

PENRITH CITY COUNCIL

MAJOR ASSESSMENT REPORT

Application number:	DA18/0190
Proposed development:	Alterations to St Clair Shopping Centre Car Park
Property address:	4 Endeavour Avenue, ST CLAIR NSW 2759
Property description:	Lot 2 DP 1018519 Lot 1 DP 1018519
Date received:	28 February 2018
Assessing officer	Ryan Gill
Zoning:	Zone B2 Local Centre - LEP 2010
Class of building:	N/A
Recommendations:	Approve

Executive Summary

Council is in receipt of a development application for the reconfiguration of car parking spaces at St Clair Shopping Centre at 4 Endeavour Avenue, St Clair. Under Penrith Local Environmental Plan 2010, the proposal is classed as a commercial premises with ancillary car park. The subject site is zoned B2 Local Centre and the proposal is a permissible land use in the B2 zone with Council consent

Key issues identified and addressed for the proposed development include:

- An overall loss of 5 car parking spaces, and
- Removal of Pedestrian path through McDonald's drive-through area.

The application has been notified to nearby and adjoining properties and was exhibited between 7 March and 21 March 2018 in accordance with relevant legislation. No submissions were received in response.

An assessment under Section 4.15 (previously Section 79C) of the Environmental Planning and Assessment Act 1979 has been undertaken and the proposal is recommended for approval, subject to recommended conditions.

Site & Surrounds

The subject site is situated on the southern side of Endeavor Avenue in St Clair and has street frontages to Botany Lane to the south and west, Bennett Road to the east and Endeavour Avenue to the north. It is 3.05ha (Lot 1 and Lot 2) in area and has a gentle slope from the rear to the north-western corner of the site. Endeavour Avenue and Bennett Road have a large number of vehicle movements and act as major trunk roads within St Clair.

The surrounding area is characterised by residential related development.

Proposal

The proposed development involves the reconfiguration of the shopping centre's car parking spaces and associated road works and earthworks. The proposed development does not include any building works.

Plans that apply

- Local Environmental Plan 2010 (Amendment 4)
- Development Control Plan 2014
- 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 4.15 (previously Section 79C) of the Environmental Planning and Assessment Act 1979, and having regard to those matters, the following issues have been identified for further consideration.

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

Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

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

Local Environmental Plan 2010 (Amendment 4)

Provision	Compliance
Clause 1.2 Aims of the plan	Complies
Clause 2.3 Permissibility	Complies
Clause 2.3 Zone objectives	Complies
Clause 7.7 Servicing	Complies

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

There are no draft environmental planning instruments that apply to the proposal.

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

Development Control Plan 2014

Provision	Compliance
DCP Principles	Complies
C1 Site Planning and Design Principles	Complies
C2 Vegetation Management	Complies
C3 Water Management	Complies - see Appendix - Development Control Plan Compliance
C4 Land Management	Complies
C5 Waste Management	Complies
C6 Landscape Design	Complies
C7 Culture and Heritage	N/A
C8 Public Domain	Complies - see Appendix - Development Control Plan Compliance
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
D3.1. Bulky Good Retailing	N/A
D3.2. Sex Services Premises	N/A
D3.3. Restricted Premises	N/A

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

There are no planning agreements applying to the proposal.

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

An assessment of fire protection and structural capacity was not required as the proposal does not involve any building works. The proposal otherwise it meets the relevant requirements of the regulations.

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

Context and Setting

The proposed car park alterations will not impact the bulk and scale of the existing development and will not have an adverse impact on other developments in the surrounding area. The proposal is compatible with the surrounding and adjacent land uses and only involves alterations to the internal layout of the existing car park. It is considered the alterations will have minimal impact on the amenity of the surrounding area. The proposal will have limited impact on views from surrounding properties.

Access and Parking

The proposal will have minimal impacts on the local road system. The changes to the internal road network within the car park will allow for a reduction in the pitch points and improve internal traffic flows. The proposed access arrangements and car parking on the site will be adequate for the shopping centre operations.

Heritage

The property is not subject to any Heritage Order or identified as a heritage item under a planning instrument.

Natural Hazards

The site is not subject to flooding, and the current stormwater system will still allow for the suitable drainage of the site.

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

The site is suitable for the proposed development for the following reasons:

- The site is zoned B2 Local Centre which allows the proposed use with Council consent;
- The use is compatible with adjoining land uses;
- The site is able to drain to Council's stormwater system to Council's satisfaction; and
- The site is able to accommodate the proposed car parking modifications.

