

PENRITH CITY COUNCIL

MAJOR ASSESSMENT REPORT

Application number:	DA17/1202
Proposed development:	Alterations to an Existing Building and Construction of New Building for Cold Food Storage with Associated Driveway, Parking and Landscaping Works
Property address:	24 - 27 Lambridge Place, PENRITH NSW 2750
Property description:	Lot 11 DP 1087962 Lot 12 DP 1087962
Date received:	24 November 2017
Assessing officer	Mahbub Alam
Zoning:	IN1 General Industrial - LEP 2010
Class of building:	Class 7b
Recommendations:	Deferred Commencement

Executive Summary

Council is in receipt of a development application from Ezzy Architects Pty Ltd on behalf of Jenifer Gibson and Robert Gibson. The application seeks approval to the construction of a new cold store building as an extension to the existing cold store to be built on the adjoining vacant land at 24-27 Lambridge Place, Penrith. The subject site is zoned IN1 (General Industrial) under Penrith Local Environmental Plan 2010 (LEP 2010). The proposal is defined as "Warehouse or Distribution Centre" which is a permissible land use in the IN1 Zone with council consent.

Consideration of land contamination, flooding, drainage, building height and the relationship to the surrounding built form are a key considerations in the assessment of the proposal. These key issues have been assessed and found to be satisfactory.

A Deferred Commencement condition is recommended to require submission and approval of a development application for remediation works required to ensure this site is suitable for the proposed use.

The application was notified to nearby owners and occupiers of adjoining properties who were invited to inspect the proposal from 30 November 2017 to 14 December 2017. Council did not receive any submission in response.

An assessment under Section 4.15(1) of the *Environmental Planning and Assessment Act 1979 (EP&A ACT 1979)* has been undertaken and the application is recommended for deferred commencement.

Background

The application was presented to the Local Planning Panel on 28 March 2018 and the following key comment was received:

The Panel generally agreed with the balance of environmental considerations outlined within the Council staff report and was generally supportive of the proposal. The Panel had regard to the applicants' Clause 4.6 variation request (including addenda) regarding the maximum height limit within Clause 4.3 of the Penrith Local Environmental Plan 2010 ('the LEP'). Given the location, the existing and adjoining heights of buildings, and the degree of non-compliance across a large site, the sustainability benefits of the proposed design and roof, the appropriate site planning, and the consistency with the zoning objectives and height objectives, the Panel was satisfied regarding the proposed height. The Panel formed the view the applicant's written request satisfactorily addressed required matters within Clause 4.6 of the LEP and it was considered compliance with the height limit was unnecessary and unreasonable in this case.

In this case, rather than defer the application for subsequent determination by the Panel, it was appropriate to have the subsequent determination undertaken by staff, noting their requisite internal expertise, and that the matters of detail regarding contamination and water management would have been assessed by Council officers within the terms of the recommended deferred commencement.

Site & Surrounds

The property is known as Lots 11 and 12 in Deposited Plan 1087962, No. 24-27 Lambridge Place, Penrith. The site comprises two separate allotments. The proposed additions as part of the proposal are predominantly confined to lot 11. Lots 11 & 12 will be consolidated into one lot as part of this development application. Lot 12 has an area of 6,246sqm and contains an existing warehouse of approximately 1,882.8sqm. A survey plan has been prepared as part of the development application. The survey plan identifies that lot 12 is burdened by three (3) easements namely two drainage easements and an easement for electricity substation. Lot 12 is located on a 'bend' in Lambridge Place and has a western boundary fronting Lambridge Place of 75.61m and a southern frontage to the roadway of 85.358m. Lot 11 adjoins lot 12 to the east and has a splayed frontage to the cul-de-sac head of Lambridge Place. The site is currently vacant but is used as parking for the lot 12.

The lower (southern) portion of the site serves as a floodway for the locality. Lot 12 has a total area of approximately 6,299.5sqm. The natural ground level of lot 11 falls from the northern property boundary to the southern side boundary. The subject land is located within a large industrial area. The site is located in an area identified in the Penrith Development Control Plan 2014 (DCP 2014) as Precinct 5 North Penrith and is located to the south of Andrews Road. The main access to the site is through Lambridge Place. The total site area is approximately 12,545sqm.

The surrounding area is located in an industrial area and is characterised by similar factories that are used for warehousing and distribution. The site is currently occupied with an industrial warehouse with existing structures located within the site.

Proposal

The proposed development includes the following:

- Construction of a new cold store building as an extension to the existing cold store to be built predominantly on the adjoining vacant lot;
 - Existing Cold Store- 1,882.8sqm
 - Cold Store (Increase) - 2,238sqm
 - TOTAL - 4,120.8sqm
- Construction of associated hardstand for truck and car access;
- Provision of an additional seven (7) on site car parking spaces;
- Additional loading facilities;
- Modification to existing access drive for improved truck access;
- Truck refuelling area to be bunded with a fuel storage tank;
- Landscaping of front setback;
- Additional condensers for cooling.

The current operation employs twenty-three (23) full-time employees on the site. Frozen goods are transported to and from the cold store by truck. Current truck movements a day average 25 – 30 vehicles (approx. 1 per hour). The proposed expansion will be used predominantly for long-term storage and consequently, no increase in truck movements is envisaged. The current cold store comprises a number of loading docks to accommodate peak demand for loading facilities. Additional loading facilities will be provided as part of the expansion to the premises.

An additional two (2) warehouse staff and one (1) office staff will be employed on the site as a result of the expanded operation.

Car parking for thirty (30) vehicles is provided on the site with access to Lambridge Place. Established landscaping effectively screens the existing development from the adjoining street and surrounding locality.

