

# PENRITH CITY COUNCIL

## MAJOR ASSESSMENT REPORT

Application number:	DA14/0901
Proposed development:	Commercial Development - New Awning & Extension of Existing Awning
Property address:	2182 - 2190 Castlereagh Road, PENRITH NSW 2750
Property description:	Lot 1 DP 1067795
Date received:	23 July 2014
Assessing officer	Jane Hetherington
Zoning:	IN1 General Industrial - LEP 2010
Class of building:	Class 6 , Class 10a
Recommendations:	Approve

### Executive Summary

Council is in receipt of a development application for the construction of a new awning and extension of existing awning at 2182 - 2190 Castlereagh Road, Penrith. The subject site is zoned IN1 General Industrial under the provisions of Penrith Local Environmental Plan 2010. The proposal is ancillary to the approved bunnings warehouse onsite and is therefore permissible in the zone with Council consent. 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

#### ***Properties of the site***

The subject site is located on the south west corner of the intersection of Castlereagh Road and Mullins Road. The site has an area of 3.996 hectares and is currently occupied by a Bunnings warehouse and associated car parking. Access to the site is provided off Mullins Road. The surrounding area is characterised by industrial/commercial buildings and car sales yards.

#### ***History***

DA03/1177 for the erection of a bunnings warehouse retail store was approved as a deferred commencement consent on the 16 August 2004. Outstanding matters relating to design modifications, landscaping, storm water management and 'Crime Prevention through Environmental Design' (CPTED) needed to be resolved prior to an operational consent being issued.

The following urban design issues were required to be address prior to the issue of a operational consent:

1) *The overall length of the main building (excluding the nursery area) shall be broken up into a number of distinct building elements that have a greater variety in construction, finish and colours of external materials and the introduction of substantial steps and projections in order to present a high standard of urban form incorporating innovative and attractive architectural design of all elevations and roof form.*

2) *The following modifications shall be incorporated in the design of the proposed nursery screen wall:*

- The size of the signage panel to the Castlereagh Road facade shall be reduced to a maximum height of 1.8 metres,*
- Greater articulation shall be provided to the external walls enclosing the nursery area by way of additional variations in colours, textures and projections of the facades,*

- The height of the screen wall shall be reduced to 4.5 metres. The storage devices (such as pallets) and gardening materials shall be adequately screened behind this wall, and
- The louvered openings shall be constructed of high quality semi-translucent metal screening devices.

3) The shading devices (sails) to the outdoor nursery area shall be of a high quality material and be provided at a height that provides a transition from the nursery screen wall height to the main building's eastern wall.

4) The entry icon as shown on Drawing No. 200 amendment A dated May 2004 shall be redesigned to provide a new form of building entry that provides a balanced proportional relationship between the main building and the entrance area.

5) Amended signage proposal conforming to the following:

- Corporate logos restricted to one major and two minor logos.
- The location of signage restricted to awnings or entrance structures, fascias and display windows or free standing signage.

6) The western side facade of the timber sales yard shall be redesigned to incorporate a high quality architectural design.

7) The external finishes in terms of both colour and type of material used shall be:

- Selected for their ability to provide visual relief in large wall surfaces and elevations
- Selected to ensure the development complements the surrounding environment while reducing the temptation to vandalism and graffiti

A schedule of external finishes and colours detailing compliance with the above requirements shall be submitted.

The applicant subsequently elected to appeal Council's determination in court. In addition the applicant lodged a Section 82 application seeking a review by Council of the determination. In submitting the Section 82(A) review application, the applicant sought to make some concessions in order to comply with some aspects of the deferred commencement consent conditions. However, most aspects of the deferred commencement conditions, particularly in the area of design (listed above), were not modified as part of the s.82(A) application. The request, under Section 82 (A), to alter Council's decision was refused at Council's meeting on 21 February 2005. In the Land and Environment Court, the appeal decision was upheld. However, Bunnings voluntarily offered up 23 design amendments in response to Council's requests.

