

PENRITH CITY COUNCIL

MAJOR ASSESSMENT REPORT

Application number:	DA19/0220
Proposed development:	Alterations and Additions to an existing community facility
Property address:	4 Lawson Street, EMU PLAINS NSW 2750
Property description:	Lot 7042 DP 93967 Lot 1 DP 650753
Date received:	26 March 2019
Assessing officer	Jake Bentley
Zoning:	RE1 Public Recreation - LEP 2010
Class of building:	Class 9b
Recommendations:	Approve

Executive Summary

Council is in receipt of a development application for the internal and external alterations and additions to improve access to and within an existing converted school building being a locally listed heritage item under the Penrith Local Environmental Plan 2010 (PLEP) at 4 Lawson Street, Emu Plains. The subject site's are zoned RE1 Public Recreation and the proposed works are considered ancillary to the existing building's approved use as a before and after school service, family history centre and community hall.

In accordance with Clause 4.4 of Appendix F4 in the Penrith Development Control Plan (DCP) 2014 the application was notified to surrounding property owners and exhibited between 11 April and 25 April, 2019. In addition, due to the proposed works being to a heritage item and ownership of the subject site's the proposal was advertised in the Western Weekender newspaper. No submissions were received in response during this period.

The subject development application has been referred to the Local Planning Panel for determination in accordance with the direction given by the Minister for Planning under Section 9.1 of the Environmental Planning and Assessment Act, 1979, dated 23 February, 2018. These directions outline that development applications within the Penrith Local Government Area to which the applicant is the Council but also not development which requires internal alterations and additions to any building that is not a heritage item is to be determined by the Local Planning Panel.

As the applicant of the subject development application is Penrith Council and the proposed works involve internal and external alterations to a locally listed heritage item, the Local Planning Panel is to determine the subject development application.

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 recommended conditions.

Site & Surrounds

The subject sites are legally defined as Lot 1, DP 650753 and Lot 7042, DP 93967 and are located on the northern side of The Great Western Highway with a collective site area of 14,265m². It is noted that Lot 7042, DP 93967 (being the eastern lot) primarily relates to the proposed works with a small portion of the subject building within it's north-eastern corner encroaches Lot 7042, DP 93967.

The subject site is occupied by numerous trees and buildings as well as two internal car parking areas. The site is zoned RE1 Public Recreation under PLEP 2010, is identified as being a low flood island and therefore impacted by flood related development controls. The building relating to the proposed works is identified as local heritage item number 76 'Emu Plains Public School (former) and trees' under Schedule 5 Environmental Heritage of PLEP 2010.

The adjoining eastern and southern sites are publically owned and occupied by Dukes Oval and Hunter Fields whilst the neighbouring north-western sites are zoned R2 Low Density Residential and occupied by detached dwellings. The neighbouring western site is zoned B2 Local Centre and occupied by the Lennox Shopping Centre.

The subject sites benefit from a number of previous approvals as follows;

- DA20/84 - Neighbourhood Centre
- DA12/88 - Conversion of School Building (Before & After School Service, Family History Centre, Community Hall)
- DA001109 - Community Centre Addition & Alteration
- DA143/88 - Additions to Amenities Building
- DA184/84 - A Recreational Area
- DA318/86 - A Branch Library
- DA308/82 - Child Care Centre
- DA993145 - Sign
- DA00/1109 - Community Centre Addition & Alteration
- DA08/0638 - Sail Shade Structure

Proposal

The proposed development involves the following external and internal works to the subject building:

- Alterations to the north-eastern portion of the building to provide for a new accessible water closet and removal of a ramp to be replaced with new concrete steps,
- Construction of a new deck to the northern elevation of the building including a ramp,
- Removal of storage area north of storage area, conversion of storage area to a kitchen and removal of window within the existing storage area to provide for a new kitchen door,
- Reconstruction of area north of western hall to provide for a new store room, new ambient water closet, new ante room and new accessible water closet,
- New concrete steps to the south of the western hall,
- Removal of two western trees, directly adjoining the subject building,
- Removal of AC split units and tree west of the central hall,
- New external plant area to the east of the building,
- Internal refurbishment works including flooring, painting and works to some doorways to create better access,
- Replace picket fence,
- Repair and replace south-eastern deck,
- Raise floor level of store room to match adjoining kitchen,
- New windows to new western bathrooms and replacement of AC condensers with windows above the new bathroom windows,
- Northern elevation roof north of kitchen and bathrooms to be demolished and reconstructed to a compliant height.