Plans that apply

- Local Environmental Plan 2010 (Amendment 4)
- Development Control Plan 2014
- State Environmental Planning Policy No 33—Hazardous and Offensive Development
- State Environmental Planning Policy No 55—Remediation of Land
- Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

Planning Assessment

• Section 79C - Evaluation

The development has been assessed in accordance with the matters for consideration under Section 79C of the Environmental Planning and Assessment Act 1979, and having regard to those matters, the following issues have been identified for further consideration:

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

State Environmental Planning Policy No 33—Hazardous and Offensive Development

The provisions of SEPP 33 have been considered in this assessment. SEPP 33 provides guidelines on risk screening to determine whether a proposed development is potentially hazardous and thus affected by SEPP No. 33.

The proposal is not deemed to be "potentially hazardous industry" under SEPP 33. The proposed works do not fit into the definition of hazardous or offensive industry as they do not pose a significant risk in relation to the locality to human health, life, property, the biophysical environment, or includes a hazardous industry or hazardous storage establishment.

State Environmental Planning Policy No 55—Remediation of Land

This policy aims to provide a state-wide approach to remediation of contaminated land. Of particular relevance to the current proposal are the requirements of Clause 7, which provides:

(1) A consent authority must not consent to the carrying out of any development on land unless:
(a) it has considered whether the land is contaminated, and
(b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and
(c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.

The application was accompanied by Detailed Site Investigation Reports. The site requires remediation due to the presence of hydrocarbon. As the application now requires remediation works, a Deferred Commencement condition will be recommended requiring submission and approval of a development application for the remediation works.

Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

An assessment of the application has been undertaken against relevant criteria with Sydney Regional Environmental Plan No 20—Hawkesbury-Nepean River (No 2—1997)

The aim of this plan is to protect the environment of the Hawkesbury/ Nepean River system by ensuring that the impacts of future land uses are considered in a regional context. The SREP 20 provision aims to ensure that the development does not negatively impact on water quality, fauna and flora habitats.

This Plan applies generally to the subject land. The proposal will have minimal impacts on the river or lands within the river valley & appropriate conditions will be imposed to ensure that adequate control measures are provided.

The application is satisfactory subject to recommended conditions of consent.

Local Environmental Plan 2010 (Amendment 4)

Provision	Compliance
Clause 2.3 Permissibility	Complies - See discussion
Clause 2.3 Zone objectives	Complies - See discussion
Clause 4.3 Height of buildings	Complies - See discussion
Clause 4.6 Exceptions to development standards	Complies - See discussion
Clause 7.2 Flood planning	Complies - See discussion
Clause 7.5 Protection of scenic character and landscape values	Complies - See discussion

Clause 2.3 Permissibility

The subject site is zoned IN1 General industrial under the provisions of Penrith LEP 2010. The 'Dictionary' provided within the LEP contains a definition of "warehouse or distribution centres" that means;

"warehouse or distribution centre means 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."

The proposed works involve an expansion to the existing use of the premises for the purpose of a 'warehouse or distribution centres' and is permissible within the IN1 General Industrial Zone with the consent of Council.

Clause 2.3 Zone objectives

- To provide a wide range of industrial and warehouse land uses.

Comment: The existing use of the premises by FoodBoss is a permissible use within the zone and maintains the wide range of industrial activities that are currently undertaken within the Penrith Industrial Precinct 5.

- *To encourage employment opportunities.*

Comment: The proposed works will ensure the continued viability of the FoodBoss operations. Employment opportunities will consequently be maintained and expanded slightly on the site.

- *To minimise any adverse effect of industry on other land uses.*

Comment: The proposed works will have no adverse impact upon industries currently operating in the locality.

- *To support and protect industrial land for industrial uses.*

Comment: The works will ensure the continued viability of the FoodBoss operations from within the existing and expanded industrial building.

- *To promote development that makes efficient use of industrial land.*

Comment: The proposal will involve a logical expansion to the existing cold store operation and has been designed to integrate effectively.

- *To permit facilities that serve the daily recreation and convenience needs of the people who work in the surrounding industrial area.*

Comment: Not applicable

The surrounding area is characterised by an established industrial precinct. The proposed development will be in keeping with the existing streetscape of the locality and is a typical form of development found in the industrial environment. Accordingly, the proposed development is considered to be consistent with the objectives of the zone

Clause 4.3 Height of buildings

The objectives of this clause are:

- (a) to ensure that buildings are compatible with the height, bulk and scale of the existing and desired future character of the locality,*
- (b) to minimise visual impact, disruption of views, loss of privacy and loss of solar access to existing development and to public areas, including parks, streets and lanes,*
- (c) to minimise the adverse impact of development on heritage conservation areas and heritage items,*
- (d) to nominate heights that will provide a transition in built form and land use intensity.*

The proposed building will have a maximum height of 15.20m. Clause 4.3 (Height of buildings) of LEP 2010 prescribes a maximum building height of 12m for the subject site and therefore a variation under Clause 4.6 (Exceptions of development standards) of the LEP 2010 of approximately 26%, has been sought to permit the non-compliance. A written request under Clause 4.6 (Exceptions of development standards) of LEP 2010 is provided with this application. Further details of the variation are discussed in the specific section (Clause 4.6) in this report.

Clause 4.6 Exceptions to development standards

The objectives of the clause are to:

(a) Provide an appropriate degree of flexibility in applying certain development standards to particular development,

(b) To achieve better outcomes for and from development by allowing flexibility in particular circumstances.

The applicant seeks to vary the maximum height permitted under Clause 4.3 from the 12m to 15.2m (approximately 26% variation). The variation applies to approximately 62% of the overall building footprint and roof area of the development.

A written request under clause 4.6 (exceptions to development standard) of the LEP 2010 is provided with this application. The applicant has provided the following justification in the submitted written request:

- The proposal results in a building form of bulk and scale consistent with the desired future character and sympathetic to the existing and envisaged development in the immediate locality.
- The proposed development satisfies the test established by the Land and Environment Court of NSW in *Wehbe -v- Pittwater Council* [2007] NSW LEC 827 as being appropriate for consideration of "unreasonable or unnecessary" circumstances in the application of Clause 4.6 variation request.
- The environmental benefits of the proposal providing energy efficiency through the roof design at the upper level of the building while retaining the remainder of the building at a scale envisaged for industrial development in the locality, is on balance an appropriate environmental outcome to justify the contravention of the development standard.

