

# PENRITH CITY COUNCIL

## MAJOR ASSESSMENT REPORT

<b>Application number:</b>	DA20/0454
<b>Proposed development:</b>	Demolition of Existing Structures & Construction of Light Industrial Units x 5
<b>Property address:</b>	34 - 36 Preston Street, JAMISONTOWN NSW 2750
<b>Property description:</b>	Lot 11 DP 525103
<b>Date received:</b>	24 July 2020
<b>Assessing officer</b>	Mahbub Alam
<b>Zoning:</b>	SEPP WSA - Affected by Obstacle Limitation Zone B5 Business Development - LEP 2010
<b>Class of building:</b>	Class 8
<b>Recommendations:</b>	Approve

### Executive Summary

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Council is in receipt of a development application for the demolition of existing structures and construction of light industrial units x 5 at 34 - 36 Preston Street, Jamisontown. The subject site is zoned B5 Business Development under Penrith Local Environmental Plan 2010 (LEP) and the use of the site as a 'light industry' is permissible in the B5 zone with consent.

Concerns were raised during the assessment process regarding stormwater management, land contamination, noise impact, traffic, parking, vehicle manoeuvring and landscaping. The applicant has satisfactorily addressed these concerns raised during the assessment process. The proposed development is unlikely to have a negative impact on the surrounding environment. The site is suitable for the proposed development and the proposal is in the public interest.

The application was notified to adjoining and nearby properties between 3 August and 17 August 2020 in accordance with Council's adopted Community Engagement Strategy and Community Participation Plan 2019. One submission was received in response regarding tree removal. Correspondence was provided to the submitted on 21 April 2021 addressing the concerns raised and in this regard the objection received is considered resolved.

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

### Site & Surrounds

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The subject site is located on the intersection of Preston Street and Regentville Road, approximately 240m south-east of its intersection with Mulgoa Road in Jamisontown. The site is 1,522m<sup>2</sup> in area with a 35m frontage to Preston Street.

The site is zoned B5 Business Development, and located adjacent to a well established industrial precinct (Industrial Precinct No. 6 as per Chapter D4 of Penrith DCP 2014). Areas to the north of the subject site are characterised by existing high-density residential development. Development to the south, east and west of the site comprises of a mix of light industrial land uses.

## Proposal

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The proposed development includes the following aspects:

- Demolition of existing structures;
- Construction of 5 x light industrial units; and
- Associated drainage, driveway and parking areas, and landscaping works.

The applicant has confirmed that the application seeks approval for the proposed industrial units to be used for light industry purposes. No tenants are known at this stage, so future development applications may be required for any variations to this intended use.

## Plans that apply

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- Local Environmental Plan 2010 (Amendment 4)
- Development Control Plan 2014
- State Environmental Planning Policy (Western Sydney Aerotropolis) 2020
- State Environmental Planning Policy No 55—Remediation of Land
- Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

## Planning Assessment

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### • **Section 4.15 - Evaluation**

The proposed development has been assessed in accordance with the matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979, and having regard to those matters, the following issues have been identified for further consideration.

### • **Section 7.12 - Developer Contributions**

The site and proposal are subject to Penrith City Council's City-Wide Section 7.12 Development Contributions Plan for Non-Residential Development. Based on the applicable rate under this Development Contributions Plan, the following development contribution applies to the proposal:

- *1% x \$926,735.00 (cost of construction works) = \$9,267.00*
- *Total 7.12 contributions due: \$9,267.00*

A condition of consent requiring the payment of this development contribution, prior to the issue of a Construction Certificate, has been recommended.

### **Section 4.15(1)(a)(i) The provisions of any environmental planning instrument**

## **State Environmental Planning Policy (Western Sydney Aerotropolis) 2020**

The SEPP (Western Sydney Aerotropolis) 2020 contains a map that relates to wildlife buffer areas. This map is titled the "Wildlife Buffer Zone Map". The map shows that the subject site is within a 13 kilometre 'wildlife buffer zone' of the Western Sydney Airport site.

Consideration has been given to Clause 21 of the SEPP and the proposed development. The objective of Clause 21 is to regulate development on land surrounding the Western Sydney Airport site where wildlife may present a risk to the operation of the airport. Certain types of development trigger the requirements for further consideration under Clause 21. The proposed development, relating to a light industrial use, is not one of the types of uses that warrant additional consideration under the SEPP with regard to wildlife and the operation of the airport.

The subject site is also identified as being located within the Obstacle Limitation Surface Map area. Clause 24 of the SEPP relates to development that would penetrate the prescribed air space for the airport and be a 'controlled activity'. The proposed development neither penetrates the prescribed air space, nor is it a controlled activity, therefore not triggering any additional considerations under this clause.