It is noted that the proposal was referred to Penrith City Council's Access Committee on the 3 April, 2019 with the following matters identified for consideration;

- Ensuring that persons parking in the rear parking from Lawson Street can provide for equitable access to the proposed rear ramp, and
- To ensure that persons accessing the building from the Great Western Highway frontage via the new steps and handrail to Hall 2 is in accordance with the relevant regulations.

The application was also referred to Penrith City Council's Heritage Committee on the 17 April, 2019.

Plans that apply

- Local Environmental Plan 2010 (Amendment 4)
- Development Control Plan 2014
- State Environmental Planning Policy (Infrastructure) 2007
- State Environmental Planning Policy No 55—Remediation of Land
- Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

Planning Assessment

• Section 4.15 - Evaluation

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

State Environmental Planning Policy (Infrastructure) 2007

101 Development with frontage to classified road

It is noted that the subject sites provide for a frontage to The Great Western Highway (Classified Road) however, the proposed works do not provide for any additional vehicle access points from the existing which are maintained via Lawson Street. In addition, the proposed works are considered minor and are not envisioned to generate a significant traffic demand therefore, there are minimal impacts envisioned to The Great Western Highway. In this regard, the proposed development is considered to improve access to the existing building only and will not result in the building being located closer to The Great Western Highway.

State Environmental Planning Policy No 55—Remediation of Land

Clause 7 states that a consent authority must not consent to the carrying out of any development on land unless it has considered whether the land is contaminated. Historical views of the site using Council's mapping systems identify the site as being used previously as a before and after school care service. In addition, a review of the approvals on-site detail that the subject building benefits from an approval for the use as a family history centre and community hall. Historical views of the site and the subject building's approval history do not indicate that any potential contamination activities have occurred on-site. In this regard, the land is considered not to be contaminated.

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 - 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 5.10 Heritage conservation	Complies - See discussion
Clause 7.2 Flood planning	Complies - See discussion
Clause 7.4 Sustainable development	Complies
Clause 7.6 Salinity	Complies
Clause 7.7 Servicing	Complies

Clause 2.3 Permissibility

The proposed development is considered to be ancillary to the approved building use being for a before and after school care service, family history centre and community hall. It is noted that the Statement of Environmental Effects submitted in support of the proposal states that the building is currently occupied by the Nepean Family History Society.

The previous and current use of this building may be defined as a 'community facility' which is a permissible use under the subject site's RE1 Public Recreation zoning.

Clause 2.3 Zone objectives

The proposed development is considered to adhere to the RE1 Public Recreation zone objectives as mentioned below considering the proposed works improve accessibility for the public to the existing building.

- *To enable land to be used for public open space or recreational purposes.*
- *To provide a range of recreational settings and activities and compatible land uses.*
- *To protect and enhance the natural environment for recreational purposes.*
- *To ensure that development is secondary and complementary to the use of land as public open space, and enhances public use, and access to, the open space.*
- *To provide land for the development of services and facilities by public authorities for the benefit of the community.*

Clause 4.3 Height of buildings

The proposed works will not alter the existing building height.

Clause 5.10 Heritage conservation

The subject development application is seeking consent for the proposed works to the local heritage item number 76 'Emu Plains Public School (former) and trees' as identified within Schedule 5 Environmental Heritage of PLEP 2010. It is noted that the subject development application has been referred to Council's Heritage Advisor who has raised no objections to the proposal and included commentary regarding the screening of the external air conditioning plant to the east of the building. In this regard, should development consent be forthcoming a condition of consent is recommended ensuring that suitable screening is provided to proposed external plant to minimise its impact on the above mentioned heritage item.