The proposed variation and request for support of the variation has been assessed as follows:

Clause 4.6(3)(a) - Compliance with the development standard is unreasonable or unnecessary in the circumstances of the Case.

Comment:

In *Wehbe v Pittwater Council* [2007] NSW LEC 827, Chief Justice Preston expressed the view that there are 5 different ways in which a Development Standard may be shown to be unreasonable or unnecessary. In accordance with this precedent, the proposed variation is tested below against each of these.

- *The objectives of the standard are achieved notwithstanding non-compliance with the standard;*

The relevant objectives underpinning the maximum building height development standard are:

"(a) to ensure that buildings are compatible with the height, bulk and scale of the existing and desired future character of the locality,

(b) to minimise visual impact, disruption of views, loss of privacy and loss of solar access to existing development and to public areas, including parks, streets and lanes,

(c) to minimise the adverse impact of development on heritage items, heritage conservation areas and areas of scenic or visual importance,

(d) to nominate heights that will provide a high quality urban form for all buildings and a transition in built form and land use intensity."

Comment:

The proposed building height is compatible with the height, bulk and scale of other industrial buildings in the locality. The site by its configuration and surrounding development, is relatively obscured from view from adjoining main roadways (Andrews Road and Castlereagh Road) and the public domain. The building proposed has different architectural forms and heights that provide a transition to the existing cold store building on the site. When considered with the other building forms on the site, the development with compatible architectural forms and heights complement each other. The building with the height exceedance will simply be seen as another building in the range of buildings on the site and immediate locality.

The adjoining site immediately to the north is vacant. A building that has a form consistent with that envisaged by LEP 2010 would largely screen the proposed building from this direction. Objective (b) is

satisfied as it has been demonstrated in the plans submitted with the application that any loss of views, overshadowing or privacy impacts are negligible. In this regards, the objectives of the standard can be achieved, notwithstanding the variation on building height, and that a better development outcome would result.

- *The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;*

Comment:

The underlying objective or purpose of the standard is relevant to this development but, as illustrated in the plans submitted with the development application, it is still achieved despite the variation. The strict compliance with the development standard is unreasonable or unnecessary. There are sufficient environmental planning grounds to justify contravening the development standard because the proposal results in a building form of bulk and scale consistent with the desired future character and sympathetic to the existing and envisaged development in the immediate locality.

- *The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;*

Comment:

The underlying object or purpose of the standard would not be defeated or thwarted if compliance was required. However, strict compliance with the development standard would result in a missed opportunity specific to this site to develop a high quality development (providing energy efficiency through the roof design and provide maximum land for stormwater overland flow) that will present in a positive manner to the adjoining street.

- *The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;*

Comment:

Council has departed on a number of occasions from the relevant standard in past determinations for development in the locality as the existing cold storage building (in lot 12) height is approximately 14m and also 13.78m high Sports & Leisure Centre is located at 16-19 Lambridge Place.

- *The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.*

Comment:

Not applicable. The zoning of the site is appropriate.

In regards to the above, the proposed variation is consistent with the heads of consideration set by the decision of *Wehbe v Pittwater Council* [2007] and thus that for this particular case it would be unreasonable to strictly apply the numerical height standard for the development

Clause 4.6(3)(b) - There are sufficient environmental planning grounds to justify contravening the development standard

Comment

The proposed building height variation would have positive outcomes including provision of a high quality industrial development (providing energy efficiency through the roof design) consistent with the provisions of the LEP 2010 for development within the IN1 zone and the protection and enhancement of identified values specific to the site. The departure on building height is a negligible issue within the context of the greater planning benefit, including opportunities for protection and enhancement of local values and provision of high quality industrial development. In this regard, there are sufficient environmental planning grounds specific to this site to justify the proposed departure from the development standard.

Clause 4.6(4)(a)(ii) - The proposal will be in the public interest because it is consistent with the objectives of the relevant development standard and the objectives for development within the relevant zone.

Comment:

The proposed variation in building height to enable the expansion of the existing cold store will result in a development that is consistent with the objectives of the IN1 zone and the building height standard clause within the LEP 2010.

In regards to the above discussion, the proposed development satisfies the test established by the Land and Environment Court of NSW in *Wehbe -v- Pittwater Council* [2007] NSW LEC 827 as being appropriate for consideration of "unreasonable or unnecessary" circumstances in the application of Clause 4.6 variation request for the following:

- The objectives of the standard are achieved notwithstanding non-compliance with the standard;
- The underlying objective or purpose of the standard is not relevant to the development therefore compliance is unnecessary in the context of the facts of this case;
- The underlying objective or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable - it would not result in the orderly and economic development of the land;

In the circumstances set out above there are sufficient environmental planning grounds to vary the numerical standard in this matter. Requiring strict compliance with the 12 metre height standard for the expansion to the existing cold store in the IN1 industrial land would hinder attainment of the relevant objects of the Environmental Planning and Assessment Act 1979.

Clause 7.2 Flood planning

The objectives of this clause are as follows:

- (a) *to minimise the flood risk to life and property associated with the use of the land,*
- (b) *to limit uses to those compatible with flow conveyance function and flood hazard,*
- (c) *to manage uses to be compatible with flood risks,*
- (d) *to enable safe and effective evacuation of land,*
- (e) *to ensure the existing flood regime and flow conveyance capacity is not compromised,*
- (f) *to avoid detrimental effects on the environment that would cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or waterways.*

The site (in part) is identified as "Flood planning land" in accordance with the LEP 2010. The proposed warehouse building is located outside of the 1% Annual Exceedance Probability (AEP) overland flood extent with adequate freeboard, however the proposed car parking area is within Council's mapped 1% AEP overland flow path and it is proposed to be filled up to 800mm to convey stormwater runoff to the existing inter allotment drainage system.

