

PENRITH CITY COUNCIL

MAJOR ASSESSMENT REPORT

Application number:	DA14/1554
Proposed development:	Site Remediation Works, Replacement of Existing Underground Fuel Storage Tanks & Fuel Dispensers & Associated Works
Property address:	4 Endeavour Avenue, ST CLAIR NSW 2759
Property description:	Lot 4021 DP 851358
Date received:	9 December 2014
Assessing officer	Mathew Rawson
Zoning:	Zone B2 Local Centre - LEP 2010
Class of building:	Class 10a
Recommendations:	Approve

Executive Summary

Council is in receipt of a development application for site remediation works, replacement of existing underground fuel storage tanks & fuel dispensers and associated works at 4 Endeavour Avenue, St Clair. Under the Interim Development Order 75 - City of Penrith (IDO) service stations are not identified as being prohibited and as such the subject works are permissible with consent. It should also be noted that service stations are also permitted on the site under Stage 2 of the Penrith LEP 2010 which commences 25 February 2015.

Replacement of the underground fuel tanks is a critical and an essential upgrade to ensure the continued safe operation of the site and will provide positive environmental outcomes for the site. The proposal will not alter the existing convenience store building, vehicle access points or any operational aspects of the service station.

The application has been notified to adjoining properties and was advertised for 30 days in accordance with relevant legislation and Council Policy.

An assessment under Section 79C 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 land is known as 4 Endeavour Avenue, St Clair, with a lot size of 1668 sqm. The site has approximately 45 metres frontage to Endeavour Avenue.

Currently existing on the site is a Service Station comprised of a convenience store, 6 fuel dispensers and business identification signage. A single canopy structure supported by metal pylons covers the fuel dispensers located in the fuel forecourt area. The service station has separate vehicle entry and exit points to Endeavour Avenue.

Endeavour Avenue is a two lane road running in an east-west direction. Endeavour Avenue directly abuts the site's northern boundary with Byrnes Creek and Mark Leece Sporting Complex beyond. Bennet Road with the St Clair Out of Hours Care beyond is located to the east of the site. Botany Lane directly abuts the site's southern and western boundary. The St Clair Leisure Centre is located to the south and St Clair High School and St Clair Primary School located to the west of the site, beyond Botany Lane.

The nearest residential properties are located along Edmund Blakett Close approximately 140m to the west of the site, on the opposite side of Endeavour Avenue.

Council issued Development Consent No. DA970128 on 15 July 1997 for the use as a service station.

Proposal

The proposed development includes the replacement of existing underground fuel storage tanks with new underground tanks as well as the replacement of the existing fuel dispensers with new fuel dispensers. The proposal results in an overall reduction in the number of tanks at the site from five separate tanks to four tanks comprising six new consolidated chambers. Following removal of the four existing underground tanks from the east of the site, the site will be cleared of all excavated soil and waste. Three new consolidated tanks have been strategically positioned closely together to ensure any potential future contamination of the site is limited.

The proposal will include:

- Removal of existing six fuel dispensers (comprising of twelve refuelling stations) from under the existing canopy;
- Removal of associated fuel infrastructure including removal of existing fuel fill box and existing fuel vents at the eastern boundary of the site;
- Excavation, decommissioning and removal of four underground fuel storage tanks at the east of the site;
- Removal of excavated soil material from the site and on-site remediation works;
- Installation of three new consolidated underground fuel storage tanks, five new fuel dispensers (comprising ten refuelling stations), fuel fill point and one new grated pits under the existing canopy and new fuel vents to the southern site boundary;
- Installation of one new 2,500L Concrete Collection Pit;
- Installation of new Oil and Water Separator to the north of the existing convenience store building within the existing colourbond enclosure;
- New bunding to fuel forecourt under existing canopy; and
- Associated infrastructure works and commissioning of new fuel tanks and new fuel infrastructure.

Plans that apply

- Penrith Interim Development Order No.75
- Development Control Plan 2006
- State Environmental Planning Policy No 33—Hazardous and Offensive Development
- State Environmental Planning Policy No 55—Remediation of Land
- Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

• Section 79C - Evaluation

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

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

State Environmental Planning Policy No 33—Hazardous and Offensive Development

State Environmental Planning Policy No. 33 – Hazardous and Offensive Development (SEPP 33) aims to provide a framework for the assessment of hazardous and offensive development.