## **State Environmental Planning Policy No 55—Remediation of Land**

SEPP 55 aims to provide a framework for the assessment, management and remediation of contaminated land throughout the state. Clause 7(1) of SEPP 55 requires a consent authority to be satisfied that the site is suitable for the proposed development, or can be made suitable prior to the determination of a development application.

Council's Environmental Management Team raised concern after conducting a review of historical aerial imaging that unidentified material had been imported onto the property. The origin and contamination status of the various materials was not known and therefore Council could not, with certainty, be satisfied that the site is not contaminated. As such, the applicant was requested to provide documentation which verified that the material is suitable for the proposed land use.

Accordingly, a Preliminary Site Investigation prepared by eiaustralia (dated 25 November 2020, ref. E24912.E09.001\_rev 0) was provided. The investigation has determined that there was no contamination identified during an inspection of the site, and that the site is considered suitable for the proposed use. The Investigation has recommended that a Hazardous Materials Survey be undertaken on the existing structures located on the subject property, and that all material both exported and imported from and to the subject property, be appropriately classified. As such, Council's Environmental Management Team have no objections to the proposal subject to recommended conditions.

As such, given the nature of the site, the proposal and documentation provided, the application has satisfactorily addressed the considerations of SEPP 55.

## **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 the 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 2.7 Demolition requires development consent	Complies
Clause 4.3 Height of buildings	Complies - See discussion
Clause 5.9 Preservation of trees or vegetation	Complies - See discussion
Clause 5.10 Heritage conservation	Complies - See discussion
Clause 7.1 Earthworks	Complies
Clause 7.2 Flood planning	Complies - See discussion
Clause 7.4 Sustainable development	Complies
Clause 7.7 Servicing	Complies

### Clause 2.3 Permissibility

The subject site is zoned B5 Business Development under Penrith Local Environmental Plan 2010 and the use of the site as a 'light industry' is a permissible land use in the B5 zone with consent.

### Clause 2.3 Zone objectives

The proposed development is considered to have minimal impact to the locality. The development makes efficient use of the land and is an activity that encourages diverse employment, therefore the development is consistent with the aims and objectives of both the LEP and the zone itself.

### Clause 4.3 Height of buildings

The Building Height Map of the LEP identifies a maximum height of 12m for the site. The proposed building measuring 8m in height is compliant.

In view of the above, the proposal has demonstrated compliance with the following objectives of this clause:

- *Ensure the buildings are compatible with the height, bulk and scale of the existing and desired future character of the locality.*
- *Minimise visual impact, disruption of views, loss of privacy and loss of solar access to existing developments and to public areas, including parks, streets and lanes.*

### Clause 5.9 Preservation of trees or vegetation

The proposed development will necessitate the removal of several trees of low and very low retention value. None of these trees are considered significant or worthy of special measures to ensure their preservation. The application was referred to Council's Tree Management Officer for review and comment. Council's Tree Management Officer raised no objection. The removal of these trees to accommodate the proposed development is therefore considered suitable in this instance.

Furthermore, a Landscape Plan has been submitted with the application. The Landscape Plan includes deep soil tree planting along the side and front setback areas.

### Clause 5.10 Heritage conservation

The site is not listed as an item of environmental heritage. However, a Heritage Impact Statement (prepared by Edwards Heritage Consultants) has been submitted with the application.

The report provides the following commentary on the subject site:

*"The site is not presently identified as an item of local or state heritage significance, however it has been previously identified in the Penrith Heritage Study 2007 and subsequent reviews in 2008 and 2012 as having heritage significance at the local level. The site is also situated within the vicinity of a heritage item which is listed under Schedule 5 of Penrith Local Environmental Plan 2010.*

*Situated on the site is the former 1908 Holy Trinity Church, which is an example of a small-scaled rural church built by the Church of England, attributed to the Federation Gothic Revival architectural style. Following the closure of the church in 1946 and its subsequent sale in 1947, the building was converted to a private residential dwelling. The extensive alterations and additions that ensued, have obscured each building elevation and substantially distorted the external form and interior, whereby having a deleterious impact to the integrity of the building. The building is no longer readily identifiable as an early 20th century church, though the original form and certain features can be deciphered upon careful inspection.*

*This Heritage Impact Statement has further assessed the heritage values of the property and found that the (former) Holy Trinity Church is of historical significance at a local level and subsequently, a Statement of Cultural Significance has been developed. In particular, the former Holy Trinity Church evidences the development and growth of Jamisontown in the early 20th century and provides evidence of the early Anglican influences and work in the community from 1908 until its closure in 1946.*

*Notwithstanding, as outlined in this report, the design integrity of the building has been significantly compromised both externally and internally, with the post-1946 alterations and additions having irreversibly modified the original 1908 church building form and detailing. The integrity of the building is considered so adversely obscured and diminished that retention value is minimal. It is in poor structural and cosmetic condition that further diminishes its retention value."*

Based on the above discussion, Council's Heritage Advisor accepts that the conclusions of the Heritage Impact Statement are credible. Council's Heritage Advisor raised no objection to the proposal, subject to conditions.