Amended Stormwater Concept Plans and Water Management Plan was submitted. The amended plans were reviewed by Council's Development Engineer and raised no objection subject to conditions.

Clause 7.5 Protection of scenic character and landscape values

The site is identified as "Land with scenic and landscape values" on the scenic and landscape values map contained within the LEP 2010. Clause 7.5(3) of the LEP 2010 states:

"(3) Development consent must not be granted for any development on land to which this clause applies unless the consent authority is satisfied that measures will be taken, including in relation to the location and design of the development, to minimise the visual impact of the development from major roads and other public places."

The proposed development will have minimal impact on the existing landscapes or scenic character of the area. Whilst the proposal exceeds the building height limitation, a photo montage of the development satisfactorily demonstrates appropriate landscaping treatment combined with the proposed setback and design of the external façade of the building is in keeping with the landscape of the approved design of the overall site and the existing built form of the surrounding area.

The proposed building extension will be relatively obscured from any nearby major roads and/or public places due to the configuration of the existing allotment layout in the locality and the design and positioning of surrounding development in the area.

The site is relatively constrained due mainly to flooding and lot configuration/pattern. The site in its context to surrounding development (existing and proposed) is considered to have limited scenic value as viewed from any nearby major roadway or public place.

As discussed above, the development has been designed to be functional for the purpose to which the use is proposed and although the built form will exceed the height standard, the visual impacts from the proposal to surrounding areas is considered to be minimal and in the circumstances being acceptable.

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

Development Control Plan 2014

Provision	Compliance
DCP Principles	Complies
C1 Site Planning and Design Principles	Complies
C2 Vegetation Management	Complies
C3 Water Management	Complies
C4 Land Management	Complies
C5 Waste Management	Complies
C6 Landscape Design	Complies
C7 Culture and Heritage	N/A
C8 Public Domain	N/A
C9 Advertising and Signage	N/A
C10 Transport, Access and Parking	Complies - see Appendix - Development Control Plan Compliance
C11 Subdivision	N/A
C12 Noise and Vibration	Complies
C13 Infrastructure and Services	Complies
D4.1. Key Precincts	Complies - see Appendix - Development Control Plan Compliance
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
D4.5. Storage of Materials and Chemicals	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)(iv) The provisions of the regulations

Council's Building Surveyor raised no objection to the proposal having regard to applicable fire safety requirements and recommended conditions to be imposed in the consent.

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

Built and Natural Environment

a) The proposed development is considered to result in any adverse impacts on the natural environmental in regard to water, soil, air quality and flora and fauna.

b)The site is situated within an existing industrial precinct and the proposed development is generally appropriate in the locality. The development is unlikely to have adverse impacts in regard to:

- Overshadowing: The proposed building height does not impact on the provision of solar access to surrounding premises.
- Visual Impact: The proposed development will maintain the high quality streetscape which is prevalent in the Lambridge Estate precinct.
- Acoustic Privacy: The development is located within an industrial area and the use of the building for a gymnasium will have no adverse impacts on noise. The proposed modification to operation hours is negligible and also will not impact on noise.
- Heritage: The site contains no heritage items and is not in a heritage conservation area.

Social and Economic

- The proposed development will positively contribute to the desired character of the area in regard to employment opportunity.

Access, Parking and Traffic

- The proposal will have no adverse traffic generation impacts on the local road system.
- The proposed vehicle access arrangements and car parking on the site will be adequate for the proposal.

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

The site is suitable for the following reasons:

- The site is currently being used as a commercial cold storage and transport facility. The proposal involves extending the existing facility on the site to accommodate a new building.
- The proposal complements the existing operation within the facility and the surrounding area which will allow for the site to operate more efficiently.
- The proposal will add only 3 additional staff number.
- The Proposal will not change existing truck movements associated with the subject site.
- The subject site zoned IN1 General Industrial and the proposed use is permissible with Council consent.

Section 79C(1)(d) Any Submissions

Community Consultation

In accordance with Appendix F4 of the Penrith Development Control Plan 2014 – Notification and Advertising, this application was notified to nearby owners and occupiers of adjoining properties who were invited to inspect the proposal from 30 November 2017 to 14 December 2017. Council did not receive any submission 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	Not supported, however conditions provided
Environmental - Public Health	No objections - subject to conditions
Traffic Engineer	No objection subject to conditions

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

The proposed development is consistent with the objectives of the Environmental Planning and Assessment Act 1979 in so far as it promotes the co-ordinated and orderly economic use and development of the land. Furthermore, the application has been notified with suitable timeframes given for submission from members of the public.

As a result Council may be satisfied that the development subject to conditions is consistent with the public interest.

Section 94 - Developer Contributions Plans

The proposed development is not affected by a Section 94 Contributions Plan and as such no contributions are required. .

Conclusion

In assessing this application against the relevant environmental planning policies, being Penrith Local Environmental Plan 2010 and Penrith Development Control Plan 2014, the proposal satisfies the aims, objectives and provisions of these policies. The site is suitable for the proposed development, the proposal is in the public interest, and there is unlikely to be negative impacts arising from the proposed development. Therefore, the application is worthy of support, subject to recommended conditions.

Recommendation

That DA17/1202 for Industrial Development - Alterations and Additions to an Existing Facility to construction of new building at 24 - 27 Lambridge Place PENRITH, 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 attached plans and by the following conditions.

