

# PENRITH CITY COUNCIL

## NOTICE OF DETERMINATION

### DESCRIPTION OF DEVELOPMENT

Application number:	DA14/1267.01
Description of development:	Extension of Consent Period
Classification of development:	Class 6

### DETAILS OF THE LAND TO BE DEVELOPED

Legal description:	Lot 211 DP 815492
Property address:	229 - 231 Mulgoa Road, JAMISONTOWN NSW 2750

### DETAILS OF THE APPLICANT

Name & Address:	N F Billyard Pty Ltd PO Box 32 OATLANDS NSW 2117
-----------------	--

### DECISION OF CONSENT AUTHORITY

In accordance with Sections 81(1) (a) and 95A of the Environmental Planning and Assessment Act 1979, consent is granted subject to the conditions listed in attachment 1.

Please note that this consent will lapse on the expiry date unless the development has commenced in that time.

Date from which consent operates	23 March 2015
Date the consent expires	23 March 2018
Date of this decision	12 April 2017

### POINT OF CONTACT

If you have any questions regarding this determination you should contact:

Assessing Officer:	Timothy Mahoney
Contact telephone number:	+612 4732 7515

## NOTES

---

### **Reasons**

The conditions in the attached schedule have been imposed in accordance with Section 80A of the Environmental Planning and Assessment Act 1979 as amended.

### **Conditions**

Your attention is drawn to the attached conditions of consent in attachment 1.

### **Certification and advisory notes**

You should also check if this type of development requires a construction certificate in addition to this development consent

It is recommended that you read any Advisory Note enclosed with this notice of determination.

### **Review of determination**

The applicant may request Council to review its determination pursuant to Section 82A of the Environmental Planning and Assessment Act 1979 within 6 months of receiving this Notice of Determination.

You cannot make this request if the development is Designated Development, Integrated Development or State Significant development or if the application was decided by Sydney West Planning Panel.

### **Appeals in the Land and Environment Court**

The applicant can appeal against this decision in the Land and Environment Court within six (6) months of receiving this Notice of Determination.

You cannot appeal if a Commission of Inquiry was held for the subject development application, or if the development is a State Significant Development.

An appeal to the Land and Environment Court is made by lodging an application to the Court in accordance with the Rules of the Court.

### **Designated development**

If the application was for designated development and a written objection was made in respect to the application, the objector can appeal against this decision to the Land and Environment Court within 28 days after the date of this notice. The objector cannot appeal if a Commission of Inquiry was held.

If the applicant appeals against this decision, objector(s) will be given a notice of the appeal and the objector(s) can apply to the Land and Environment Court within 28 days after the date of this appeal notice to attend the appeal and make submissions at that appeal.

### **Sydney West Planning Panels**

If the application was decided by the Sydney West Planning Panel, please refer to Section 18 of the Greater Sydney Commission Act 2015 and Section 23H of the Environmental Planning and Assessment Act, 1979 (as amended) for any further regulations.

# ATTACHMENT 1: CONDITIONS OF CONSENT

## General

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

Description	Number	Date	Author
Site and Ground Floor Plan	1138.DA.01D	11/02/14	N.F. Billyard P/L
Ground Floor Plan	1138.DA02	7/10/14	N.F. Billyard P/L
Roof Plan	1138.DA03	7/10/14	N.F. Billyard P/L
Elevations	1138.DA04	7/10/14	N.F. Billyard P/L
Elevations	1138.DA05	7/10/14	N.F. Billyard P/L
Sections	1138.DA06	7/10/14	N.F. Billyard P/L
Proposed Car Yard Lighting	14993E1	04/02/2015	Hamilton Lighting Systems
Stormwater Drainage Details	100878-1-A	7/10/14	Kneebone, Beretta & Hall Pty Ltd
Waste Management Plan	–	10/10/14	Noel Billyard
Schedule of External Finishes	1138	–	N.F. Billyard P/L

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

- 3 The approved operating hours are from 7:00am to 7:00pm Mondays to Fridays, 8:00am to 6:00 pm Saturdays and Sundays. Delivery and service vehicles generated by the development are limited to these operating hours.

- 4 All materials and goods associated with the use shall be contained within the building at all times unless otherwise approved by this consent.