Clause 7.2 Flood planning

The subject site is identified as being affected by flooding however, the proposed works relate to building improvements to provide for a more accessible building with the only external works being the provision of new steps and a deck including a ramp. In addition, the store room floor level is being raised and the proposed works will provide for improved egress from the building in the possible scenario of flooding. In this regard, there are no adverse flooding impacts envisioned as a result of the proposal.

In addition, the external air conditioning plant location has been discussed with Council's Development Engineering Department who have raised no concerns from a flooding perspective.

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

Annual Update Amendment Planning Proposal

It is noted that an Annual Update Amendment Planning Proposal is in the process of being created by Council. The Annual Update Amendment Planning Proposal's only relevance to the proposed development is that the Planning Proposal seeks to amend a minor detail to the property description of the subject heritage item. Other than the above mentioned the Planning Proposal has no impact to the proposed development.

Draft Environmental SEPP

The Draft Environment SEPP was exhibited from 31 October 2017 to 31 January 2018. This consolidated SEPP proposes to simplify the planning rules for a number of water catchments, waterways, urban bushland, and Willandra Lakes World Heritage Property. Changes proposed include consolidating a total of seven existing SEPPs being:

- *State Environmental Planning Policy No. 19 – Bushland in Urban Areas*
- *State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011*
- *State Environmental Planning Policy No. 50 – Canal Estate Development*
- *Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment*
- *Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (No.2-1997)*
- *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005*
- *Willandra Lakes Regional Environmental Plan No. 1 – World Heritage Property.*

It is noted that the proposed changes to State Environmental Planning Policy No 19 – Bushland in Urban Areas (SEPP 19) are not considered to impact the proposed development. In addition, the amendments to Sydney Regional Environmental Plan No 20 – Hawkesbury – Nepean River (No. 2 – 1997) do not impact the proposed development. In this regard, the proposal is not inconsistent with the provisions of this Draft Instrument.

Draft Remediation of Land SEPP

The Department of Planning and Environment has announced a Draft Remediation of Land SEPP, which will repeal and replace the current State Environmental Planning Policy No 55—Remediation of Land.

The proposed new land remediation SEPP will:

- provide a state-wide planning framework for the remediation of land,
- maintain the objectives and reinforce those aspects of the existing framework that have worked well,
- require planning authorities to consider the potential for land to be contaminated when determining development applications and rezoning land,
- clearly list the remediation works that require development consent, and
- introduce certification and operational requirements for remediation works that can be undertaken without development consent.

It is also proposed that it will transfer the requirements to consider contamination when rezoning land to a direction under Section 9.1 of the Environmental Planning and Assessment Act 1979. Whilst the proposed SEPP will retain the key operational framework of SEPP 55, it will adopt a more modern approach to the management of contaminated land. Noting the above, the Draft SEPP will not alter or affect the findings in respect to contamination of the site.

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 - see Appendix - Development Control Plan Compliance
C2 Vegetation Management	Complies - see Appendix - Development Control Plan Compliance
C3 Water Management	Complies - see Appendix - Development Control Plan Compliance
C4 Land Management	Complies
C5 Waste Management	Complies
C6 Landscape Design	N/A
C7 Culture and Heritage	Complies - see Appendix - Development Control Plan Compliance
C8 Public Domain	N/A
C9 Advertising and Signage	N/A
C10 Transport, Access and Parking	Complies
C11 Subdivision	Complies
C12 Noise and Vibration	Complies - see Appendix - Development Control Plan Compliance
D5.1. Application of Certification System	N/A
D5.2. Child Care Centres	N/A
D5.3. Health Consulting Rooms	N/A
D5.4. Educational Establishments	N/A
D5.5 Parent Friendly Amenities	Complies - see Appendix - Development Control Plan Compliance
D5.6. Places of Public Worship	N/A
D5.7. Vehicle Repair Stations	N/A
D5.8. Cemeteries, Crematoria and Funeral Homes	N/A
D5.9. Extractive Industries	N/A
D5.10 Telecommunication Facilities	N/A
D5.11 Boarding Houses	N/A

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

In accordance with Section 145 of the Environmental Planning and Assessment Regulation 2000, an assessment of the fire protection and structural capacity of the proposed building is necessary. In this regard, the subject development application has been referred to Council's Building Surveying Department which raised no objections to the proposal subject to recommended conditions of consent. In this regard, the proposal will comply with the provisions of the Building Code of Australia and the regulations subject to recommended conditions of consent.