The applicant has submitted a Risk Screening Document prepared by Hazkem Pty Ltd. That document found that the replacement of the proposed fuel fill point and dispensers at 6.3 m from the southern boundary fails to comply with the 7.6 m minimum setback required from site boundaries. As such the development does not pass the initial screening test under SEPP 33 and the development is deemed to be potentially hazardous.

In determining an application to carry out development which is deemed to be potentially hazardous the following matters must be considered:

- (a) *current circulars or guidelines published by the Department of Planning relating to hazardous or offensive development, and*

Comment: The NSW Department of Planning's 'Hazardous and Offensive and Development Application Guidelines - Applying SEPP 33' and the relevant sections of the Hazardous Industry Planning Advisory Paper (HIPAP) Series were used as guide in assessing this development. The supporting documents such as the Risk Screening Document and Preliminary Hazard Analysis were also prepared in accordance with the relevant circulars and guidelines.

- (b) *whether any public authority should be consulted concerning any environmental and land use safety requirements with which the development should comply, and*

Comment: Given that the application does not introduce any new land use and that the development is limited to the upgrade and replacement of existing fuel delivery systems as well as the negligible societal risk presented by the development (P. Kemm - Hazkem, 2014), it was not considered that any referrals to other public authorities were required.

- (c) *in the case of development for the purpose of a potentially hazardous industry – a preliminary hazard analysis prepared by or on behalf of the applicant, and*

Comment: The Preliminary Hazard Analysis, prepared by Hazkem Pty Ltd, demonstrates that the proposed development is of negligible societal risk and shows compliance with the relevant guidelines.

- (d) *any feasible alternatives to the carrying out of the development and the reasons for choosing the development the subject of the application (including any feasible alternatives for the location of the development and the reasons for choosing the location the subject of the application), and*

Comment: The reasons for carrying out the development are to upgrade the existing fuel infrastructure and carry out remediation of land to provide for a modernized fuel delivery system with reduced potential for contamination of land and increased environmental outcomes for the subject site and surrounds.

Feasible alternatives to the subject development are limited by the fact that the land use to which the development application relates is an existing use. The relocation of the fuel fill point to be at a point greater than the minimum setback outlined in the SEPP 33 Screening Test is not considered to be necessary given that the Preliminary Hazard Analysis found that the development is of negligible risk and that the existing site layout has been in operation for more than a decade with minimal impacts on the surrounding area identified during this time.

- (e) *any likely future use of the land surrounding the development.*

Comment: The desired future use of land surrounding the development is something that can be predicted with some certainty due to the recent review of zoning and permissible uses through Penrith Local Environmental Plan 2010 (Stage 2) process. No major changes to the permissible land uses are

proposed in the LEP and therefore the intensification of cumulative risk is considered to be minimal. The likelihood of land sterilisation is minimal given that the development is limited to the replacement and upgrade of existing infrastructure for an existing use and there has been no major impacts on the surrounding development during the operation of the land use over the last 10 years.

Additionally, the proposed new tanks and fuel dispensers are not considered to pose a significant risk to surrounding land uses on the basis of the following:

- The replacement of the existing underground fuel tanks and fuel dispensers is a significant upgrade to existing site infrastructure and will result in environmental and public safety improvements to the site.
- Given that the development will merely allow for the continued use of the subject site as a service station, it is not considered that there will be any additional adverse impacts on the adjoining land uses.
- The type of materials stored on the site is limited to fuel products for retail sale to the public.
- All fuel deliveries are strictly observed and controlled by delivery staff. The continued operation and use of the site as a service station will not introduce any potentially dangerous activities.

Accordingly having taken into account the matters for consideration under SEPP 33 and the Preliminary Hazard Analysis submitted with the application, the development is not considered to be of significant risk or offence.

State Environmental Planning Policy No 55—Remediation of Land

State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55) aims to provide a framework for the assessment, management and remediation of contaminated land throughout the state. Clause 7(1) of SEPP 55 prevents Council from consenting to a development unless it has considered whether the land is contaminated and is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out.

