notification that the site remediation works have been completed is to be submitted within 30 days of the said works having been completed.
- A Validation Report, prepared by an appropriately qualified person as defined in *Penrith Development Control Plan 2014*, is to be submitted [*within 60 days of the said works having been completed and before any building work can commence on the remediated site*]. The report shall certify that the remediation works have been carried out in accordance with the approved Remedial Action Plan, relevant NSW Environment Protection Authority requirements and *Penrith Development Control Plan 2014*.

#### 9 **A Special - Remediation Works**

An appropriately qualified person/s (as defined in the *Penrith Development Control Plan 2014*) shall:

1. Supervise the remediation works.
2. Supply Council with a copy of any relevant documentation for further testing carried out during the remediation works.
3. Address off site impacts and proposed management strategies where relevant.
4. (after completion of works) Certify by way of a Compliance Certificate or other written documentation that remediation works have been carried out in accordance with all conditions of this consent and that the site will not pose an unacceptable risk to human health or the environment (this information can be included in the Validation Report). A copy of the Compliance Certificate or other written documentation is to be submitted to the Principal Certifying Authority (PCA) and Penrith City Council if it is not the PCA.

The contact details of any appropriately qualified person/s engaged for the works shall be provided with the notice of commencement.

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, soil 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 **A Special (BLANK)**

**Prior to the issue of an Occupation Certificate**, a large pot size street tree shall be planted and an additional large pot size tree shall be planted within the front landscaped treatment along the north-western boundary.

#### 11 **A Special Condition (BLANK)**

**Prior to the issue of Construction Certificate**, a stormwater management strategy must be submitted to incorporate the requirements of Section 3.1 of Councils Water Sensitive Urban Design Policy which relates to the use of efficient (WELS) rated fittings and rainwater harvesting and reuse.

## **Demolition**

## 12 B003 - ASBESTOS

You should read Council's Fact Sheet titled "Handling and Disposal of Fibrous Cement Products" **before any demolition works commence on the site.**

**Prior to commencement of demolition works on site**, a portaloos with appropriate washing facilities shall be located on the site and the Principal Certifying Authority is to be satisfied that:

- Measures are in place so as to comply with the WorkCover Authority's "Short Guide to Working with Asbestos Cement" and
- The person employed to undertake the works is a licensed asbestos removal contractor and is holder of a current WorkCover Asbestos Licence.

Any demolition works involving the removal of all asbestos shall only be carried out by a licensed asbestos removal contractor who has a current WorkCover Asbestos Licence.

All asbestos laden waste, including asbestos cement flat and corrugated sheeting must be disposed of at a tipping facility licensed by the Environment Protection Authority to receive asbestos wastes.

## 13 B004 - Dust

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

## 14 B005 - Mud/Soil

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

## 15 B006 - Hours of work

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

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

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

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

## Environmental Matters

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

Erosion and sediment control measures shall be installed **prior to the commencement of works on the 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.

17 **D006 - No filling without prior approval (Use always, except for bulk earthworks/major fill operations)**

No fill material shall be imported to the site until such time as a Validation Certificate (with a copy of any report forming the basis for the validation) for the fill material has been submitted to, considered and approved by Council. The Validation Certificate shall:

- state the legal property description of the fill material source site,
- be prepared by an appropriately qualified person (as defined in *Penrith Development Control Plan 2014*) with consideration of all relevant guidelines (e.g. EPA, ANZECC, NH&MRC), standards, planning instruments and legislation,
- clearly indicate the legal property description of the fill material source site,
- provide details of the volume of fill material to be used in the filling operations,
- provide a classification of the fill material to be imported to the site in accordance with the Environment Protection Authority's "Environmental Guidelines: Assessment, Classification & Management of Non-Liquid Wastes" 1997, and
- (based on the fill classification) determine whether the fill material is suitable for its intended purpose and land use and whether the fill material will or will not pose an unacceptable risk to human health or the environment.

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, soil 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."

If the Principal Certifying Authority or Penrith City Council is not satisfied that suitable fill materials have been used on the site, further site investigations or remediation works may be requested. In these circumstances the works shall be carried out prior to any further approved works.

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

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

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

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

Waste materials not specified in the approved waste management plan are to be disposed of at a lawful waste management facility. Where the disposal location or waste materials have not been identified in the waste management plan, details shall be provided to the Certifying Authority as part of the waste management documentation accompanying the Construction Certificate application.

All receipts and supporting documentation must be retained in order to verify lawful disposal of materials and are to be made available to Penrith City Council on request.