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

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

The proposed development provides for improved access and toilet facilities whilst being sympathetic to the heritage significance of the publically owned building. Plans have identified an external air conditioning plant to the east of the existing building. In this regard, it is considered appropriate that this work be provided with further details to Council's satisfaction prior to any works commencing to clarify its impact on the heritage items significance.

Furthermore, the proposed works include replacing doors, scrolls and picket fencing with colours matching the existing which is an appropriate design solution. In addition, the metal fence surrounding the western portion of the building and playground area will be removed providing unrestricted access. While two trees are nominated for removal this is considered acceptable in this instance noting their proximity to the heritage item and potential to create future damage either to the roof or foundations if their growth were to become excessive. The majority of the proposed works are located at the northern elevation of the building screened from view from The Great Western Highway.

In this regard, the proposed development is not considered to generate any adverse impacts with particular emphasis on heritage significance but rather provide for a more accessible building.

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

The site if of a suitable zoning for the proposed development to the existing building and the proposed development is considered sympathetic to the heritage significance of the existing building subject to the proposed works. The flood prone nature of the site does not significantly impact the proposed development noting the existing building form. It is noted that existing brick paved footpaths on-site provide for suitable access to the building. In this regard, the site is considered suitable for the proposed development.

Section 79C(1)(d) Any Submissions

Community Consultation

In accordance with Clause 4.4 of Appendix F4 in the Penrith Development Control Plan (DCP) 2014 the application was notified to surrounding property owners and exhibited between 11 April and 25 April, 2019. In addition, due to the proposed works being to a heritage item and ownership of the subject site's the proposal was advertised in the Western Weekender newspaper. No submissions were received in response during this period.

Referrals

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

Referral Body	Comments Received
Building Surveyor	No objections - subject to conditions
Heritage	No objections - subject to conditions
Environmental - Public Health	No objections - subject to conditions
Tree Management Officer	No objections - subject to conditions

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

The public interest is best served by the orderly and economic use of the land for purposes permissible under the relevant planning regime and in accordance with the prevailing planning controls. In this regard, the proposed works are considered to be consistent with the relevant planning provisions. Subject to compliance with conditions of any development consent and modifications to the development design as outlined within this report, the proposal is considered worthy of support.

Section 94 - Developer Contributions Plans

Section 7.11 contributions do not apply to the proposed development.

Conclusion

In assessing the proposed development against the relevant environmental planning policies, being State Environmental Planning Policy (Infrastructure 2007), State Environmental Planning Policy No 55 - Remediation of Land, 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 proposal and there are no negative impacts envisioned as a result of the proposal. Therefore, the application is worthy of support, subject to recommended conditions of consent.

Recommendation

That DA19/0220 for the internal and external alterations and additions to an existing community facility at 4 Lawson Street, Emu Plains, be approved subject to the attached conditions.

CONDITIONS

General

1 A001

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

Drawing Title	Prepared By	Drawing No.	Issue	Date
Architectural Plans				
Title Page, General Notes & Schedule of External Finishes	Justin Long Design	A00	TD	14/3/2019
Proposed Ground Floor Plan	Justin Long Design	A02	TD	14/3/2019
Northern & Western Elevations	Justin Long Design	A03	TD	14/3/2019
Southern & Eastern Elevations	Justin Long Design	A04	TD	14/3/2019
Proposed Sections	Justin Long Design	A05	TD	14/3/2019
Proposed Sections	Justin Long Design	A06	TD	14/3/2019
Proposed Site Plan	Justin Long Design	A07	TD	1/3/2019
Demolition Plan	Justin Long Design	A08	TD	1/3/2019
Windows & Doors Schedule	Justin Long Design	A09	TD	14/3/2019
Windows & Doors Schedule	Justin Long Design	A10	TD	14/3/2019
Security Doors Schedule	Justin Long Design	A10A	TD	14/3/2019