#### **Clause 7.2 Flood planning**

The property is impacted by a 1% AEP overland flow flood event based on Council's Peach Tree and Lower Surveyors Creeks Flood Study 2019. The adopted 1% AEP flood level for the property is RL 28.6m AHD.

The proposed FFL of all units is situated at the flood planning level of RL 29.1m AHD (1% AEP flood level + 0.5m freeboard) which complies with Council's flood policies.

### **Section 4.15(1)(a)(ii) The provisions of any draft environmental planning instrument**

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

## Section 4.15(1)(a)(iii) The provisions of any development control plan

### Development Control Plan 2014

Provision	Compliance
C1 Site Planning and Design Principles	Complies
C2 Vegetation Management	Complies
C3 Water Management	Complies - see Appendix - Development Control Plan Compliance
C4 Land Management	Complies
C5 Waste Management	Complies
C6 Landscape Design	Complies
C7 Culture and Heritage	Complies
C8 Public Domain	N/A
C9 Advertising and Signage	N/A
C10 Transport, Access and Parking	Does not comply - see Appendix - Development Control Plan Compliance
C11 Subdivision	N/A
C12 Noise and Vibration	Complies - see Appendix - Development Control Plan Compliance
C13 Infrastructure and Services	Complies
D4.1. Key Precincts	N/A
D4.2. Building Height	Complies - see Appendix - Development Control Plan Compliance
D4.3. Building Setbacks and Landscape	Does not comply - see Appendix - Development Control Plan Compliance
D4.4. Building Design	Complies
D4.5. Storage of Materials and Chemicals	N/A
D4.6. Accessing and Servicing the Site	Complies
D4.7. Fencing	Complies
D4.8 Lighting	Complies

## Section 4.15(1)(a)(iiia) The provisions of any planning agreement

There are no planning agreements applicable to the subject site or development.

## Section 4.15(1)(a)(iv) The provisions of the regulations

Subject to the imposition of conditions, Council's Building Surveyor has raised no objection to the proposed development regarding fire safety considerations as prescribed under the *Environmental Planning and Assessment Regulation 2000*.

## Section 4.15(1)(b) The likely impacts of the development

### **Context and Setting**

The proposed development is located within a well established industrial precinct. The development suits its industrial context and will not negatively impact upon the industrial area.

### **Access, Traffic and Transportation Impacts**

Any traffic generated from the development will not impact adversely on the local road network. See discussion under the *C10 Transport, Access and Parking* section of this report for more information.

### **Utilities / Water and Energy**

The development can be appropriately serviced. The standard conditions for obtaining relevant written clearances from utility providers are recommended.

### **Drainage**

See discussion under the *C3 Water Management* section of this report for more information.

## Section 4.15(1)(c) The suitability of the site for the development

The application has adequately addressed key concerns such as flooding, contamination, traffic, vehicle manoeuvring and landscaping. In addition, the site is located within close proximity to services and amenities such as the Penrith central business district and key transport corridors. The proposed development is compatible with surrounding and adjoining land uses, and therefore Council can be satisfied that the site is suitable for the proposed development.

## Section 4.15(1)(d) Any Submissions

### **Community Consultation**

The application was notified to adjoining and nearby properties between 3 August and 17 August 2020 in accordance with Council's adopted Community Engagement Strategy and Community Participation Plan 2019. One submission was received in response regarding tree removal. Correspondence was provided to the submitter on 21 April 2021 addressing the concerns raised and in this regard the objection received is considered resolved.

The following issues were raised in the submission received and have formed part of the assessment.

<b>Issue Raised</b>	<b>Comments</b>
<i>Tree Removal</i>	<p>The proposed development will necessitate the removal of several trees of low and very low retention value. None of these trees are considered significant or worthy of special measures to ensure their preservation. The removal of these trees to accommodate the proposed development is therefore considered suitable in this instance.</p> <p>Furthermore, a Landscape Plan has been submitted with the application. The Landscape Plan includes deep soil tree planting along the side and front setback areas.</p>

### **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
Development Engineer	No objections - subject to conditions
Heritage	No objections - subject to conditions
Environmental - Environmental management	No objections - subject to conditions
Environmental - Waterways	No objections - subject to conditions
Traffic Engineer	Not supported, however conditions provided
Tree Management Officer	No objections

### **Traffic Engineer**

Concern was raised by Council's Traffic Engineer regarding the accessibility of the vehicle maneuvering areas for the site. Following discussions with the Traffic Engineer, this issue may be resolved with the following requirements:

- Loading area doors to be widened to provide adequate clearance for medium rigid vehicles.
- An operational traffic management plan requiring traffic controllers to manage and control reversing trucks to provide some improved safety for other vehicles and pedestrians while any heavy vehicles are manoeuvring on the site.