An Environmental Site Assessment Report dated 3 May 2012 prepared by Parsons Brinckerholl has been submitted with the DA. The Environmental Site Assessment concluded that contaminants of potential concern were found below the laboratory limit of reporting. Further details regarding contaminant types and levels are included within the Environmental Site Assessment Report. Remediation at this site is classified as Category 1 Remediation Work on the basis that the site is subject to Sydney Regional Environmental Plan No. 20 - Hawkesbury Nepean River (now deemed a SEPP). Category 1 Remediation Work requires consent from Council in accordance with Clause 8(2) of SEPP 55.

Remediation work will be undertaken in accordance with the Remediation Action Plan prepared by Parsons Brinckerholl submitted with this DA, which details the methodology for removal, remediation and disposal of underground petroleum storage system and associated infrastructure. These measures can be summarized as being the removal of the underground storage tanks (USTs) in accordance with the Protection of the Environment Operations (POEO) Regulations, testing of soils and fuel lines for contamination, removal of any impacted soils and assessment of groundwater at the site following the removal of the USTs and associated infrastructure.

The information submitted to date has been reviewed by Council's Environment Team and has been found to be satisfactory and sufficient to conclude that the provisions of SEPP 55 have been satisfied.

Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

An assessment has been undertaken of the application against relevant criteria within Sydney Regional Environmental Plan No 20—Hawkesbury-Nepean River (No 2—1997). The proposed development is in accordance with the general planning considerations set out in Clause 5 of the REP and the relevant specific planning policies and related recommended strategies set out in the Plan. In particular, provision will be made for adequate erosion and sediment control measures to ensure sediment as a result of the development is not deposited in the Hawkesbury-Nepean River via the stormwater system. The existing stormwater management system is to be retained and stormwater will continue to be directed to this system. Accordingly the application is satisfactory subject to recommended conditions of consent.

Penrith Interim Development Order No.75

Provision	Compliance
Clause 3 - Permissibility	Complies
Clause 3A - Permissibility in 2d zone	N/A
Clause 4 - Dwelling houses (minimum areas)	N/A
Clause 5 - Services	Complies
Clause 6 - Services	N/A
Clause 7 - Matters to be taken into consideration	Complies
Clause 8 - Instances where development consent shall not be refused	N/A
Clause 9 - Concurrence	Complies

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

The zoning of the allotment under Stage 2 of the Penrith Local Environmental Plan 2010 is B2 - Local Centre. This zone change is essentially a like-for-like transfer to the standard instrument format LEP. The proposal remains consistent with the relevant aims and objectives of the Plan generally as well as the B2 zone. Under the Stage 2 LEP Service Stations are a permitted land use with Council consent. Stage 2 of the LEP commences 25 February 2015.

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

Development Control Plan 2006

Provision	Compliance
Chapter 2.1 - Contaminated land	Complies
Chapter 2.2 - Crime prevention through environmental design	Complies
Chapter 2.3 - Engineering works	Complies
Chapter 2.4 - Erosion and sediment control	Complies
Chapter 2.5 - Heritage management	N/A
Chapter 2.6 - Landscape	Complies
Chapter 2.7 - Notification and advertising	Complies
Chapter 2.8 - Significant trees and gardens	N/A
Chapter 2.9 - Waste planning	Complies
Chapter 2.10 - Flood liable land	N/A
Chapter 2.11 - Car parking	Complies
Chapter 2.12 - On-site sewage management	N/A
Chapter 2.13 - Tree preservation	N/A

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

Prescribed Conditions

The relevant prescribed conditions of the Regulations, such as the requirement for compliance with the BCA, will be imposed as conditions of consent where applicable.

Advertising

Neighbour notification and advertising was carried in accordance with the requirements of the Regulations and Council Policy.

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

Likely impacts of the proposed development as identified throughout the assessment process include:

Impact raised in submissions

No submissions received or issues of concern raised

Impacts raised in referral comments

No issues of concern raised, subject to the imposition of recommended conditions of consent.

Other impacts identified in assessment

Subject to the recommended conditions of consent, it is not considered that the proposal will result in any significant impacts on the natural, social or economic environments of the locality due to its scale, location and consistency with surrounding uses.