- 5 Exterior lighting shall be located and directed in such a manner so as not to create a nuisance to surrounding landuses. The lighting shall be the minimum level of illumination necessary for safe operation. The lighting shall be in accordance with AS 4282 "Control of the obtrusive effects of outdoor lighting" (1997).

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

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

- 8 The maximum size vehicle permitted to enter or service the site is a 19 m long (unladen) articulated vehicle.

- 9 A Vehicle Service Management Plan must be submitted to and approved by Council prior to the issue of a Construction Certificate. The Vehicle Service Plan of Management shall, at a minimum, contain the following:

- A clear statement that the operator will not accept deliveries from vehicles larger than 19 m in length.
- A clear statement that no unloading of vehicles will take place on the street or footpath / verge.
- A clear statement indicating that the on-site delivery area will be kept free of other vehicles and obstructions.
- Information as to what operational measures will be implemented to prevent a wholesaler delivering via vehicles greater than 19 m in length.
- Outline what action will be taken by the operator in the event that a delivery vehicle / driver attempts to

- commence unloading on-street.
- Address routes to and from the site, via the local road network, and the frequency / timing of deliveries.
- Any relevant attachments, such as vehicle standards information or relevant correspondence.

The operation of the site must comply with the Vehicle Service Management Plan at all times, for the life of the development.

- 10 The following operational details must be submitted to and approved by Council prior to the issue of a Construction Certificate.

(a) Operational Waste Management Plan

The operational waste management plan shall be prepared in accordance with the Penrith Development Control Plan 2010, and shall address all waste materials likely to result from the proposed development, with details of the estimated waste volumes, on site storage and management, proposed re-use of materials, and designated waste contractors, recycling outlets and / or landfill sites.

The approved operational waste management plan must be implemented on-site and adhered to throughout all stages of the development, with supporting documentation / receipts retained in order to verify the recycling and disposal of materials in accordance with the plan.

(b) Spill Prevention and Clean Up Procedures

A plan detailing spill prevention, contingency and emergency clean-up procedures shall be submitted for the development. The procedures plan shall be implemented in the event of a spill or emergency.

- 11 Any rooftop plant and/or structures shall be appropriately appropriately screened. All screening measures shall integrate with the overall building design.
- 12 The site shall be serviced by a private water refuse contractor. Suitable arrangement in this regard shall be in place prior to the occupation of the building.
- 13 Detailed specifications of the proposed pylon sign shall be submitted prior to the issue of an Construction Certificate.
- 14 The workshop area is to be used for servicing of vehicles associated with the motor vehicles sales aspect of the development.

No separate vehicle body workshop or vehicle repair station are permitted to operate on site.

## Environmental Matters

- 15 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.
- 16 All land that has been disturbed by earthworks is to be spray grassed or similarly treated to establish a grass cover.
- 17 Cut and fill operations on the property are only permitted in conjunction with the building works as detailed

on the approved plans and specifications, and shall not extend more than 2 metres past the defined building footprint.

Before any fill material is imported to site, a validation certificate issued by an appropriately qualified person is to be provided to the Principal Certifying Authority. The validation certificate must demonstrate that the fill material is free from contaminants and weeds, that it is suitable for its intended purpose and land use, and that it will not pose an unacceptable risk to human health or the environment.

If Penrith City Council is not the Principal Certifying Authority, a copy of the validation certificate is to be submitted to Council for their reference.

{Note: Penrith Contaminated Land 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, soilscience, 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.”}

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

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

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

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

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

21 All vehicle washing, engine degreasing and steam cleaning shall be conducted in a wash bay approved, installed and connected to the sewer in accordance with Sydney Water's requirements.

Details of the vehicle wash bay including the Section 73 Certificate issued by Sydney Water for the discharge of trade waste from the premises shall be submitted to the Principal Certifying Authority before the wash bay can be installed.

22 Waste oil shall be stored in a covered and bunded area and regularly removed to a waste oil recycle operation.

23 All mechanical repairs shall be conducted within the workshop area which shall be provided with suitable pollution control devices that removes grease, oil, petroleum products and grime prior to discharge to the sewer system in accordance with the requirements of Sydney Water.