20 **D014 - Plant and equipment noise**

The operating noise level of plant and equipment shall not exceed 5dB(A) above the background noise level when measured at the boundaries of the premises. The provisions of the *Protection of the Environment Operations Act 1997* apply to the development, in terms of regulating offensive noise.

## **BCA Issues**

## 21 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.

## 22 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

### 23 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.

### 24 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

## 25 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 on the site, 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.

## 26 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.

## Engineering

### 27 K101 - Works at no cost to Council

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

28 **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 commencement of any works on site or prior to the issue of any Construction Certificate, whichever occurs first. 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.

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

Prior to the issue of a Construction Certificate, a Section 138 Roads Act application, including payment of application and inspection fees, shall be lodged with 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) Road opening for utilities and stormwater (including stormwater connection to Penrith City Council roads and other Penrith City Council owned drainage)

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) All works associated with the Roads Act approval must be completed prior to the issue of an Occupation Certificate.

30 **K203 - S138 Roads Act – Works and structures - Roadworks requiring approval of civil drawings. CIVIL CONSTRUCTION IN THE ROAD RESERVE**

Prior to the issue of a Construction Certificate, the Certifying Authority shall ensure that a Section 138 Roads Act application, including payment of application and inspection fees, has been lodged with, and approved by Penrith City Council (being the Roads Authority under the Roads Act), for provision of Stormwater drainage and associated works in Robertson Place, Penrith

Engineering plans are to be prepared in accordance with the development consent, Penrith City Council's Design Guidelines for Engineering Works for Subdivisions and Developments, Engineering Construction Specification for Civil Works, Austroads Guidelines, and best engineering practice.

Contact Penrith City Council's Development Engineering 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 an Occupation Certificate.

31 **K210 - Stormwater Management**

The stormwater management system shall be provided generally in accordance with the stormwater concept plans lodged for development approval, prepared by ING Consulting Engineers Pty Ltd, Project No. 078102017DA, Drawing & Sheet Numbers 7810-01/4 to 07810-04/4, Issue B, dated 08 September, 2018. The following items are required to be addressed on the Construction Certificate plans:

- Remove the proposed water quality device. Water quality is not required as part of this development.

Engineering plans and supporting calculations for the stormwater management systems are to be prepared by a suitably qualified person and shall accompany the application for a Construction Certificate.

**Prior to the issue of a Construction Certificate**, the Certifying Authority shall ensure that the stormwater management system has been designed in accordance with Council's Stormwater Drainage for Building Developments Policy.

32 **K212 - No loading on easements**

Prior to the issue of a Construction Certificate, the Certifying Authority shall ensure that the foundations of proposed structures adjoining the drainage and/or services easement have been designed clear of the zone of influence.

33 **K213 - Flooding - Flood Report Recommendations**

Prior to the issue of a Construction Certificate, the Certifying Authority shall ensure that the proposed development is compatible with the recommendations of the Site Management & Response Plan (Flooding) prepared by ING Consulting Engineers Pty Ltd, Version 1, dated 6 September, 2018.

34 **K214 - Flooding – Floor levels**

Prior to the issue of a Construction Certificate, the Certifying Authority shall ensure that all habitable floor levels are in accordance with the stamped approved plans with a minimum floor level of RL 31.10m AHD (standard flood level +0.5m freeboard).

35 **K223 - Access, Car Parking and Manoeuvring – Minor Development**

Prior to the issue of a Construction Certificate, the Certifying Authority shall ensure that:

- a) Off street access and parking complies with AS 2890.1.
- b) Vehicular access and internal manoeuvring has been designed for a Medium Rigid Vehicle in accordance with AS 2890.2.
- c) All cars can enter and exit the site in a forward direction.

36 **K225 - Performance Bond**

Prior to the issue of a Roads Act Approval, a Performance Bond is to be lodged with Penrith City Council for Drainage and associated works.

The value of the bond shall be determined in accordance with Penrith City Council's adopted Fees and Charges.

Contact Penrith City Council's Development Engineering Department on (02) 4732 7777 for further information relating to bond requirements.

37 **K301 - Sediment & Erosion Control**

Prior to commencement of works sediment and erosion control measures shall be installed in accordance with the approved Construction Certificate and to ensure compliance with the *Protection of the Environment Operations Act 1997*.

The erosion and sediment control measures shall remain in place and be maintained until all disturbed areas have been rehabilitated and stabilised.

38 **K401 - Flooding – Surveyor Verification of floor levels**

A certificate by a registered surveyor verifying that all habitable floor levels are at or above RL 31.10 m AHD (standard flood level +0.5m freeboard) shall be submitted upon completion of the building to that level. No further construction of the building is to be carried out until approval to proceed is issued by the Principal Certifying Authority.