- Waste Management Plan dated 5 February 2019, prepared by Penrith City Council,
 - Design Specification Accessibility Report, dated 8 January, 2019, prepared by Trevor R Howse, Reference No. J18174(a)/2 Issue 1.
- 2 **A019 - OCCUPATION CERTIFICATE (ALWAYS APPLY)**
The development shall not be used or occupied until an Occupation Certificate has been issued.
- 3 **A038 - LIGHTING LOCATIONS**
Prior to the issue of an Occupation Certificate, the Principal Certifying Authority shall ensure that a lighting system is installed for the development to provide uniform lighting across common areas. The 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).
- 4 **A039 - Graffiti**
The finishes of the building are to be maintained at all times and any graffiti or vandalism immediately removed/repaired.
- 5 **A046 - Obtain Construction Certificate before commencement of works**
A **Construction Certificate** shall be obtained prior to commencement of any building works.
- 6 **A Special (BLANK)**
Prior to the issue of a Construction Certificate, the Certifying Authority is to ensure that plans have been submitted to Council for review and approval identifying the air conditioning plant to the east of the building being full screened. In this regard, screening is to be provided with a green finish and surrounded by native shrubs. The approved air conditioning plant screening and shrubs shall be installed **prior to the issue of an Occupation Certificate.**
- 7 **A Special (BLANK)**
Prior to the issue of an Occupation Certificate, the Principal Certifying Authority shall ensure that the new picket fence is located wholly within the site.
- 8 **A Special (BLANK)**
The existing building is to operate only in conjunction with the approved existing use(s) provided.
- 9 **A Special (BLANK)**
Details of all new guttering shall be to the written satisfaction of the Council's Heritage Consultant **prior to the issue of a Construction Certificate.**

10 [A Special \(BLANK\)](#)

Major construction work shall be overseen and certified by a suitably qualified person with heritage expertise (acceptable to the Council), such as demolition, framing, air conditioning, roofing and final works. This process shall be coordinated by the certifying authority including receiving written evidence of the heritage practitioners acceptance of works.

11 [A special BLANK](#)

Food prepared in the kitchenette is to be for staff only. No food is to be prepared in the kitchenette for the sale of food on the premises or for retail purposes.

Demolition

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

All demolition works are to be conducted in accordance with the provisions of AS 2601-1991 "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**.

13 [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 Environment Protection Authority to receive asbestos wastes.

14 [B004 - Dust](#)

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

15 [B005 - Mud/Soil](#)

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

Heritage/Archaeological relics

16 [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.

Environmental Matters

17 [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 in a location to prevent impacts on downstream properties and buildings.

18 **D007 - Cut and fill of land requiring Validation Certificate –limited to footprint**

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 two (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 Development Control Plan 2014 defines an appropriately qualified person as “a person who, in the opinion of Council, has a demonstrated experience, or access to experience in hydrology, environmental chemistry, soil science, eco-toxicology, sampling and analytical procedures, risk evaluation and remediation technologies. In addition, the person will be required to have appropriate professional indemnity and public risk insurance.”

19 **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 the areas are to be fully enclosed when the site is unattended.

20 **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.

21 **D014 - Plant and equipment noise**

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

22 **D Special (BLANK)**

Where an intruder alarm is installed on the premises, it shall be fitted with a timing device in accordance with the requirements of the *Protection of the Environment Operations Act 1997*.

BCA Issues

23 **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.

24 E009 - Annual fire safety-essential fire safety (Class 2-9 buildings)

The owner of a building, to which an essential fire safety measure is applicable, shall provide Penrith City Council with an annual fire safety statement for the building. The annual fire safety statement for a building must:

(a) deal with each essential fire safety measure in the building premises, and

(b) be given:

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

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

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

25 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.

Construction

26 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.

27 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.

28 H011 - Engineering plans & specifications

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

29 H041 - Hours of work (other devt)

Demolition and 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.

Landscaping

30 [L007 - Tree protectionmeasures–no TMPwith DA](#)

Trees to be removed: On-site

Approval is granted for the removal of the following trees:

- (a) *Celtis* sp (Hackberry) located at the western end of and directly adjacent to the old school house;
and
- (b) *Melia* sp (White Cedar) located at the western end of and directly adjacent to the old school house

All tree removal works must comply with the *Amenity Tree Industry – Code of Practice, 1998* (WorkCover, NSW) and *Guide to Managing Risks of Tree Trimming and Removal Work* (Safe Work Australia 2016).