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

The subject site is deemed suitable for the following reasons:

- The zone under Stage 2 of the Penrith LEP 2010 permits the proposed use.
- The use is consistent and compatible with surrounding/adjoining land uses.
- The grade of the site is suitable for the design proposed.
- Stormwater from the site is able to drain to Council's satisfaction.
- The site is adequately serviced by access, water and sewer infrastructure which has the capacity to cope with any increase in demand associated with the proposed development.
- Recommended conditions of consent will ensure that the proposal will have minimal effects on the surrounding environment during the construction stage.

Section 79C(1)(d) Any Submissions

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
Environmental - Environmental management	No objections - subject to conditions

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

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

Conclusion

Subject to the recommended conditions of consent the proposal is considered to be consistent with the relevant sections of the Environmental Planning and Assessment Act 1979, the relevant Local Environmental Plan, relevant State Environmental Planning Policies and the Penrith Development Control Plan 2006 because it does not contravene any development standards and will not result in any significant impacts on the natural, social or economic environments.

The site is suitable for the proposed development, the proposal does not conflict with the public interest, and there is unlikely to be negative impacts arising from the proposed development. Accordingly, the application is worthy of support and recommended for approval, subject to recommended conditions.

Recommendation

1. That the concurrence of the Department of Planning be sought for the subject application and;
2. That DA14/1554 for site remediation works, replacement of existing underground fuel storage tanks and fuel dispensers and associated works at 4 Endeavour Avenue, St Clair be approved subject to the attached conditions and the concurrence of the Department of Planning as per recommendation 1.

General

1 [A001](#)

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

- Site Analysis and Development Plans prepared by Hazkem, including:

- Drawing List, Drawing No. HAZ -1905 dated 7 November 2014;
- General Notes, Drawing No. HAZ-1905-S01, Revision 0 dated 7 November 2014;
- Existing Conditions Plan, Drawing No. HAZ-1905-A01, Revision 1 dated 27 November 2014;
- Demolition Plan, Drawing No. HAZ-1905-A02, Revision 0 dated 7 November 2014;
- Proposed Site Plan, Drawing No. HAZ -1905-A03, Revision 2 dated 27 November 2014;
- Tanker Path Layout, Drawing No. HAZ-1905-A04, Revision 2 dated 27 November 2014;
- Erosion and Sediment Control Plan, Drawing No. HAZ-1905-A05, Revision 2 dated 27 November 2014;
- LPG System Layout, Drawing No. HAZ-1905-G01, Revision 2 dated 27 November 2014;
- Population and Exclusion Zones, Drawing No. HAZ -1905-G02, Revision 1 dated 19 November 2014;
- Fuel System Layout, Drawing No. HAZ-1905-T01, Revision 2 dated 27 November 2014;
- Electrical Conduit Layout, Drawing No. HAZ-1905-E01, Revision 2 dated 27 November 2014;
- Forecourt Drainage Layout, Drawing No. HAZ-1905-E02, Revision 1 dated 19 November 2014;
- Concrete Replacement Plan, Drawing No. HAZ-1905-C01, Revision 2 dated 27 November 2014; and
- Hazardous Area Layout, Drawing No. HAZ-1905-HZ01, Revision 2 dated 27 November 2014.

- Waste Management Plan for Construction prepared by Milestone dated November 2014.

2 [A008 - Works to BCA requirements \(Always apply to building works\)](#)

The works must be carried out in accordance with the requirements of the Building Code of Australia.

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

All vehicle manoeuvring, loading, unloading and parking associated with the subject development must be entirely within the subject site's boundaries.

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The mitigation measures included in the document titled "SEPP 33 - Risk Screening Document and Preliminary Hazard Analysis: Proposed Tank Replacement - 7 Eleven Stores Pty Ltd, 4 Endeavour Avenue, St Clair NSW" prepared by Hazkem Pty Ltd and dated November 2014 are to be implemented and adhered to.

Demolition

5 [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**.

6 B003 - ASBESTOS

You should read Council's Fact Sheet titled "Handling and Disposal of Fibrous Cement Products" **before any demolition works commence on the site.**

Prior to commencement of demolition works on site, a portaloo with appropriate washing facilities shall be located on the site and the Principal Certifying Authority is to be satisfied that:

- Measures are in place so as to comply with the WorkCover Authority's "Short Guide to Working with Asbestos Cement" and
- The person employed to undertake the works is a licensed asbestos removal contractor and is holder of a current WorkCover Asbestos Licence.