The application originally included the removal of 6 shade sails and a 1,080.07m<sup>2</sup> extension to the bagged goods canopy. The application was presented to A team and found to be supportable provided the proposal was amended to retain the northern row of shade sails (consisting of four shade sails). The applicant was advised on the following:

*"The site has been identified as 'land with scenic and landscape values' and given the contentious nature of the original application which was determined through the NSW Land and Environment Court focusing on urban design considerations, the developments presentation to Castlereagh Road is critical. The shade sails were originally provided to lessen the visual impact of the end of building and to provide a visually interesting form to ameliorate the horizontal roof design. As proposed, the awning will finish in the middle of the central signage panel (eastern elevation), which is considered to be an undesirable urban design outcome as it draws attention to the shade sail removal. As such, it is preferable that only two of the shade sails are removed. This will provide an all weather storage capability but will also ensure the shade sails remain over the critical and more visual prominent portions of the building elevation."*

In response the application was modified to retain the shade sails visible from Castlereagh Road.

## Proposal

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The proposed development involves:

- Removal of 3 shade sails
- Extension (additional 821.31m<sup>2</sup>) to the bagged goods canopy.
- Construction of timber trade sales canopy measuring 44.1m<sup>2</sup>.

## Plans that apply

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- Local Environmental Plan 2010 (Stage 1 LEP)
- Development Control Plan 2010
- Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

## Planning Assessment

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### • 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

#### **Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River**

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

#### **Local Environmental Plan 2010 (Stage 1 LEP)**

Provision	Compliance
Clause 1.2 Aims of the plan	Complies
Clause 2.3 Zone objectives	Complies
Clause 2.3 Permissibility	Complies
Clause 2.5 Additional permitted uses for particular land	N/A
Clause 2.6 Subdivision - consent requirements	N/A
Clause 2.7 Demolition requires development consent	N/A
Clause 2.8 Are the temporary use of land requirements achieved?	N/A
Clause 4.1 - the minimum lot size	N/A
Clause 4.1AA Minimum subdivision lot size for community title schemes	N/A
Clause 4.2 Rural Subdivision	N/A
Clause 4.3 Height of buildings	Complies
Clause 4.4 Floor Space Ratio	N/A
Clause 4.5 Calculation of floor space ratio and site area	N/A
Clause 4.6 Exceptions to development standards	N/A
Clause 5.1 Relevant acquisition authority	N/A
Clause 5.10 Heritage conservation	N/A
Clause 5.11 Bush fire hazard reduction	N/A

Clause 5.12 Infrastructure development and use of existing buildings of the Crown	N/A
Clause 5.13 Eco-tourist facilities	N/A
Clause 5.2 Classification and reclassification of public land	N/A
Clause 5.3 Development near zone boundaries	N/A
Clause 5.4 Controls relating to miscellaneous permissible uses	N/A
Clause 5.5 Development within the coastal zone	N/A
Clause 5.6 Architectural roof features	N/A
Clause 5.7 Development below mean high water mark	N/A
Clause 5.8 Conversion of fire alarms	N/A
Clause 5.9 Preservation of trees or vegetation	N/A
Clause 5.9AA Trees or vegetation not prescribed by development control plan	N/A
Clause 6.1 Earthworks	N/A
Clause 6.10 Villages of Mulgoa and Wallacia	N/A
Clause 6.11 Orchard Hills	N/A
Clause 6.12 Twin Creeks	N/A
Clause 6.13 Waterside Corporate	N/A
Clause 6.14 Development of land in the flight paths of the site reserved for the proposed Second Sydney Airport	N/A
Clause 6.15 Location of sex services premises and restricted premises	N/A
Clause 6.2 Salinity	N/A
Clause 6.3 Flood Planning	Complies
Clause 6.4 Development on natural resources sensitive land	N/A
Clause 6.5 Protection of scenic character and landscape values	Complies - See discussion
Clause 6.6 Servicing	N/A
Clause 6.7 Dwelling houses on certain land in Llandilo and Mulgoa	N/A
Clause 6.8 Dual occupancies and secondary dwellings in certain rural and environmental zones	N/A
Clause 6.9 Mulgoa Valley	N/A
Schedule 1 Additional permitted uses	N/A

### Permissibility

The subject site is zoned IN1 General Industrial under the provisions of Penrith Local Environmental Plan 2010. The proposal is considered to be ancillary development to the approved Bunnings warehouse on the site and is therefore a permissible land use in the zone with Council consent.

### LEP and Zone Objectives

The proposal is consistent with the LEP and Zone objectives.