Drawing Title	Drawing Reference	Prepared by	Dated
Proposed Site	A101	Ezzy Architects	19/10/2017
Proposed Ground Floor Plan	A201 (Issue A)	Ezzy Architects	2/3/18
Floor Plan and Travel Distance	A202 (Issue B)	Ezzy Architects	2/3/18
Truck Refuelling Plan	A203 (Issue A)	Ezzy Architects	2/3/18
Truck Turning Circle	A204 (Issue A)	Ezzy Architects	2/3/18
DA Sections	A300 (Issue A)	Ezzy Architects	2/3/18
DA South Elevation & Details Section	A400 (Issue A)	Ezzy Architects	2/3/18
DA Elevations	A401 (Issue A)	Ezzy Architects	2/3/18
Landscape Plan	A500 (Issue A)	Ezzy Architects	2/3/18
Landscape Plan Details	A501 (Issue A)	Ezzy Architects	2/3/18
External Colour Schedule	A502 (Issue A)	Ezzy Architects	2/3/18
Stormwater Concept Plans	Project No. G0170521, Dwg No. D1-D9, Issue C	Acor Consulting	21/03/18
Water Management Plan	Project No. G0170521, Revision 3.0	Acor Consulting	21/03/18
Waste management Plan	-	Ian Ezzy	14/11/2017

2 A014 - LOT CONSOLIDATION

Lot 11 and 12 in Deposit Plan 1087962 are to be consolidated as one lot. Written evidence that the request to consolidate the lots has been lodged with Land and Property Information division of the Department of Lands is to be submitted to the certifying authority before the Construction Certificate for the development can be issued by the certifier.

A copy of the registered plan of consolidation from Land and Property Information division of the Department of Lands is to be submitted to the Principal Certifying Authority (PCA) and Penrith City Council, if Council is not the PCA, prior to the issue of the Occupation Certificate for the development.

3 A019 - OCCUPATION CERTIFICATE (ALWAYS APPLY)

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

4 A026 - Advertising sign (not for residential)

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

5 A032 - Goods in buildings

All materials and goods associated with the use shall be contained within the building at all times.

6 A038 - LIGHTING LOCATIONS

Prior to the issue of an Occupation Certificate, a lighting system shall be installed for the development to provide uniform lighting across common areas and driveways. Exterior lighting shall be located and directed in such a manner so as not to create a nuisance to surrounding landuses. The lighting shall be the minimum level of illumination necessary for safe operation. The lighting shall be in accordance with AS 4282 "Control of the obtrusive effects of outdoor lighting" (1997).

7 A039 - Graffiti

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

- 8 [A046 - Obtain Construction Certificate before commencement of works](#)
A **Construction Certificate** shall be obtained prior to commencement of any building works.
- 9 [A Confirmation of Liquid Waste Disposal](#)
Prior to the issue of the Occupation Certificate, a Report shall be submitted confirming all liquid wastes collected within the under canopy forecourt of the fuel bowsers has been directed to the sewer after being treated in accordance with the requirements of Sydney Water.
- 10 [A Details of Plant & Equipment](#)
Details and location of noise generating plant equipment (chillers/condensers etc.) is to be provided prior to the issue of the construction certificate.
- 11 [A Fuel Bowsers](#)
Fuel bowsers and service areas shall comply with the NSW Environment Protection Authority's (EPA) Environmental Guideline
: *Surface water management on the covered forecourt areas of service stations.*
- 12 [A General Amenity](#)
The operation of the premises shall be conducted in such a manner as not to interfere with or materially affect the amenity of the neighbourhood by reason of noise, vibration, odour, fumes, vapour, steam, soot, ash, dust, particulate matter, waste water, waste products or other impurities which are a nuisance or injurious to health
- 13 [A Intruder Alarm](#)
Where an intruder alarm is installed on the premises it shall be fitted with a timing device in accordance with the requirements of the Protection of the Environment Operations Act 1997
- 14 [A Noise Complaints](#)
In the event of Council receiving a complaint regarding excessive noise, the person(s) in control of the premises shall at their own cost arrange for an acoustic investigation to be carried out (by a suitably qualified person) and submit a report to Council specifying the proposed methods for the control of noise emanating from the premises
- 15 [A Noise Compliance Report](#)
A noise compliance report shall be submitted to Council **prior to the issuing of the Occupation Certificate**. The report shall state that the noise reduction measures detailed Acoustic Assessment prepared by Brian Marston from BGMA Pty Ltd Acoustical Consulting dated October 2017, reference BGMA 170709 A have been implemented, and confirm that the noise emissions from the premises complies with Council's noise criteria specified in this consent
- 16 [A Pollution Control Materials](#)
Sufficient supplies of appropriate absorbent materials shall be kept on site to recover any liquid spillage. Liquid spills shall be cleaned up using dry methods, by placing absorbent material on the spill and sweeping or shovelling the material into a secure bin. Absorbent materials used to clean up must be disposed of to an appropriately licensed waste facility.
- 17 [A Special BLANK](#)
Signs shall be displayed adjacent to all stormwater drains on the premises indicating that only rainwater is allowed to enter these drains. Examples of possible signage include: 'Rainwater Only' , 'Rainwater only - NO waste'
- 18 [A storage and handling of flammable and combustible liquids](#)
The storage and handling of flammable and combustible liquids shall be in accordance with Australian Standard
AS 1940-2017 The storage and handling of flammable and combustible liquids.

Demolition

- 19 [B004 - Dust](#)
Dust suppression techniques are to be employed during construction to reduce any potential nuisances to surrounding properties.
- 20 [B005 - Mud/Soil](#)
Mud and soil from vehicular movements to and from the site must not be deposited on the road.

Environmental Matters

- 21 [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.

22 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.

23 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.

24 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 or the amenity criteria outlined in the NSW EPA's Noise Policy for Industry (which ever is more stringent). The provisions of the Protection of the Environment Operations Act 1997 apply to the development, in terms of regulating offensive noise.

25 D015 - Spill prevention & clean-up procedures

A plan detailing spill prevention, contingency and emergency clean-up procedures for the development shall be submitted for approval prior to a **construction certificate being issued**. The approved procedures plan shall be implemented in the event of a spill or emergency.

26 D016 - Fuel Bowsers & Canopy

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

- The proposed fuel bowser/s shall be covered with a canopy. All uncontaminated stormwater from the canopy and other roofed areas shall be directed away from the forecourt area under the canopy.
- The covered fuel bowser/s area shall be protected from the entry of external surface waters at the canopy line by either a minimum 2% change in grade, or a combination of a minimum 2% grade changes and a grated drainage system.
- Tanker delivery facilities shall be provided with a spillage collection device, which will collect any spilt fuel
- Drainage and piping to the purceptor, identify what areas are draining to the purceptor and confirm that the purceptor drains to sewer.