The above requirements were discussed with the applicant / property owner and these arrangements have been accepted and will be addressed via consent conditions. See discussion under the *C10 Transport, Access and Parking* section of this report for more information.

### **Section 4.15(1)(e)The public interest**

The development is appropriate in the locality and is not likely to have any significant adverse impacts on the neighbouring or surrounding properties. The proposal will provide a range of social and economic benefits, including employment opportunities. For these reasons, the proposal is considered to be in the public interest.

## **Conclusion**

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In assessing this proposal against the relevant environmental planning policies, primarily 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**

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That DA20/0454 for the demolition of existing structures and construction of light industrial units x 5 at 34 - 36 Preston Street, Jamisontown, be approved subject to the following conditions.



# CONDITIONS

## General

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

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
Colour Schedule	A000, Revision A	Kleyn Creations	17/07/2020
Site Plan	A001, Revision A	Kleyn Creations	17/07/2020
Area Plan	A003, Revision A	Kleyn Creations	17/07/2020
Demolition Plans	A100, Revision A	Kleyn Creations	17/07/2020
Proposed Ground Floor Plan	A101, Revision B	Kleyn Creations	23/02/2021
First Floor Plan	A102, Revision A	Kleyn Creations	17/07/2020
Roof Plan	A103, Revision A	Kleyn Creations	17/07/2020
Elevations	A200, Revision B	Kleyn Creations	23/02/2021
Elevations & Sections	A201, Revision A	Kleyn Creations	17/07/2020
Landscape Concept	Job No. 5496, Sheet No. 1 of 2, Revision B	Monaco Designs PL	12//10/2020
Landscape Details	Job No. 5496, Sheet No. 2 of 2, Revision B	Monaco Designs PL	12//10/2020
Stormwater Concept Plan Legend & Service Notes	H01, Revision B	Abel & Brown Pty Ltd	October 2020
Stormwater Concept Plan Ground / Site Plan	H02, Revision B	Abel & Brown Pty Ltd	October 2020
Stormwater Concept Plan First Floor Plan	H03, Revision B	Abel & Brown Pty Ltd	October 2020
Stormwater Concept Plan Roof Plan	H04, Revision B	Abel & Brown Pty Ltd	October 2020
Stormwater Concept Plan Detail Sheet	H05, Revision B	Abel & Brown Pty Ltd	October 2020
Waste Management Plan	-	Warwick Stimson	-
Flood Impact Assessment	19173 February 2020	MKM Construction Group Pty Ltd	February 2020
Operational Noise Emission Assessment	5038R001.JM.201111	Acoustic Dynamics	12/11/ 2020
Overview of Current Site Conditions	E24912.E09.001_Rev 0	Eiaustralia	25/11/2020
Traffic & Parking Impact Assessment Report	P1905, Revision 4	Greys Australia Pty	24/02/2021
Heritage Impact Statement	EHC2020/0124, Revision C	Edward Heritage Consultants	22/06/2020

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

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

### 3 [A020 - Use of building](#)

The units shall not be used under any circumstances for any habitable residential activity.

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

A separate development approval shall be obtained for the erection of a sign or advertising structure, other than an advertisement listed as exempt development.

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

The approved operating hours are from 7:00am to 6:00pm Mondays to Saturdays and 8:00am to 6:00pm on Sundays in accordance with the recommendations of the Operational Noise Emission Assessment prepared by Acoustic Dynamics (dated 12 November 2020, ref. 5038R001.JM.201111, rev. 0).

Delivery and service vehicles generated by the development are limited to within the same timeframes.

## 6 [A032 - Goods in buildings](#)

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

## 7 [A038 - LIGHTING LOCATIONS](#)

**Prior to the issue of an Occupation Certificate**, a lighting system shall be installed for the development to provide uniform lighting across common areas and driveways. Exterior lighting shall be located and directed in such a manner so as not to create a nuisance to surrounding 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).

## 8 [A039 - Graffiti](#)

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

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

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

## Demolition

## 10 [B002 - AS FOR DEMOLITION AND DISPOSAL TO APPROVED LANDFILL SITE](#)

All demolition works are to be conducted in accordance with the provisions of AS 2601-2001 "The Demolition of Structures". **Prior to demolition**, all services shall be suitably disconnected and capped off or sealed to the satisfaction of the relevant service authority requirements.

All demolition and excavated material shall be disposed of at a Council approved site or waste facility. Details of the proposed disposal location(s) of all excavated material from the development site shall be provided to the Principal Certifying Authority **prior to commencement of demolition**.

## 11 [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 portaloo 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 Environmental Protection Authority to receive asbestos wastes.

## 12 [B004 - Dust](#)

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

## 13 [B005 - Mud/Soil](#)

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

#### 14 B006 - Hours of work

Demolition works 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 demolition work is permitted on Sundays and Public Holidays.