39 **K502 - Works as executed – General and Compliance Documentation**

Prior to the issue of an Occupation Certificate, works-as-executed drawings, final operation and maintenance management plans and any other compliance documentation shall be submitted to the Principal Certifying Authority in accordance with Penrith City Council's Engineering Construction Specification for Civil Works, WSUD Technical Guidelines and Stormwater Drainage for Building Developments Policies.

An original set of works-as-executed drawings and copies of the final operation and maintenance management plans and compliance documentation shall also be submitted to Penrith City Council with notification of the issue of the Occupation Certificate where Council is not the Principal Certifying Authority.

40 **K503 - Stormwater Compliance**

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

- a) Stormwater management systems (including on-site detention and water sensitive urban design)
  - Have been satisfactorily completed in accordance with the approved Construction Certificate and the requirements of this consent.
  - Have met the design intent with regard to any construction variations to the approved design.
  - Any remedial works required to be undertaken have been satisfactorily completed.

Details of the approved and constructed system/s shall be provided as part of the works-as-executed drawings.

41 **K504 - Restriction as to User and Positive Covenant**

Prior to the issue of an 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)

Shall be registered on the title of the property. The restriction as to user and positive covenant shall be in Penrith City Council's standard wording as detailed in Penrith City Council's Stormwater Drainage for Building Development Policy.

42 **K515 - Maintenance Bond**

Prior to the issue of a Occupation Certificate, a Maintenance Bond is to be lodged with Penrith City Council for drainage and associated works in Robertson Place.

The value of the bond shall be determined in accordance with Penrith City Council's adopted Fees and Charges.

Note:

- a) Contact Penrith City Council's Engineering Services Department on (02) 4732 7777 for further information relating to bond requirements.

43 **K - Waterways - Stormwater Management system operation and maintenance**

The stormwater management systems shall continue to be operated and maintained in perpetuity to the satisfaction of Council in accordance with the final operation and maintenance management plan. Regular inspection records are required to be maintained and made available to Council upon request. All necessary improvements are required to be made immediately upon awareness of any deficiencies in the treatment measure/s.

44 **K Special (BLANK)**

All car parking and manoeuvring must be in accordance with AS 2890.1-2004, AS 2890.2002, AS 2890.6-2009 and Council's requirements.

45 **K Special (BLANK)**

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

46 **K Special (BLANK)**

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

47 **K Special (BLANK)**

All vehicles are to enter/exit the site in a forward direction.



48 **K Special (BLANK)**

**Prior to the issue of a Construction Certificate**, the stamped approved plans shall be amended to provide the access driveway of at least 6 metres in compliance with AS 2890.2 Figure 3.1 for a Small Rigid Vehicle. This amendment shall be shown on the Construction Certificate plans.

49 **K Special (BLANK)**

**Prior to the issue of a Construction Certificate**, the stamped approved plans shall be amended to make provision for an indicated service/waste storage bay location and waste vehicle manoeuvring area in compliance with AS 2890.2, including manoeuvring area with not more than a three point turn, at least 300mm clearances for buildings, car park, fencing and other obstructions to enter and leave in a forward direction. This amendment shall be shown on the Construction Certificate plans.

## Landscaping

50 **L001 - General**

All landscape works are to be constructed in accordance with the stamped approved plans and Section C6 Landscape Design of *Penrith Development Control Plan 2014*.

Landscaping shall be maintained:

- in accordance with the approved plans, 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.

51 **L002 - Landscape construction**

The approved landscaping for the site shall be constructed by a suitably qualified and experienced landscape professional.

52 **L003 - Report requirement**

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 suitably qualified and experienced 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.

53 **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 the *Penrith Development Control Plan 2014*.

54 **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.

55 **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 Section C2 Vegetation Management of *Penrith Development Control Plan 2014*.

56 **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.

## Certification

57 **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 1979* and Regulation.

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

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

58 **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 6.6 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 6.6 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

#### C6 Stormwater Management and Drainage

Council's Development Engineer initially raised concerns regarding the stormwater discharge volumes to the kerb and advised that specifications are required for the proposed stormwater system, such as 90mm stormwater pipes crossing the road verge, a galvanise kerb adaptor and 15m separation distances for stormwater connection points. In this regard, the applicant submitted a revised stormwater plan to address these matters, which include a new kerb inlet pipe, as per Council's civil work specifications.

#### C5 Waste Management

It is noted that the proposal does not make provision for a waste servicing area. However, a condition of consent is recommended to ensure that a waste bay location is provided and is to be in accordance with AS 2890.2. This will ensure that a waste bay will not conflict with swept paths.