No mechanical work shall be carried out in open driveways or car parking areas.

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

- Proposed pollution control devices in accordance with Sydney Water requirements.

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

- 24 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.
- 25 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.

- 26 Noise levels from the premises shall not exceed the relevant noise criteria detailed in the Acoustic Assessment prepared by BGMA Pty Ltd, dated October 2014, ref BMGA140514A. The provisions of the Protection of the Environment Operations Act 1997 apply to the development, in terms of regulating offensive noise.

## **BCA Issues**

- 27 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.
- 28 A fire safety list of essential fire or other safety measures shall be submitted to Penrith City Council prior to the issue of the Construction Certificate. The fire safety list shall specify all measures (both current and proposed) that are required for the building so as to ensure the safety of persons in the building in the event of fire. The fire safety list must distinguish between:
- the measures that are currently implemented in the building premises,
  - and the measures that are to be proposed to be implemented in the building premises, and must specify the minimum standard of performance for each measure.
- 29 The owner of a building, to which an essential fire safety measure is applicable, shall provide Penrith City Council with an annual fire safety statement for the building. The annual fire safety statement for a building must:
- (a) deal with each essential fire safety measure in the building premises, and
  - (b) be given:

- within 12 months after the last such statement was given, or
- if no such statement has previously been given, within 12 months after a final fire safety certificate was first issued for the building.

As soon as practicable after the annual fire safety statement is issued, the owner of the building to which the statement relates:

- must also provide a copy of the statement (together with a copy of the current fire safety schedule) to the Commissioner of New South Wales Fire Brigades, and
- prominently display a copy of the statement (together with a copy of the current fire safety schedule) in the building.

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

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

(b) formulating an alternative solution which:

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

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

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

## **Health Matters and OSSM installations**

31 The rainwater tank must be maintained so as not to create a nuisance and it must be protected against mosquito infestation.

## **Utility Services**

32 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.

- 33 Prior to the issue of a Construction Certificate, a written clearance is to be obtained from Endeavour Energy stating that electrical services have been made available to the development or that arrangements have been entered into for the provision of services to the development.

In the event that a pad mounted substation is necessary to service the development, Penrith City Council shall be consulted over the proposed location of the substation before the Construction Certificate for the development is issued as the location of the substation may impact on other services and building, driveway or landscape design already approved by Council.

## **Construction**

- 34 Stamped plans, specifications, a copy of the development consent, the Construction Certificate and any other Certificates to be relied upon shall be available on site at all times during construction.

The following details are to be displayed in a maximum of 2 signs to be erected on the site:

- the name of the Principal Certifying Authority, their address and telephone number,
- the name of the person in charge of the work site and telephone number at which that person may be contacted during work hours,
- that unauthorised entry to the work site is prohibited,
- the designated waste storage area must be covered when the site is unattended, and
- all sediment and erosion control measures shall be fully maintained until completion of the construction phase.

Signage but no more than 2 signs stating the above details are to be erected:

- at the commencement of, and for the full length of the, construction works onsite, and
- in a prominent position on the work site and in a manner that can be easily read by pedestrian traffic.

All construction signage is to be removed when the Occupation Certificate has been issued for the development.

35 Prior to the commencement of construction works:

(a) Toilet facilities at or in the vicinity of the work site shall be provided at the rate of one toilet for every 20 persons or part of 20 persons employed at the site. Each toilet provided must be:

- a standard flushing toilet connected to a public sewer, or
- if that is not practicable, an accredited sewage management facility approved by the council, or
- alternatively, any other sewage management facility approved by council.

(b) All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with the appropriate professional standards. All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.

(c) If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made:

- must preserve and protect the building from damage, and
- if necessary, must underpin and support the building in an approved manner, and
- must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished. The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this condition, whether carried out on the allotment of land being excavated or on the adjoining allotment of land, (includes a public road and any other public place).

(d) If the work involved in the erection or demolition of a building is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or involves the enclosure of a public place, a hoarding or fence must be erected between the work site and the public place:

- if necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place,
- the work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place, and
- any such hoarding, fence or awning is to be removed when the work has been completed.