In the event that the demolition relates to works inside the building and does not involve external walls or the roof, and does not involve the use of equipment that emits noise, then the demolition or construction 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.

#### 15 B Special

**Prior to demolition works commencing**, a Hazardous Materials Survey is to be conducted on all existing structures to be demolished by an appropriately qualified consultant(s). A copy of the completed Hazardous Materials Survey is to be provided to Penrith City Council for review and approval.

All demolition works are to be conducted in accordance with the recommendations made in the approved Hazardous Materials Survey.

### **Heritage/Archaeological relics**

## 16 C002 - ARCHIVAL RECORDING

**Prior to the issue of a Construction Certificate**, two (2) complete copies of an archival recording of the former Holy Trinity Church building on the site are to be submitted to Penrith City Council, including a set of photographic negatives.

The archival recording shall be prepared by an experienced heritage consultant and is to be in accordance with the Archival Recording Standards described below.

- Title page (with subject, author, client, date and copyright).
- Statement of why the record was made.
- Outline history of the item and associated sites, structures and people.
- Statement of heritage significance of the items using the State Heritage Inventory criteria.
- Inventory of archival documents related to the item (eg. company records, original drawings) when available.
- Location plan (show relationship to surrounding geographical features, structures, roads, vegetation etc. Include a north point).
- Base plans, drafted or hand-drawn base plans including:
  - (i) cross references to photographs;
  - (ii) name the relevant features, structures and spaces;
  - (iii) a north point.
- Black and white photographic record, including one set of 35mm black and white negatives labelled and cross referenced to base plans and accompanied by informative catalogues, and two copies of proof sheets and select medium format prints showing important details. The images shall include:
  - (i) views to and from the site (possibly from four compass points);
  - (ii) views showing relationships to other relevant structures and landscape features;
  - (iii) all external elevations;
  - (iv) views of all external and internal spaces (eg. courtyards, rooms, roof spaces etc.); and
  - (v) external and internal details (e.g. joinery, construction joints, decorative features, paving types, etc). All photographic images shall be mounted and labelled.
- Colour slides (two copies mounted in archivally stable slide pockets, clearly labelled and cross referenced to base plans). Images shall include:
  - (i) view to and from the site and/or the heritage item, and
  - (ii) views and details of external and internal colour schemes as appropriate.Selected colour prints may be required. They should be mounted and labelled.
- Measured drawings, with appropriately scaled drawings printed on archivally stable paper. For a built item, this may include:
  - (i) site plan (1:500 or 1:200);
  - (ii) floor plan(s) (1:100 or 1:50);
  - (iii) elevations and sections (1:100 or 1:50);
  - (iv) roof plan(s) (1:100 or 1:50);
  - (v) ceiling and joinery details (1:20 or 1:10); and
  - (vi) machinery and services details, e.g. drainage lineshafts.
- The archival recording shall be presented to Council as a single bound document preferably in A4 format. Large maps shall be folded and inserted as map pockets attached to the document. Similarly, all photographic images shall be fixed to the document and labelled.

Unbound documents or loose supporting materials such as maps, plans, slides, negatives or prints are not acceptable.

## 17 C003 - Uncovering relics

If any archaeological relics are uncovered during the course of the work, no further work shall be undertaken until further directed by Penrith City Council or the NSW Heritage Office.

The applicant is advised that depending on the possible significance of the relics, an archaeological assessment and an excavation permit under the Heritage Act 1977 may be required before any further work can be recommenced in that area of the site.

## 18 C Special BLANK

The proponent must salvage items of heritage value from the building to be demolished before demolition, and assess options for its sympathetic reuse (including integrated heritage displays) on the project or other options for repository, reuse and display, or reuse by offering to restoration suppliers. Suitable repository locations are to be established in consultation with Penrith City Council.

## Environmental Matters

### 19 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.

### 20 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) 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 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.

### 21 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.

### 22 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.

### 23 D013 - Approved noise level 1

Noise levels from the premises shall not exceed the relevant noise criteria detailed in the Operational Noise Emission Assessment prepared by Acoustic Dynamics (dated 12 November 2020, ref. 5038R001.JM.201111, rev. 0). The recommendations provided in the above-mentioned acoustic report shall be implemented and incorporated into the design and construction of the development, and shall be shown on plans accompanying the Construction Certificate application. A certificate is to be obtained from a qualified acoustic consultant certifying that the building has been constructed to meet the noise criteria in accordance with the approved acoustic report. This certificate is to be submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

The recommendations to be satisfied in the assessment mentioned above are as follows:

- Maximum capacity internal operations of the 5 tenancies including presumed light industrial equipment such as processing and packing machinery;
- Operation of 5 individual air-conditioning systems (on the roof of each of the 5 tenancies) each with an assumed sound power level of 80 dB(A);
- A total of 20 staff in each tenancy;
- 8 car park movements of staff and customers in a 15 minute period; and
- 4 car park movements of delivery vans in a 15 minute period, including loading and unloading of these vehicles using forklifts.