Any demolition works involving the removal of all asbestos shall only be carried out by a licensed asbestos removal contractor who has a current WorkCover Asbestos Licence.

All asbestos laden waste, including asbestos cement flat and corrugated sheeting must be disposed of at a tipping facility licensed by the Environmental Protection Authority to receive asbestos wastes.

Environmental Matters

7 D001 - Implement approved sediment& erosion control measures

Erosion and sediment control measures shall be installed **prior to the commencement of works on site** including approved clearing of site vegetation. The erosion and sediment control measures are to be maintained in accordance with the approved erosion and sediment control plan(s) for the development and the Department of Housing's "Managing Urban Stormwater: Soils and Construction" 2004.

8 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.

9 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.

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.

10 D016 - Service stations

The following details are to be submitted to and approved by the PCA prior to the commencement of works:

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

11 D017 - Service stations waste

All wastes collected within the canopy of the fuel bowsers shall be directed to the sewer after being treated in accordance with the requirements of Sydney Water.

12 D018 - Underground tanks

Inlets to underground storage tanks are to be located so as to ensure that vehicles discharging fuel are contained within the boundaries of the site.

13 D024 - Pre-treatment

Prior to the commencement of works, details of any pre-treatment facilities as required by Sydney Water and, if required a Section 73 Certificate issued by Sydney Water for the said development, are to be submitted to the Certifying Authority.

14 D026 - Liquid wastes

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

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

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

15 D027 - SW lines not to be Touched

The stormwater drainage system shall not be altered or new lines directed into the system without the prior approval of Penrith City Council.

16 D06A – Approval for bulk earthworks/major filling operations

No fill material shall be imported to the site until such time as a Validation Certificate (with a copy of any report forming the basis for the validation) for the fill material has been submitted to Council. The Validation Certificate shall:

- state the legal property description of the fill material source site,
- be prepared by an appropriately qualified person (as defined in Penrith Contaminated Land Development Control Plan) with consideration of all relevant guidelines (e.g. EPA, ANZECC, NH&MRC), standards, planning instruments and legislation,
- clearly indicate the legal property description of the fill material source site,
- provide details of the volume of fill material to be used in the filling operations,
- provide a classification of the fill material to be imported to the site in accordance with the Environment Protection Authority's "Environmental Guidelines: Assessment, Classification & Management of Non-Liquid Wastes" 1997, and
- (based on the fill classification) determine whether the fill material is suitable for its intended purpose and land use and whether the fill material will or will not pose an unacceptable risk to human health or the environment.

An appropriately qualified person/s (as defined in the Penrith City Council Contaminated Land Development Control Plan) shall:

- Supervise the filling works,
- (On completion of filling works) carry out an independent review of all documentation relating to the filling of the site, and shall submit a review findings report to Council and any Principal Certifying Authority,
- Certify by way of a Compliance Certificate or other written documentation that fill materials have been placed on the site in accordance with all conditions of this consent and that the site will not pose an unacceptable risk to human health or the environment. A copy of the Compliance Certificate or other documentation shall be submitted to Council and any Principal Certifying Authority.

The contact details of any appropriately qualified person/s engaged for the works shall be provided with the Notice of Commencement.

If the Principal Certifying Authority or Penrith City Council is not satisfied that suitable fill materials have been used on the site, further site investigations or remediation works may be requested. In these circumstances the works shall be carried out prior to any further approved works.

{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."}

17 D - Dust

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

18 D - Mud/Soil

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

19 **D Special BLANK**

The removal of the underground petroleum storage system is to be undertaken in accordance with the relevant legislation, guideline documents, technical notes and Australian Standards, including the *Protection of the Environment (Underground Petroleum Storage Systems) Regulation 2014*, the *Guidelines for implementing the Protection of the Environment (Underground Petroleum Storage Systems) Regulation 2008* and the *UPSS Technical Note: Decommissioning, Abandonment and Removal of UPSS*.