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

27 D017 - Liquid Waste from Canopy

All liquid wastes collected within the under canopy forecourt of the fuel bowsers shall be directed to the sewer after being treated in accordance with the requirements of Sydney Water. Plans and information demonstrating compliance with this condition are required to be submitted **prior to issue of Construction Certificate**.

28 D019 - Bunding-fuel tanks

Above ground fuel storage tanks shall be installed on a concrete surface and protected by a grated drainage system to a dead-end sump or by a bund. The storage capacity of the bund or sump shall be equal to 110% of the volume of the tank.

29 D131 - Approved noise level 2

Noise levels from the premises shall not exceed the relevant noise criteria detailed in Acoustic Assessment prepared by Brian Marston from BGMA Pty Ltd Acoustical Consulting dated October 2017, reference BGMA 170709 A. The provisions of the Protection of the Environment Operations Act 1997 apply to the development, in terms of regulating offensive noise.

BCA Issues

30 **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.

31 **E01A - BCA compliance for Class 2-9**

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

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

(b) formulating an alternative solution which:

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

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

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

Health Matters and OSSM installations

32 **F052 - Coolrooms**

The floor of the cold food storage room must be finished with a smooth even surface and graded to the door. All surfaces in the cold food storage room are to be smooth and impervious to moisture and able to be easily cleaned.

All metal work in the cold food storage room must be treated to resist corrosion.

33 **F053 - Coolrooms – condensation**

Condensation from cold food storage room and refrigeration motors must discharge to sewer via a tundish with air gap separation in accordance with Sydney Water requirements.

34 **F054 - Coolrooms – doors & alarms**

The cold food storage room must be provided with:

- A door which can at all times be opened from inside without a key and
- An approved alarm device located outside the room, but controlled only from the inside.

Utility Services

35 **G002 - Section 73 (not for**

A Section 73 Compliance Certificate under the Sydney Water Act 1994 shall be obtained from Sydney Water. The application must be made through an authorised Water Servicing Coordinator. Please refer to "Your Business" section of Sydney Water's website at www.sydneywater.com.au then the "e-developer" icon, or telephone 13 20 92.

The Section 73 Compliance Certificate must be submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

36 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

37 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.

38 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.

39 H041 - Hours of work (other devt)

Construction 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 and 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

40 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.

41 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.

42 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

43 **K205 - S68 Local Government Act – Stormwater drainage works CIVIL CONSTRUCTION IN LOTS**

Prior to the issue of any Construction Certificate, the Principal Certifying Authority and/ or Certifying Authority shall ensure that an application under Section 68 of the Local Government Act, including payment of application and inspection fees, has been lodged with, and approved by Penrith City Council for provision of an outlet structure within the existing open channel.

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) All works associated with the S68 Local Government Act Approval must be completed prior to the issue of any Occupation Certificate or Subdivision Certificate as applicable.

44 **K210 - Stormwater Management**

The stormwater management system shall be provided generally in accordance with the concept plan/s prepared by ACOR Consultants Pty Ltd, Drawing Number - GO170521, Revision C dated 23 March 2018.

Engineering plans and supporting calculations for the stormwater management systems (including OSD and WSUD) 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.

45 **K213 - Flooding - Flood Report Recommendations**

Prior to the issue of any Construction Certificate, the Certifying Authority shall ensure that the proposed development is compatible with the recommendations of the Flood Risk Management within the Water Management Report prepared by ACOR Consultants, reference number GO170521, revision 3.0, dated 21 March 2018.

46 **K214 - Flooding – Floor levels**

Prior to the issue of any 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 25.40m AHD (standard flood level + 0.5m freeboard).

47 **K217 - Flooding – Flood Compatible Materials**

Prior to the issue of any Construction Certificate, the Certifying Authority shall ensure that the structure/s below RL 25.40m AHD (standard flood level + 0.5m freeboard) have been detailed with flood compatible building components in accordance with the publication 'Reducing the Vulnerability of Buildings to Flood Damage' produced by the Hawkesbury-Nepean Floodplain Management Steering Committee.

48 **K218 - Flooding – Structural Adequacy**

Prior to the issue of any Construction Certificate, the Certifying Authority shall ensure that the structure/s can withstand the forces of floodwater including debris and buoyancy up to the 1% Annual Exceedence Probability Event in accordance with the requirements of the Building Code of Australia (BCA).

49 **K219 - Flooding - Flood Proofing**

Prior to the issue of any Construction Certificate, the Certifying Authority shall ensure that all electrical services associated with the proposed building works are adequately flood proofed in accordance with Penrith City Council's Development Control Plan relating to flood liable land. Flood sensitive equipment (including electric motors and switches) shall also be located above RL 25.40 m AHD (standard flood level + 0.5m freeboard).

50 **K222 - Access, Car Parking and Manoeuvring – General**

Prior to the issue of any Construction Certificate, the Certifying Authority shall ensure that vehicular access, circulation, manoeuvring, pedestrian and parking areas associated with the subject development are in accordance with AS 2890.1, AS2890.2, AS2890.6 and Penrith City Council's Development Control Plan.

51 **K227 - Stormwater Legal Discharge Point**

Prior to the issued of any Construction Certificate issued for internal works associated with the development the site must be serviced by a legal point of discharge including and required infrastructure drainage works. The drainage works may include inter-allotment drainage construction, upgrades and / or road drainage extensions located on lands owned by others.

52 **K301 - Sediment & Erosion Control**

Prior to commencement of any works associated with the development, 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 and Managing Urban Stormwater series from the Office of Environment and Heritage.

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

53 **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.

54 **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 the issue of a Construction Certificate.