36 Detailed engineering plans and specifications relating to the work shall be submitted for consideration and approval prior to the issue of a Construction Certificate.

37 Construction works or subdivision works that are carried out in accordance with an approved consent that involve the use of heavy vehicles, heavy machinery and other equipment likely to cause offence to adjoining properties shall be restricted to the following hours in accordance with the NSW Environment Protection Authority Noise Control Guidelines:

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

Other construction works carried out inside a building/tenancy that do not involve the use of equipment that emits noise are not restricted to the construction hours stated above.

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

## Engineering

38 A total of 30 off-street parking spaces are to be provided, linemarked and maintained for the development. The parking space dimensions and manoeuvring areas are to comply with AS 2890.1 and AS 2890.2 the Building Code of Australia and the Commonwealth Disability Discrimination Act.

Of the 30 spaces, 2 parking spaces for persons with disabilities are to be provided in accordance with AS 1428.1 and are to be located within the spaces marked 1,2 and 3 adjacent to the main entrance. The siting of these spaces will prevent any potential for conflict between pedestrian entrances to the building and persons with a disability utilising the shared zone.

39 The vehicular crossing Mulgoa Road is to be used for ingress purposes only and appropriately signposted "IN" prior to the issue of an Occupation Certificate.

40 A directional sign indicating the location of customer parking is to be provided prior to the issue of an Occupation Certificate.

41 **Prior to the issue of a Construction Certificate**, a Section 138 Roads Act application/s, including payment of fees shall be lodged with Penrith City Council, as the Roads Authority for any works required in a public road. These works may include but are not limited to the following:

- Vehicular crossings (including kerb reinstatement of redundant vehicular crossings)
- Road opening for utilities and stormwater (including stormwater connection to Council infrastructure)
- Road occupancy or road closures

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. Contact Council's **City Works Department** on (02) 4732 7777 for further information regarding the application process.

Note:

1. Approvals may also be required from the Roads and Maritime Services for classified roads.

Council (being the Roads Authority under the Roads Act) shall approve the works completed on or over the road reserve. Contact Council's **City Works Department** on (02) 4732 7777 to arrange an inspection of the works (and payment of inspection fees, if required).

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

43 **Prior to commencement of works**, a Traffic Control Plan including details for pedestrian management shall be prepared in accordance with AS 1742.3 "Traffic Control Devices for Works on Roads" and the Roads and Traffic Authority's publication "Traffic Control at Worksites" and certified by an appropriately accredited Roads and Traffic Authority Traffic Controller.

Traffic control measures shall be implemented during the construction phase of the development in accordance with the certified plan. A copy of the plan shall be available on site at all times.

Note: A copy of the Traffic Control Plan shall accompany the Notice of Commencement to Penrith City

Council.

- 44 An Infrastructure Restoration Bond is to be lodged with Penrith City Council for development involving works around Council's Public Infrastructure Assets. The bond is to be lodged with Council **prior to the issue of a Construction Certificate**. The bond shall be determined accordance with Council's adopted Fees and Charges.

The bond is refundable once a final inspection has been carried out by Council's City Works Department and the works have been completed to Council's satisfaction. The bond may be used to repair or reinstate any damage that occurs to Council's Public Infrastructure Assets as a result of the development works.

Contact Council's City Works Department on 4732 7777 or visit Council's website to obtain the form and request for final inspection.

- 45 Customer and staff car parking spaces are not to be used for the display or storage of stock vehicles.
- 46 All vehicles (including delivery vehicles) are to enter/exit the site in a forward direction.
- 47 All car parking and manoeuvring must be in accordance with AS 2890.1-2004: AS 2890.6-2009 and Council's requirements. Vehicles are not to be parked or displayed on the verge and / or footway.
- 48 All car parking spaces are to be line-marked and dedicated for the parking of vehicles only and not to be used for the storage of materials, products, waste materials, etc.
- 49 All unloading of stock vehicles is to take place on-site and not on adjoining roads.
- 50 The required sight lines around the driveway are not to be compromised by landscaping, fencing or signage.
- 51 Gates and gate fixtures must not encroach on entry/exit driveways, during operational hours, to allow full driveway width for heavy vehicle entry and egress.
- 52 A Roads Act approval under Section 138 of the Roads Act is to be obtained from the Roads and Maritime Services for any works within the Mulgoa Road road reserve. In this regard, the Roads Act approval from the RMS is to be gained prior to the issue of the Construction Certificate for the development and prior to the separate Roads Act approval being granted by Council for the driveway works.