The provisions of the Protection of the Environment Operations Act 1997 apply to the development, in terms of regulating offensive noise.

**Please note** that any development or associated activities greater than what is listed above may require another Acoustic Assessment to be undertaken and provided to Council for review.

### 24 D014 - Plant and equipment noise

The operating noise level of plant and equipment shall not exceed the relevant noise criteria listed in the Operational Noise Emission Assessment prepared by Acoustic Dynamics (dated 12 November 2020, ref. 5038R001.JM.2001111. rev. 0). The provisions of the Protection of the Environment Operations Act 1997 apply to the development, in terms of regulating offensive noise.

### 25 D023 - Bunding

All works and storage areas where spillages are likely to occur shall be bunded. The size of the area to be bunded shall be calculated as being equal to 10% of the total volume of containers stored, or 110% of the largest container stored, whichever is the greater. All bunded areas shall be graded to a blind sump so as to facilitate emptying and cleaning. Details are to accompany the application for a Construction Certificate.

### 26 D026 - Liquid wastes

Only clean and unpolluted water is to be discharged into Penrith City Council's stormwater drainage system. Liquid wastes suitable for discharge to the mains sewer are to be discharged in accordance with Sydney Water requirements.

If mains sewer is not available or if Sydney Water will not allow disposal to the sewer then a licensed waste contractor is to remove the liquid waste from the premises to an appropriate waste facility.

The waste contractor and waste facility are to hold the relevant licenses issued by the NSW Environment Protection Authority.

### 27 D Special BLANK

A Noise Management Plan (NMP) is to be prepared and submitted to Penrith City Council for consideration and approval **prior to the issue of a Construction Certificate** in accordance with the recommendations of the Operational Noise Emission Assessment prepared by Acoustic Dynamics (dated 12 November 2020, ref. 5038R001.JM.20111. rev. 0). The NMP shall be prepared by a suitably qualified persons, and may need to be amended to include any comments provided by Council. The NMP is to:

- address all noise related aspects of the development's operational phases,
- address the relevant conditions of this consent, and
- recommend any systems/controls to be implemented to minimise the potential for any adverse noise impact(s).

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

## BCA Issues

## 28 E006 - Disabled access and facilities

Access and sanitary facilities for persons with disabilities are to be provided and maintained in accordance with the requirements of the Building Code of Australia and AS 1428 "Design for Access and Mobility". Details of compliance are to be provided in the relevant plans and specifications accompanying the Construction Certificate application.

## 29 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

### 30 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.

### 31 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.

### 32 G006 -

**Prior to the issue of a Construction Certificate**, the Principal Certifying Authority shall be satisfied that telecommunications infrastructure may be installed to service the premises which complies with the following:

- The requirements of the Telecommunications Act 1997;
- For a fibre ready facility, the NBN Co's standard specifications current at the time of installation; and
- For a line that is to connect a lot to telecommunications infrastructure external to the premises, the line shall be located underground.

Unless otherwise stipulated by telecommunications legislation at the time of construction, the development must be provided with all necessary pits and pipes, and conduits to accommodate the future connection of optic fibre technology telecommunications.

**Prior to the issue of an Occupation Certificate**, written certification from all relevant service providers that the telecommunications infrastructure is installed in accordance with the requirements above and the applicable legislation at the time of construction, must be submitted to the Principal Certifying Authority.

## Construction

### 33 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-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.

### 34 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.



### 35 [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 that do not involve the use of equipment that emits noise are not restricted to the construction hours stated above.

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

## Engineering

### 36 [K101 - Works at No Cost to Council](#)

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

### 37 [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 Asset Management Department on 4732 7777 or visit Penrith City Council's website for more information.

### 38 [K202 - S138 Roads Act - Minor Works in the Public Road](#)

Prior to the issue of any Construction Certificate, a Section 138 Roads Act application, including payment of application and inspection fees together with any applicable bonds, 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) and the replacement of the damaged kerb and gutter along the site frontage in Preston Street.
- 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, waster skips, signs, etc in the road reserve
- f) Temporary construction access
- g) Temporary ground anchors (for basement construction)

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 Asset Management Department on 4732 7777 or visit Penrith City Council's website for more information.

#### Note:

- Where Penrith City Council is the Certifier for the development, the Roads Act approval for the above works may be issued concurrently with the Construction Certificate or Subdivision Works Certificate.
- Separate approval may be required from Transport for NSW for classified roads.
- All works associated with the Roads Act approval must be completed prior to the issue of any Occupation Certificate or Subdivision Certificate as applicable.
- 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.

### 39 [K210 - Stormwater Management](#)

The stormwater management system shall be consistent with plan/s lodged for development approval, prepared by Abel & Brown Pty Ltd, reference number 3069, revision B, dated October 2020.