55 **K405 - Turf to Verge**

Upon completion of all works in the road reserve, all verge areas fronting and within the development are to be turfed. The turf shall extend from the back of kerb to the property boundary, with the exception of concrete footpaths, service lids or other infrastructure which is not to be turfed over. Turf laid up to concrete footpaths, service lids or other infrastructure shall finish flush with the edge.

56 **K406 - Underground Services**

All existing (aerial) and proposed services for the development, including those across the frontage of the development are to be located or relocated underground in accordance with the relevant authorities regulations and standards.

57 **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 S138 Roads Act approval or S68 Local Government Act approval have been inspected and signed off by Penrith City Council.

58 **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.

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.

59 **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)
 - 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.

60 **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)

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.

61 **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.

62 **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.

63 **K - Special Condition - Flood Emergency Response Plan**

Prior to the Issue of a Construction Certificate, a Flood Emergency Response Plan shall be prepared in consultation with State Emergency Services (SES) for the safe flood access and emergency egress for the proposed development in conjunction with Section 3.5 Flood Planning, C 6b) of Council's Development Control Plan 2014.

64 **K Special (BLANK)**

All car parking and manoeuvring must be in accordance with AS2890.1-2004; AS2890.2- 2—2; AS2890.6-2009 and Council's requirements.

65 **K Special (BLANK)**

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

66 **K Special (BLANK)**

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

Landscaping

67 **L001 - General**

All landscape works are to be constructed in accordance with the stamped approved plan and Section C6 Landscape Design 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.

68 **L002 - Landscape construction**

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

69 **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.

70 **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 Development Control Plan 2014.

71 **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.

72 **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 C6 Landscape Design of the Penrith Development Control Plan 2014.

73 **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

74 **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.

75 **Q05F - Occupation Certificate for Class10**

An Occupation Certificate is to be obtained from the Principal Certifying Authority on completion of all works and prior to the occupation.

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

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

Schedule 1 (Deferred Commencement)

Prior to the issue of an operational consent the following deferred commencement requirements must be satisfied:-

A. Remediation Requirements

- A Remedial Action Plan (RAP) is to be prepared considering the recommendations of the Detailed Site Investigation Report prepared by Martens Consulting Engineers, dated May 2018, Reference Number P1706245JR02V01. The RAP must be submitted to and approved by Penrith City Council as part of a separate Development Application with consideration of the requirements of State Environmental Planning Policy No 55 – Remediation of Land. The RAP must be prepared by an appropriately qualified and experienced person in accordance with the relevant NSW Environment Protection Authority Guidelines and National Environment Protection (Assessment of Site Contamination) Measure 2013. The subject site must be remediated and validated as suitable for the intended land use before this consent becomes operational.

B. Water Sensitive Urban Design

A revised Water Sensitive Urban Design (WSUD) Strategy which includes supporting MUSIC stormwater quality modelling shall be submitted to Council for consideration and approval. The WSUD Strategy shall demonstrate compliance with Council's Water Sensitive Urban (WSUD) Policy 2013.

The strategy shall include the following information:

- Supporting information on the Nutrient Retention Rates used on the MUSIC Modelling for the proposed Ecosol Cartridge Filter (Scientific studies – Refer to Section 4.6 of WSUD Technical Guidelines).
- An electronic version of the MUSIC model to be provided in a .sqz format.
- Revised Concept Drainage plans which show the construction details of the proposed approved treatment system.
- Details on water conservation measures as required by Council's WSUD Policy (outlined in Section 3.1 Council's WSUD Policy).

The WSUD Strategy must be prepared by a suitably qualified engineer in accordance with Council's Water Sensitive Urban Design (WSUD) Policy 2013 and associated WSUD Technical Guidelines (Version 3) and shall be supported by MUSIC modelling and include detailed stormwater treatment designs.

A Draft Operation and Maintenance Manual for the proposed stormwater treatment measures must also be submitted to Council for consideration and approval. The manual shall include details on the cleaning / maintenance requirements as well as provide details on the estimated annual and lifecycle costs associated with the proposed treatment measures.

Appendix - Development Control Plan Compliance

Development Control Plan 2014

Part C - City-wide Controls

Water Sensitive Urban Design Control (WSUD)

The proposal will adopt the principles of Water Sensitive Urban Design (WSUD) in final storm water design and management practices. This will be achieved by an integrated approach being undertaken to water and storm water management. In this regard, the following principles will be incorporated into the storm water design:

- Water discharge from the site will be designed to ensure that contaminants are contained.
- Water quality entering natural areas shall either maintain or improve on pre-development levels.
- Cooling towers and condensers will be connected to a conductivity meter to ensure maximum circulation before discharge.

The proposed development complies with Council's WSUD policy with the use of proprietary stormwater treatment devices provided by Ecosol (Ecosol Cartridge Filter (ECF Triple) however, no supporting information on the performance has been provided. As such, supporting scientific information shall be submitted prior to issue of an operational consent to ensure the device performs as modelled.

Car Parking Requirements:

In accordance with the chapter C10 (Transport, Access and Parking) of Penrith Development Control Plan 2014 (DCP 2014), the following table demonstrates the parking space requirement of the proposed development:

DCP requirement	Proposal	Complies
Warehouses or distribution centres, including ancillary office 1 space per 100sqm of gross floor area	Existing development: <ul style="list-style-type: none"> • Warehouse (Cold store) - 1,882.8msq • Required = 19 spaces • Provided = 30 spaces 	Yes
	Proposed Development <ul style="list-style-type: none"> • Existing Cold Store- 1,882.8sqm • Cold Store (Increase) - 2,238sqm • TOTAL - 4,120.8sqm • Required = 41 spaces • Provided = 37 spaces 	No – See discussion in below.
RMS Guidelines: 1 space per 300m2 of gross floor area.	Required = 14 spaces Provided = 37 spaces	Yes

The current operation provides a surplus of eleven (11) spaces based on the DCP 2014 requirements. The proposed additions (2,238sqm GFA) will require the provision of an additional twelve (12) spaces for on - site car parking based on the DCP 2014 requirement. An additional seven (7) spaces are proposed on lot 11 as part of the development proposal. Based on the DCP 2014 requirements, a shortfall of four (4) spaces will result from the additional floor space proposed when applying the Council DCP car parking requirements.