In this regard the he Roads and Maritime Services have advised as follows:

- The redundant driveway on the northern end of the site shall be removed and replaced with kerb and gutter to match existing. The design and construction of the kerb and gutter off Mulgoa Road shall be in accordance with Roads and Maritime requirements. Details of these requirements should be obtained from Roads and Maritime Project Services Manager, Traffic Projects Section, Parramatta on 8849 2138. Detailed design plans of the proposed gutter crossing are to be submitted to Roads and Maritime for approval prior to the issue of a Construction Certificate and commencement of any road works. It should be noted that a plan checking fee (amount to be advised) and lodgement of a performance bond may be required prior the release of the approved road design plans by Roads and Maritime.
- All demolition and construction vehicles are to be contained wholly within the site and vehicles must enter the site before stopping. A construction zone will not be permitted on Mulgoa Road.

53 **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 Policy.

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.

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

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

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

55 **Prior to the issue of an Occupation Certificate** a restriction as to user and positive covenant relating to the:

- a) Stormwater management systems (including water sensitive urban design)  
Shall be registered on the title of the property. The restriction as to user and positive covenant shall be in Penrith City Council's standard wording as detailed in Penrith City Council's Stormwater Drainage for Building Development.

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

57 The stormwater management system shall be provided generally in accordance with the concept plan/s lodged for development approval, prepared by Kneebone, Beretta and Hall, reference number 100878-1-A, dated 07/10/2014 and Water Quality Assessment Report prepared by Wyndham Prince, dated 18 July 2014, Ref 9993.

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

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

## Landscaping

- 58 A revised landscape plan is to be submitted prior to the issue of a Construction Certificate addressing the following matters:
- (a) The plan is to be substantially in accordance with the stamped approved Site and Ground Floor Plan (Rev. D)
  - (b) The landscaping between colorbond fence and 3.5m high panel wall on the western boundary is to be automatically irrigated. Callistemon shall be spaced 3m apart
  - (c) A minimum 1.5m wide garden bed is required along the southern boundary fence to screen the fence and improve visual amenity. The screen planting shall attain a minimum height of 3.5 m and hardy low shrubs or grasses to a minimum height of 600mm shall be provided.
  - (d) Additional external screening of the eastern wall of the storage area/panel wall and western panel wall shall be provided to improve the visual amenity from the street and inside the development e.g. a minimum 300 mm wide irrigated garden bed with creeper such as Parthenocissus Veitchii or Ficus pumila. This green wall treatment should also be considered for large expanses of walls to the building that face residential areas.
  - (e) All garden beds shall be irrigated.
  - (f) The palisade fence along the northern facade shall be relocated to run through the landscaping at a setback of 2 metres from the boundary, providing a visual softening of the fence from outside the site.
  - (g) Plant schedule: Trees:
    - Waterhousia 'Luscious' is incorrect and not available. Replace with Waterhousia floribunda 'Sweeper'.
    - Add 1 x new tree on Mulgoa Rd landscaped frontage at eastern end of customer parking.
    - The 4 trees on Mulgoa Rd landscape frontage shall be tall large canopy trees and in keeping with other canopy tree landscaping along Mulgoa Rd such as Corymbia maculata.
    - All trees on road frontages (8) shall be min. 75L container size.
    - Provide min 5 x min 45 L tall street trees capable of achieving clear trunks to Willoring Crescent. Four trees shall be located approximately as follows: 5 m, 21 m, 33 m and 48 m from the new driveway and one tree west of the driveway. The location of street trees shall take into consideration underground services and street lighting effectiveness. Suggested street tree species include Lophostemon confertus and Eucalyptus sideroxylon
    - No tree species or size substitutions shall be made without Council's Landscape Architect's approval
  - (h) Plant schedule: Other:
    - Remove from Willoring Crescent frontage the row of feature shrub Lilly Pilly 'Cascade' or justify the need for screen planting in this location. It is not consistent with the streetscape in this area.
  - (i) A new garden bed shall be provided between Mulgoa Road frontage external display area and customer parking with low shrubs / groundcovers and a small tree (e.g. Magnolia 'Little Gem').
  - (j) A low permanent, substantial yet attractive barrier to the northern and eastern edges of the Mulgoa Road external display pavement area shall be provided. This barrier must be a minimum of 300 mm high above the pavement e.g. post and rail. No part of the barrier shall be removable.
  - (k) Provide open style palisade fencing and a gate for access to prevent unauthorized access to the landscaped buffer along the western boundary.
  - (l) Replace the proposed colorbond fencing with open style palisade fencing along the easternmost 15 m of the southern boundary.