#### C6 Landscape Design

##### C6.1.3 Neighbourhood Amenity and Character

The proposal provides for a front landscaped treatment in front of the warehouse and the off-street car spaces. Given the constraints of the arc frontage and driveway width requirements, the proposed landscaping is considered satisfactory in terms of providing amenity to the streetscape and softening the visual dominance of the warehouse building, and overall hardstand across the site.

#### C9 Advertising and Signage

##### C9.4 Commercial, Mixed Use and Industrial Zones

The proposal includes a pylon sign situated in front of the front landscaped area, adjacent to the driveway. The pylon sign has dimensions of 3.8m x 1.8m, which is considered an appropriate size, noting a number of similar pylon signs in the immediately surrounding area and the maximum height of 7m permissible for a pylon sign.

#### C10 Transport, Access and Parking

##### C10.5. Parking, Access and Driveways

The proposal was required to be amended to comply with the minimum requirements stipulated in AS 2890.2, as advised by Council's Traffic Engineer. The matters raised are in relation to minimum driveway widths and clearances for small and medium rigid vehicle (MRV) manoeuvring, and in particular, ensuring that vehicles can enter and exit the site in a forward direction. In this regard, the reduction from 3 Units to 1 Unit permits an adequate swept path through the unit, that is, a MRV is able to enter the site and turn left into the unit's southern facing roller door, then complete a full right circular turn within the unit, then exit via the unit's western facing roller, all in a forward direction. Although it is not ideal to utilise the warehouse floor area for vehicular circulation, Council's Traffic Engineer advised that this is acceptable in this instance and is compliant with Australian Standards and Council's requirements.

## D4 Industrial Development

#### **D4.2 Building Height**

The proposal has maximum building height of 7.3m which is well below the maximum height of 12m permitted on the site. Given that the proposal is of a suitable scale and height, the proposed warehouse is considered compatible with the future desired character of the surrounding area.

#### **D4.3 Building Setbacks and Landscape**

The proposal provides a compliant 9m front setback for the warehouse building and includes a front landscaped treatment to the north-western part of the site. The front setback area includes landscaping along a section of the north-western boundary in front of the building with a front setback between 3.992m to 6.411m from the front car spaces. The front landscaped treatment make provision for one Narrow Leaved Apple tree which has the capacity to grow to 4m in height at maturity and also a number of shrubs and grass. The proposed landscape design will assist in softening the bulk of the building and is considered to provide adequate amenity to the streetscape.

#### **D4.3 Building Design**

The original proposal was for three units with floor areas of 193.87m<sup>2</sup>, 226.158m<sup>2</sup> and 179.78m<sup>2</sup>. The small sized units were of concern in regard to providing adequate space for commercial land uses. Further, this design included an accessible parking space situated in front of Unit 2, which impeded accessibility for Medium Rigid Vehicles (MRV) for Units 2 - 3. As such, the proposal was amended to a single warehouse unit with a floor area of 464.90m<sup>2</sup> including an office with a floor area of 172.40m<sup>2</sup> and mezzanine with a floor area of 98.26m<sup>2</sup>, which is considered to be functional.

The building design incorporates a cantilevered mezzanine located along the front portion of the southern elevation of the building, above the front car parking spaces. The mezzanine features louvres, aluminium composite panels and fenestration. The remaining elevations are a mix of plain and painted concrete walls with one roller door each on the northern and eastern elevation facades. The overall design is considered to present as being contemporary in architectural expression and provides for sufficient breaks in the facades that present to the streetscape, which in turn, provide for a suitable bulk and scale relative to the adjoining and surrounding buildings, noting that the nearby south-western building is of a modern design.

#### **D4.6 Accessing and Servicing the Site**

The proposal, as amended at the request of Council, provides safe vehicle manoeuvring and sufficient off-street parking. The revised swept paths demonstrate that a MRV can enter and exit the site in a forward direction, whilst maintaining appropriate clearances from obstructions. Further, Council's Traffic Engineer advised that the local street network has the capacity to accommodate any additional traffic generated as a result of the development. However, it is noted that a waste servicing location is required to be incorporated in the plans, such that the vehicle manoeuvring area for a waste servicing vehicle complies with AS 2890.2. This matter is to be addressed via a recommended condition of consent. In addition, a suitable pedestrian pathway is provided between the front landscaped area which connects from the street to the front entrance and these car spaces.

#### **D4.7 Fencing**

It is noted that the plans do not illustrate any proposed fencing. In this regard, a condition of consent is recommended to ensure that any fencing is to be of an open nature and decorative to ensure compatibility with the commercial area.

#### **D4.8 Lighting**

A condition of consent is recommended to make provision for lighting across the site to address CPTED principles and deter any anti-social behaviour .