The above table identifies the parking requirements for the development based on the 'RMS Guide to Traffic Generating Developments' (the "RMS Guidelines"). Section 5.11.2 of the RMS Guidelines specifies parking requirements for a 'warehouse'. More specifically, the guidelines require all new warehouses on undeveloped sites to provide on - site car parking for all vehicles used by employees. In the case of wholly redeveloped sites, the guidelines state that "...each site is treated on its merit". Provision of one space per 300sqm is recommended.

Applying the car parking rate recommended by the RMS Guidelines, a total on-site parking requirements of fourteen (14) spaces is required resulting in the proposal having a significant surplus of twenty-three (23) spaces. The RMS Guidelines also state:

"Variations on the recommended parking rate must be considered in the context of both current and potential users. While surveys might justify a lesser parking rate for a particular development, provision must be made for future users by setting aside (but not necessarily surfacing), space for car parking. The recommended rate of parking provision is in the middle range parking rate observed in the RTA's survey. The rates vary from one space per 80m2 to one space per 960m2, the mean and sample standard deviation figures being 338m2 and 280m2 respectively based on a sample of 10 sites. A particular situation where a parking rate greater than that recommended above is warranted, would be for a development with a greater than average employment density. The mean floor area per employee at the warehouses surveyed by the RTA was 226m2 per employee."

No variation to the RMS Guidelines is sought under this development proposal. In fact, a significant surplus of car parking will be provided above the RMS recommended requirements. The current number of employees based on the site in association with the existing use is fifteen (15) office staff and eight (8) warehouse staff. An additional three (3) employees will be located on the site as a result of the expanded operation.

The RMS Guidelines state that" provision must be made for future users by setting aside (but not necessarily surfacing), space for car parking". The shortfall of car parking based on the Council DCP requirements can be accommodated within the sealed area forming part of the works proposed on lot 11 without compromising truck manoeuvring. The applicant seeks not to line mark the additional car parking as there will not be the demand based on the operational characteristics of the total use.

The car parking and areas designed for movement of pedestrians has been undertaken in accordance with the provisions of AS 2890.1-2004. Provision of parking spaces for disabled persons is in accordance with the Access to Premises Standards, the Building Code of Australia and AS2890.

D4 Industrial Development

Precincts	-	Subject site is located in Precinct 5 North Penrith	Yes
4.2 Building Height	Must satisfy height controls in LEP	The maximum building height permitted under the LEP is 12m. A variation to the height is proposed. The proposed building will have a maximum height 15.2m. A written request under clause 4.6 of the LEP is provided and it is supported.	No - variation proposed

4.3 Building Setbacks and Landscape	<p>In Precincts 5 variations to the required setbacks will be considered on merit, taking account of site areas and street frontage widths, access to the site, availability of on-site parking and access areas, landscaping provision and the setbacks of adjoining.</p>	<p>DCP Requirement - 9m building - 4m landscaping</p> <p>Proposal - 9.78m (min) - 9.78m (min)</p> <p>There will be no changes to the previously approved building setbacks and landscape.</p>	<p>Yes</p>
4.4. Building Design	<p>All developments shall be designed to present a high standard of urban form Incorporating innovative and attractive architectural design of all elevations and roof form; and appropriately reflect the important gateway entry roles of these precincts and the visually important access routes to the City.</p>	<ul style="list-style-type: none"> - Building designed with a commitment to achieving no less than 4 star under Green Star or 4.5 Stars under the Australian Building Greenhouse Rating System (now part of the National Australian Built Environmental Rating System (NABERS)). - Architectural features have been used to avoid the potential of a large 'bland' looking building. - The development incorporates a variety of external finishes in terms of both colour and type of material used. 	<p>Yes</p>
4.5. Storage of Materials and Chemicals	<p>To ensure that external storage of goods does not detract from the visual amenity of industrial areas, streetscapes or adjoining residential areas; To ensure that the storage and use of chemicals that are potentially hazardous to humans occurs in a safe and responsible manner and minimises the risk of accidental injury or loss of life; and To ensure that the storage and use of potentially polluting substances occurs in an environmentally responsible manner, and will not have any detrimental impact on the environmental quality of the surrounding area</p>	<p>A waste management plan has been submitted as part of the application. Based on the information provided, the only waste generated will be general waste and other waste generated will be collected by a specific contractor.</p>	<p>Yes</p>

<p>4.6. Accessing and Servicing the Site</p>	<p>To ensure the safe and efficient movement into and out of an industrial development without adversely affecting the existing and future service and safety levels of the road;</p> <p>To ensure industrial development provides sufficient parking on-site to accommodate all parking demands generated by the development while ensuring safe and efficient movement of vehicles within the site;</p> <p>To encourage the development of a parking layout that enhances the function and appearance of the industrial development; and</p> <p>To ensure that cyclist and pedestrian needs are adequately and safely accommodated in all industrial areas.</p>	<p>The proposed application is for the alterations and additions to an existing warehouse facility.</p> <p>The current floor area is 1882.8sqm this will be increased to 4,120sqm.</p> <p>The DCP requires that 41 parking spaces are provided. The site plan submitted indicates that 37 parking spaces have been provided. (Further discussed within report)</p>	<p>No-variation proposed</p>
<p>4.7. Fencing</p>	<p>The design and location of fencing is integrated within the development, and is suitable for its purpose and setting.</p>	<p>The subject site has an existing 1.8m teal blue fence that fences the whole property. The existing fence compliments the existing industrial amenity and is in keeping with the form and design of the area.</p>	<p>Yes</p>
<p>4.8. Lighting</p>	<p>Lighting details shall be provided as part of any relevant development application</p>	<p>Lighting details will be provided in the Construction certificate stage.</p>	<p>Yes</p>