Section 79C(1)(d) Any Submissions

Community Consultation

In accordance with Clause 4.4 of Appendix F4 of Penrith Development Control Plan 2014, the proposed development was notified to nearby and adjoining properties.

Council notified ten (10) properties in the area and the exhibition period was between 7 March and 21 March 2018. No submissions were received in response.

Referrals

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

Referral Body	Comments Received
Development Engineer	No objections - subject to conditions
Traffic Engineer	No objection subject to conditions

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

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

Conclusion

In assessing this proposal against the relevant environmental planning policies, being Penrith Local Environmental Plan 2010 and Penrith Development Control Plan 2014, the proposal satisfies the aims, objectives and provisions of these policies. The proposed design is responsive to the changes that are needed to improve the amenity and functionality of the existing car park. The proposal complies with key development standards as set out under Penrith Local Environmental Plan 2010 and Penrith Development Control Plan 2014. Therefore the proposal is in the public interest. The site is suitable for the proposal and it is unlikely to have any negative impacts.

Therefore, the application is worthy of support, subject to recommended conditions.

Recommendation

That DA18/0190 for the reconfiguration of the shopping centre car park at 4 Endeavour Avenue, St Clair, be approved subject to the attached conditions

CONDITIONS

General

1 A001

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

Plan	Prepared By	Version	Drawing/Job No.	Dated
Site Plan	Leffler Simes Architects	B	DA02 / 2383	8/02/2018
Site Plan Addendum	-	-	-	-
General Arrangement Plan – Sheet 1	Wood & Grieve Engineers	A	CI-060-01 / 36073	19/12/2017
General Arrangement Plan- Sheet 2	Wood & Grieve Engineers	A	CI-060-02 / 36073	19/12/2017
Civil Details	Wood & Grieve Engineers	A	CI-066-01 / 36073	19/12/2017
Sediment & Erosion Control Plan	Wood & Grieve Engineers	A	CI-070-01 / 360703	19/12/2017
Sediment & Erosion Control Details	Wood & Grieve Engineers	A	CI-076-01 / 360703	19/12/2017

2 A014 - LOT CONSOLIDATION

Lot 1 DP 1018519 and Lot 2 DP 1018519 are to be consolidated as one lot. A copy of the registered plan of consolidation from NSW Land Registry Services 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 a Compliance Certificate for the development.

3 A039 - Graffiti

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

4 A046 - Obtain Construction Certificate before commencement of works

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

5 A Special (BLANK)

The pathway from Bennett Road to the shopping centre entrance shall be 1800mm in width up until the McDonalds drive-through lanes. Beyond this point where the pathway cannot achieve reach the requirement of the 1800mm width, a passing bay shall be provided that meets the requirements of AS 1428.1 in design and placement. Amended plans in this regard are to be submitted to and approved by Council prior to the issue of a Construction Certificate.

6 A Special (BLANK)

Prior to the issue of a Construction Certificate, an arborist's report prepared by an accredited and experienced arborist shall be submitted to the Principal Certifying Authority regarding required tree protection measures for existing trees where planter bays are being reduced in size.

7 A Special (BLANK)

This consent does not give approval for any shade sails structures.

8 A Special (BLANK)

Prior to the issue of a Construction Certificate, a Construction Management Plan prepared by a suitably qualified traffic engineer shall be submitted to the Principal Certifying Authority. The plan shall detail arrangements for the pedestrian movements and interim parking and access arrangements during the construction period.

9 A Special (BLANK)

Prior to the issue of a Construction Certificate and an Occupation Certificate, the recommendations provided in the Access Review Report, prepared by ABE Consulting, dated 05 December 2017 shall be met.

Environmental Matters

10 **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 plans for the development.

11 **D005 – No filling without prior approval (may need to add D006)**

No fill material is to be imported to the site without the prior approval of Penrith City Council in accordance with Sydney Regional Environmental Plan No. 20 (Hawkesbury- Nepean River) (No. 2-1997). No recycling of material for use as fill material shall be carried out on the site without the prior approval of Council.

12 **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.

13 **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.

Construction

14 **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 is 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 Compliance Certificate has been issued for the development.

15 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 must be executed safely and in accordance with the appropriate professional standards. All excavations 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.

16 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 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

17 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.

18 **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.

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

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

- a) Vehicular crossings (including kerb reinstatement of redundant vehicular crossings)
- b) 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

All works shall be carried out in accordance with the Roads Act approval, the development consent, including the stamped approved plans, and Penrith City Council's specifications, guidelines and best engineering practice.

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

Note:

- a) Where Penrith City Council is the Certifying Authority for the development, the Roads Act approval for the above works may be issued concurrently with the Construction Certificate.
- b) All works associated with the Roads Act approval must be completed prior to the issue of a Compliance Certificate.