Prior to the issue of any Construction Certificate, the Certifier shall ensure that the stormwater management system has been designed in accordance with Penrith City Council's Stormwater Drainage Specification for Building Developments and Water Sensitive Urban Design (WSUD) Policy.

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

### 40 [K213 - Flooding - Flood Report Recommendations](#)

Prior to the issue of any Construction Certificate, the Certifier shall ensure that the proposed development is compatible with the recommendations of the Flood Impact Assessment prepared by Siteplus, reference number 19173, revision 1, dated February 2020.

### 41 [K214 - Flooding - Floor Levels](#)

Prior to the issue of any Construction Certificate, the Certifier shall ensure that all new floor levels for the units are in accordance with the stamped approved plans with a minimum floor level of RL 29.10m AHD (adopted flood level + 0.5m freeboard).

### 42 [K217 - Flooding - Flood Compatible Materials](#)

Prior to the issue of any Construction Certificate, the Certifier shall ensure that the structure/s below RL 29.10m AHD (adopted 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.

### 43 [K218 - Flooding - Structural Adequacy](#)

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

44 **K222 - Access, Car Parking and Manoeuvring - General**

Prior to the issue of any Construction Certificate, the Certifier shall ensure that vehicular access, circulation, manoeuvring, pedestrian and parking areas associated with the subject development are in accordance with AS 2890.1, AS 2890.2, AS 2890.6 and Penrith City Council's Development Control Plan.

45 **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.

46 **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.

47 **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.

48 **K501 - Penrith City Council Clearance - Roads Act / Local Government Act**

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

49 **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.

50 **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 stormwater management systems (including water sensitive urban design measures) 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 Specification for Building Development – Appendix F.

51 **K504 - Stormwater Compliance**

Prior to the issue of any Occupation Certificate, the Principal Certifier shall ensure that the stormwater management systems:

- 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, and;
- any remedial works required to be undertaken have been satisfactorily completed.

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

52 **K511 - Directional Signage**

Prior to the issue of any Occupation Certificate, directional signage and line marking shall be installed indicating directional movements and the location of customer parking to the satisfaction of the Principal Certifier.

53 **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 measures.

54 **K Special (BLANK)**

Prior to the issue of an Occupation Certificate, an Operational Traffic Management Plan is to be prepared. The Plan shall include all details of any traffic control measures and the management of heavy vehicles servicing the development. The Plan shall include, but not be limited to, the provision of:

- Traffic controllers to provide oversight over and manage heavy vehicles while they manoeuvre on the site.
- Management of pedestrians to ensure they are kept clear of any heavy vehicles servicing the site, particularly during reversing manoeuvres.
- Details on how drivers will be made aware that they must comply with the operational traffic management plan for the development.

55 **K Special (BLANK)**

No parking is permitted outside of marked parking spaces shown on the approved plans.

56 **K Special (BLANK)**

All parking spaces, loading zones, parking aisles and manoeuvring areas are to be kept clear of stored materials or other obstructions at all times so that vehicles can safely manoeuvre around the site end enter and exit the site in a forward direction.

57 **K Special (BLANK)**

All vehicle parking spaces, parking aisles and driveways/circulating roads must be designed and built in accordance with AS 2890.1, AS 2890.2, AS 2890.6 and Council's requirements.

58 **K Special (BLANK)**

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

59 **K Special (BLANK)**

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

60 **K Special (BLANK)**

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

61 **K Special (BLANK)**

Subleasing of car parking spaces is not permitted by this consent.

62 **K Special (BLANK)**

Trucks servicing the site shall be limited in size to Medium Rigid Vehicles up to 8.8 metres in overall length.

63 **K Special (BLANK)**

Prior to the issue of a Construction Certificate, the loading area door openings to each unit shall be widened to provide 300mm of clearance to the body of a medium rigid vehicle accessing each unit. The widening shall be based on amended swept path drawings to be provided by the applicant from a suitably qualified and experienced traffic engineering consultant.

## Landscaping

64 **L001 - General**

All landscape works are to be constructed in accordance with the stamped approved plans and Chapter 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.

65 **L002 - Landscape construction**

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

#### 66 L003 - Report requirement

On completion of the landscape works associated with the development and prior to the issue of an Occupation Certificate for the development, an Implementation Report must be submitted to the Principal Certifying Authority attesting to the satisfactory completion of the landscaping works for the development. The report is to be prepared by a suitably qualified 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.

#### 67 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 Development Control Plan 2014.

#### 68 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.

#### 69 L007 - Tree protection measures – no TMP with DA

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

#### 70 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.

## Development Contributions

#### 71 N001a - Section 7.11 contribution (apply separate condition for each Contribution Plan)

This condition is imposed in accordance with Penrith City Council's Development Contributions Plan for Non-Residential Development. Based on the current rates detailed in the accompanying schedule attached to this Notice, **\$9,267.00** is to be paid to Penrith City Council prior to a Construction Certificate being issued for this development (the rates are subject to quarterly reviews). If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted Section 7.12 plan.