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The decommissioned underground petroleum storage tanks are to be disposed of to a lawful waste facility. Suitable documentation is to be provided to Council demonstrating the lawful disposal of the tanks with the submission of the Validation Report.

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An appropriately qualified person/s (as defined in the Penrith City Council Contaminated Land Development Control Plan) shall:

- a) Supervise the remediation works.
- b) Supply Council with a copy of any relevant documentation for further testing carried out during the remediation works.
- c) Address off site impacts and proposed management strategies where relevant.
- d) After completion of works Certify by way of a Compliance Certificate or other written documentation that remediation works have been carried out in accordance with all conditions of this consent and that the site will not pose an unacceptable risk to human health or the environment (this information can be included in the Validation Report). A copy of the Compliance Certificate or other written documentation is to be submitted to the Principal Certifying Authority (PCA) and Penrith City Council if Council is not the PCA.

The contact details of any appropriately qualified person/s engaged for the works shall be provided **prior to commencement**.

{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, 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.”}

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Site remediation works shall be carried out in accordance with the approved “Remediation Action Plan for UPSS Replacement: 7-Eleven St Clair Service Station, 4 Endeavour Avenue, St Clair, NSW” prepared by Parsons Brinckerhoff Australia Pty Limited and dated 17 November 2014 (Report Ref: 2201541B-CLM-RPT-1637) as well as Penrith Contaminated Land Development Control Plan, the ANZECC and NHMRC Guidelines and applicable NSW Environment Protection Authority Guidelines.

On completion of the site remediation works, the following documentation is to be submitted to the Principal Certifying Authority and Penrith City Council, if Council is not the Principal Certifying Authority:

- Written notification that the site remediation works have been completed is to be submitted **within 30 days of the said works having been completed**.
- A Validation Report, prepared by an appropriately qualified person as defined in Penrith Contaminated Land Development Control Plan, is to be submitted **within 60 days of the said works having been completed**. The report shall certify that the remediation works have been carried out in accordance with the approved Remedial Action Plan, relevant NSW Environment Protection Authority requirements and Penrith Contaminated Land Development Control Plan.

23 **D Special BLANK**

No contaminated soil is to be retained on site.

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The underground petroleum storage system (UPSS) (including new and existing storage tanks) cannot be commissioned until the following requirements have been met:

- The UPSS is to be appropriately designed, installed and commissioned by duly qualified persons in accordance with the UPSS Regulation.
- The UPSS is to have minimum mandatory pollution protection equipment installed, consistent with the Regulation, comprising non-corrodible secondary containment tanks and associated pipework and overflow protection devices.
- The UPSS is to have groundwater monitoring wells installed and tested in accordance with the Regulation.
- The UPSS is to have a certificate showing that an equipment integrity test (EIT) has been carried out in line with the written directions of duly qualified persons.

Documentation to certify that the above requirements have been met is to be submitted to Council accompanying the Validation Certificate.

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The premises is to have an Environment Protection Plan (EPP) in place. The Plan is to incorporate procedures for loss monitoring and detection and incident management. The EPP is to comply with the NSW Department of Environment, Climate Change and Water's "Guidelines for Implementing the Protection of the Environment Operations (Underground Petroleum Storage System) Regulation 2008" (September 2009) and is to be submitted to Council accompanying the Validation Certificate. The EPP must be kept up-to-date and amended as necessary.

Where responsibility for the system changes, all records of the site must be transferred to the new person responsible within 30 days. Records of activities, incidents and modifications must be kept for at least seven years from their date of creation.

BCA Issues

26 **E001 - BCA compliance**

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).

Construction

27 H001 - Stamped plans and erection of site notice

Stamped plans, specifications, a copy of the development consent 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 at the completion of the approved works.

28 H002 - All forms of construction

Prior to the commencement of construction works:

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

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

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

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

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

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

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

29 [H041 - Hours of work \(other devt\)](#)

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

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

Engineering

30 [K Special - K041 \(Infrastructure restoration bond\)](#)

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 commencement of works. 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.

Landscaping

31 [L001 - General](#)

All site landscaping is to be re-instated in accordance with the stamped approved plans and Penrith Council's Landscape Development Control Plan prior to the submission of the Validation Certificate.

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.

Certification

32 [Q01F - Notice of Commencement & Appointment of PCA](#)

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.