20 **K210 - Stormwater Management**

The stormwater drainage system shall be provided generally in accordance with the concept plan/s lodged for development approval, prepared by Wood & Grieve Engineers, Drawing Number CI-060-01 & 02, revision A, dated 19/12/2017.

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 Policy.

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

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

22 **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.

23 **K511 - Directional signage**

Prior to the issue of a Compliance Certificate, directional signage and line marking shall be installed indicating required directional movements, driveway entry/exit points and the location of staff and customer parking to the satisfaction of the Principal Certifying Authority.

24 **K Special (BLANK)**

In order to facilitate safe pedestrian movements from the pedestrian crossing at Bennett Road (at the eastern end of the site) to the shopping centre entrance, pedestrian fencing shall be provided to limit access across the McDonald's drive-through lanes by pedestrians, and to direct pedestrians along the provided footway and crossing points. Amended plans in this regard shall be submitted to and approved by Council prior to the issue of a Construction Certificate.

25 **K Special (BLANK)**

In order to facilitate safe pedestrian movements from the existing crossing at the western end of Botany Lane to the shopping centre entrance, the dimensions of the proposed east west pedestrian footpath shall be 1.8m (min.) wide, providing adequate width for passing wheelchairs (and including the provision of appropriate kerb ramps to transition between footpath and road surface pavement) in accordance with AS 1428.1 and AS 2890.6. Amended plans in this regard shall be submitted to and approved by Council prior to the issue of a Construction Certificate.

26 **K Special (BLANK)**

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

27 **K Special (BLANK)**

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

28 **K Special Condition BLANK**

Existing accessible car parking spaces shall be upgraded to comply with current Australian Standards, prior to the issue of a Compliance Certificate.

Landscaping

29 **L001 - General**

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

Landscaping shall be maintained:

- in accordance with the approved plans, and
- in a healthy state, and in perpetuity by the existing or future owners and occupiers of the property.

If any of the vegetation comprising that landscaping dies or is removed, it is to be replaced with vegetation of the same species and, to the greatest extent practicable, the same maturity as the vegetation which died or was removed.

30 **L002 - Landscape construction**

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

31 **L003 - Report requirement**

Upon completion of the landscape works associated with the development and prior to the issue of a Compliance 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.

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 Compliance Certificate for the development.

32 **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.

33 **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.

34 [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 arborist's report required by Condition 5 and the minimum tree protection standards prescribed in Penrith Development Control Plan 2014.

35 [L008 - Tree Preservation Order](#)

No trees are to be removed, ringbarked, cut, topped or lopped or willfully destroyed other than those shown for removal on the approved plans without the prior consent of Penrith City Council and in accordance with Council's Tree Preservation Order and Policy.

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

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

37 [L Special \(BLANK\)](#)

Prior to the issue of a Construction Certificate, a landscape plan prepared by a suitably qualified and experienced landscape professional shall be submitted to and approved by Council detailing all proposed landscaping works.

Certification

38 [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.

39 [Q05E - Compliance Certificate for earthworks if Construction Certificate not required](#)

On completion of works, a Compliance Certificate is to be obtained from the Principal Certifying Authority certifying that all conditions of the development consent have been satisfied. 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 Compliance Certificate and all necessary documentation supporting the issue of the Certificate is to be submitted to Penrith City Council, if Council is not the certifier who issued the Compliance Certificate.

Appendix - Development Control Plan Compliance

Development Control Plan 2014

Part C - City-wide Controls

C3 Water Management

3.6 Stormwater Management and Drainage

The current stormwater management system will not change as part of this proposal and the current system is able to service the car park.

C8 Public Domain

8.1 Pedestrian Amenity

The removal of the pathway and crossing through at the McDonald's drive-through area will be conditioned to required that fencing be placed on the northern side of the drive-through area so as to direct pedestrians to use the crossing to the west of the drive-through entryway.

C10 Transport, Access and Parking

10.2 Traffic Management and Safety

The proposal will not generate any increase in traffic volumes. The proposal aims to reduce "pinch points" in the internal road network within the site and this has been addressed in the submitted traffic design statement. The proposed car parking spaces will have the potential to reduce vehicle and pedestrian conflict points which will make the traffic flow more freely and reduce queuing.

10.5 Parking, Access and Driveways

The proposal seeks to improve the access and movement through the site which will result in the loss of 5 existing car spaces. The loss of these spaces while reducing the overall parking provision, will improve the amenity of the site and will reduce the negative impacts of the growing shopping centre usage.