The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule. Council should be contacted prior to payment to ascertain the rate for the current quarterly period. The Section 7.12 invoice accompanying this consent should accompany the contribution payment. The Section 7.12 Contributions Plan for Non-Residential Development may be inspected at Council's Civic Centre, 601 High Street, Penrith.

**Note:** The timing of contributions payable may be otherwise affected in accordance with Planning Circular PS20-003 dated 3 July 2020 and the associated NSW Government Ministerial Direction - Infrastructure Contributions.

## Certification

#### 72 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:

- 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
- 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.

73 [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 of the premises.

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

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

# Appendix - Development Control Plan Compliance

## Development Control Plan 2014

### Part C - City-wide Controls

#### C3 Water Management

Objectives of this chapter include:

- *To reduce the impact of flooding and flood liability on individual owners and occupiers, and*
- *To limit the potential risk to life and property resulting from flood events.*

The property is impacted by a 1% AEP overland flow flood event based on Council's Peach Tree and Lower Surveyors Creeks Flood Study 2019. The adopted 1% AEP flood level for the property is RL 28.6m AHD.

The proposal was referred to Council's Development Engineering Team, which requested additional information in ensuring that the proposed units are above the 1% AEP flood level based on levels adopted for the Council's Peach Tree and Lower Surveyors Creeks Flood Study 2019. The applicant submitted amended plans and documentation, including justification to matters raised in the original engineering referral. The proposed FFL of all units is situated at the flood planning level of RL 29.1m AHD (1% AEP flood level + 0.5m freeboard) which complies with Council's flood policies.

As such, the above matters have been resolved to satisfy the requirements of Chapter C3.

#### C10 Transport, Access and Parking

##### ***Car Parking***

Table C10.2: Car Parking Rates specifies that 'warehouse and distribution centres including ancillary office', are to provide 1 space per 100sqm of Gross Floor Area (GFA) or 1 space per 2 employees, whichever is the greater. To apply this rate, a total of 7 car spaces is required for the proposed development. Eight on-site spaces are proposed inclusive of one accessible space. In this instance, the proposed development complies with this car parking requirement.

However, Table C10.2: Car Parking Rates also specifies that 'industries including ancillary office', are to provide 1 space per 75sqm of Gross Floor Area (GFA) or 1 space per 2 employees, whichever is the greater. To apply this rate, a total of 10 car spaces is required for the proposed development. Eight on site spaces are proposed inclusive of one accessible space. The proposal results in a shortfall of 2 on-site car parking spaces based on this parking rate. However, this is considered acceptable for the following reasons:

- The proposed units are very small in size. It is considered more likely that small scale businesses would be operating from the site.
- The site is located in close proximity to public transport with frequent services to Penrith Station and some of the staff are expected to use public transport for commuting.
- There are ample on-street car parking spaces within the site frontages on both Preston Street and Regentville Road.

##### ***Access and Circulation***

Concern was raised by Council's Traffic Engineer regarding the accessibility of the vehicle maneuvering areas for the site. Following discussions with the Traffic Engineer, this issue may be resolved with the following requirements:

- Loading area doors to be widened to provide adequate clearance for medium rigid vehicles.
- An operational traffic management plan requiring traffic controllers to manage and control reversing trucks to provide some improved safety for other vehicles and pedestrians while any heavy vehicles are manoeuvring on the site.

The above requirements were discussed with the applicant / property owner and these arrangements have been accepted and will be addressed via consent conditions.

As such, the proposal satisfies the requirements of Chapter C10.

## **C12 Noise and Vibration**

An Operational Noise Emission Assessment prepared by Acoustic Dynamics (dated 12 November 2020, ref. 5038R001.JM.201111, rev. 0) has been provided along with the application. The assessment satisfactorily addresses potential noise impacts which may arise from the operational phase of the proposed development, as well as traffic which may be generated as a result of the proposed development. Furthermore, the duration of the acoustic monitoring is deemed to be satisfactory, as well as the surrounding potential sensitive receivers which have been identified. The application was refereed to Council's Environmental Management Team for further review and no objection was raised subject to conditions.

## **D4 Industrial Development**

### **D4.2 Building height**

The maximum permissible building height is 12m. The proposed building height from existing ground level is 8m.

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

The development control is a minimum 9m front setback. The front setback provided ranges from 9.09 to 9.20m and complies with this requirement.

A minimum 4m wide landscape strip is also required within the front setback area. However, a small portion of the landscape area has only 3.73m-3.86m which does not comply with this requirement. However, this minor variation is supported for the following reasons:

- The proposed landscaping strips are to be enhanced by trees, shrubs and groundcover planting.
- The proposed trees will also assist in reducing the impact of the bulk and scale of the buildings.
- The landscaping treatment is consistent with the adjoining developments.