All other vegetation not specifically identified above, and protected by Chapter C2 Vegetation Management of the Penrith Development Control Plan 2014 is to be retained and protected from construction damage and pruning.

31 [L008 - Tree PreservationOrder](#)

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 State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017.

Certification

32 [Q01F - Notice of Commencement & Appointment of PCA2 \(use for Fast Light only\)](#)

Prior to the commencement of any earthworks or construction works on-site, the proponent is to:

- (a) employ a Principal Certifying Authority to oversee that the said works carried out on the site are in accordance with the development consent and related Construction Certificate issued for the approved development, and with the relevant provisions of the Environmental Planning and Assessment Act and accompanying Regulation, and
- (b) submit a Notice of Commencement to Penrith City Council.

The Principal Certifying Authority shall submit to Council an “Appointment of Principal Certifying Authority” in accordance with Section 6.6 of the Environmental Planning and Assessment Act 1979.

Information to accompany the Notice of Commencement

Two (2) days before any earthworks or construction/demolition works are to commence on-site (including the clearing site vegetation), the proponent shall submit a “Notice of Commencement” to Council in accordance with Section 6.6 of the Environmental Planning and Assessment Act 1979.

33 [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 development.

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

C1 Site Planning and Design Principles

Built Form

The majority of the proposed works are located on the northern elevation of the building therefore minimising the overall visual impact when viewed from The Great Western Highway. It is noted that a recommended condition of consent will ensure that the external air conditioning plant will be suitably screened to also assist in this manner.

Access

It is noted that a series of brick paved paths are located on-site connecting the buildings to the internal parking area. In addition, the proposed works will provide for improved access to the existing building through the provision of a new deck and ramp to the northern elevation as well as the inclusion of new steps to the north-eastern portion of the building and the western hall and the internal doorway works which is considered an acceptable design solution.

C2 Vegetation Management

The proposed works include the removal of two trees to the western side of the building. It is noted that the Statement of Environmental Effects submitted in support of the proposal suggests that the proposed tree removal is due to the potential risk of damaging the building as well as to improve general access across the site.

It is noted that Council's Tree Management Officer conducted an inspection of the subject site in lieu of the two identified trees to be removed and has raised no objection to their removal citing their location adjoining the building, potential for damage to be created and the existing nature of the subject site which provides for a number of trees therefore diminishing the impact of their removal. The removal of these trees is therefore acceptable noting the retention of remaining significant trees on the subject site.

C3 Water Management

The proposed development does not provide for a change of use to the existing building but rather provides for minor internal and external works to improve access to the building. In this regard, there are no adverse flood planning impacts envisioned as a result of the proposed development as previously mentioned within this report.

The proposed development will not alter the existing stormwater drainage lines as noted on the plans submitted in support of the proposal. It is also noted that the proposed ramp and deck will be located within an existing hardstand space therefore the total impervious area is not being increased.

C7 Culture and Heritage

A Statement of Heritage Impact has been submitted in support of the proposed development and the development application has been referred to Council's Heritage Advisor who raised no objections to the proposal subject to the external air conditioning unit being suitably screened which will be conditioned. The application was also reported to Council's Heritage Committee who raised no issue of concern.

It is also noted that the proposal provides for new external cladding works, new roofing, new windows and doors, new gutters and barge scrolls, barge boards and timber trims, new picket fence and internal walls to match the colour of the existing.

C12 Noise and Vibration

It is noted that the external air conditioning unit area will be located within the vicinity of the nearby north-eastern building on the adjoining lot. In this regard, a condition of consent is recommended to ensure the unit does not exceed 5dB(A) above the background noise level when measured at the boundary of the premises.

D5 Other Land Uses

D5.5 Parent Friendly Amenities

The proposed development is not considered to provide for substantial alterations and additions to the existing building considering the proposal provides for a new external deck and ramp and the majority of internal changes relate to providing new toilet facilities. It is noted that the proposed unisex accessible water closet within the north-eastern portion of the building has included a fold down nappy change table which is considered an appropriate response to present day social demands.