59 All landscape works are to be constructed in accordance with the revised landscape plan as required by the condition above and Sections F5 “Planting Techniques”, F8 “Quality Assurance Standards” and F9 “Site Management Plan” of Penrith Council’s Landscape Development Control Plan.

Landscaping shall be maintained:

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

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

60 The approved landscaping for the site must be constructed by a landscape professional listed in Council’s Approved Landscape Consultants Register as suitable to construct category 3 landscape works. The contractor must be a member of the Landscape Association NSW and ACT or equivalent.

61 The following series of reports relating to landscaping are to be submitted to the nominated consent authority at the appropriate time periods as listed below. These reports shall be prepared by a landscape professional listed in Council’s Approved Landscape Consultants Register as suitable to design category 3 landscape works.

i. Implementation Report

Upon completion of the landscape works associated with the development and prior to the issue of an Occupation Certificate for the development, an Implementation Report must be submitted to the Principal Certifying Authority attesting to the satisfactory completion of the landscaping works for the development. The report is to be prepared by a landscape professional listed in Council’s Approved Landscape Consultants Register as suitable to design category 3 landscape works.

An Occupation Certificate should not be issued until such time as a satisfactory Implementation Report has been received. If Penrith City Council is not the Principal Certifying Authority, a copy of the satisfactory Implementation Report is to be submitted to Council together with the Occupation Certificate for the development.

ii. Maintenance Report

On the first anniversary of the date of the Occupation Certificate issued for the development, a Landscape Maintenance Report is to be submitted to Penrith City Council certifying that the landscape works are still in accordance with the development consent and the plant material is alive and thriving.

This report is to be prepared by a landscape professional listed in Council’s Approved Landscape Consultants Register as suitable to design category 3 landscape works.

iii. 3 Year Landscaping Report

3 years after an Occupation Certificate was issued for the development, a landscape professional listed in Council’s Approved Landscape Consultants Register as suitable to design category 3 landscape works shall prepare a Landscaping Report for Council’s consideration and approval, certifying to one of the following:

- (a) The landscaping on site has matured and is in accordance with the original landscape approval.
- (b) The landscaping on site has not matured in accordance with the original design philosophy and requires significant restoration.

In this case, restoration plans are to be submitted to Council for its consideration and approval. The approved

plans shall be implemented at the expense of the property owners.

- 62 All plant material associated with the construction of approved landscaping is to be planted in accordance with the Tree Planting Specification prescribed in Penrith Council's Landscape Development Control Plan.
- 63 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.
- 64 The street tree must be retained and protected in accordance with AS 4970 -2009, Protection of trees on development sites.
- 65 All precautions shall be taken to adequately protect trees on public property (i.e. footpaths, roads, reserves, etc.) against damage during construction. No trees on public property shall be removed, pruned or damaged during construction. This includes the erection of any fences, hoardings or other temporary works. The placement of construction materials beneath the canopy of street trees is prohibited.

## **Certification**

- 66 An Occupation Certificate is to be obtained from the Principal Certifying Authority on completion of all works and prior to the occupation of the building/tenancy and commencement of the approved use. The Occupation Certificate shall not be issued if any conditions of this consent, but not the conditions relating to the operation of the development, are outstanding, and the development does not comply with the provisions of the Environmental Planning and Assessment Act and Regulation.

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

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

- 67 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.

## SIGNATURE

---

Name:	Timothy Mahoney
Signature:	

For the Development Services Manager