### Development Standards

#### *Clause 6.5 Protection of Scenic Character and Landscape Values*

The subject site has been identified as 'land with scenic and landscape values' on the Penrith Local Environmental Plan 2010 Scenic and Landscape Values Map. Although the proposal will be visible from Castlereagh Road, the development complements the existing building on the site. The proposed canopy will be constructed at the same height as the existing canopy and a condition of consent will ensure that the colours match the existing development. Established trees also act as a screen from the development from Castlereagh road. As a result the proposal is considered to be consistent with the objectives of Clause 6.5.

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

### *Planning Proposal - Penrith Local Environmental Plan 2010 (Stage 2)*

Under the Stage 2 Planning Proposal the subject site is to remain zoned IN1 General Industrial. The proposal is defined as *hardware and building supplies* and is a permissible land use in the zone with Council consent.

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

### Development Control Plan 2010

Provision	Compliance
Part B - DCP Principles	Complies
Part C 1 - Site planning and design principles	Complies
Part C2 - Vegetation management	N/A
Part C3 - Water management	N/A
Part C4 - Land management	N/A
Part C5 - Waste management	Complies
Part C6 - Landscape design	N/A
Part C7 - Culture and heritage	N/A
Part C8 - Public domain	N/A
Part C9 - Advertising and signage	N/A
Part C10 - Transport, access and parking	Complies - see Appendix - Development Control Plan Compliance
Part C11 - Subdivision	N/A
Part C12 - Noise and vibration	N/A
Part C13 - Infrastructure and services	N/A
Part D4 - Industrial development	Complies

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

Council's Building Surveyor raised no objection to the proposal and recommended conditions to be imposed in the consent.

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

The development is in keeping with the character of the area and does not impact on any item of heritage or cultural significance. Transport, traffic and access will not be affected by the development. There will not be an adverse social, economic or environmental impact. The extension of the awning is in keeping with the existing roof form and will not cause a adverse visual impact. A condition of condition will be included to ensure that the external colours of the new awning and extension of existing awning match or compliment the existing development.

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

The site is suitable for the following reasons:

- The site is zoned to permit the proposed use
- The use is compatible with surrounding/adjoining land uses

## Section 79C(1)(d) Any Submissions

### Community Consultation

In accordance with Clause 4.4 of Appendix F4 of Penrith Development Control Plan 2010, the proposed development did not have to be notified.

### 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

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

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

## Conclusion

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In assessing this application against the relevant environmental planning policies, being Penrith Local Environmental Plan 2010 and Development Control Plan 2010, the proposal satisfies the aims, objectives and provisions of these policies. The site is suitable for the proposed development, the proposal is in the public interest, and there is unlikely to be negative impacts arising from the proposed development. Therefore, the application is worthy of support, subject to recommended conditions.

## Recommendation

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1. That DA14/0901 for commercial development - new awning & extension of existing awning at 2182-2190 Castlereagh Road, Penrith, be approved subject to the attached conditions.

## 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 attached plans and by the following conditions.

Drawing Title	Drawing No	Dated
Site Plan	SP2_01 Issue B	14/10/2014
Elevations	ES2_01 Issue A	14/10/2014
Waste Management Plan	-	26/05/2014

### 2 A019 - OCCUPATION CERTIFICATE (ALWAYS APPLY)

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

### 3 A039 - Graffiti

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

### 4 A046 - Obtain Construction Certificate before commencement of works

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

### 5 A Special (BLANK)

The external colour of the new awning and extension of existing awning shall match or complement the existing Bunnings warehouse.

### 6 A Special (BLANK)

The retention and removal of shade sails is to be in accordance with the approved site plan.

## 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 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.

## BCA Issues

#### 10 E008 - FIRE SAFETY LIST WITH CONSTRUCTION CERTIFICATE

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.

#### 11 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.

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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.

#### 12 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

#### 13 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 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.



#### 14 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.

#### 15 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.

#### 16 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.

## Landscaping

#### 17 L012 - Existing landscaping (for existing development)

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

## Certification

18 **Q01F - Notice of Commencement & Appointment of PCA2 (use for Fast Light only)**

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

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

The Principal Certifying Authority shall submit to Council an "Appointment of Principal Certifying Authority" in accordance with Section 81A of the Environmental Planning and Assessment Act 1979.

Information to accompany the Notice of Commencement

Two (2) days before any earthworks or construction/demolition works are to commence on site (including the clearing site vegetation), the proponent shall submit a "Notice of Commencement" to Council in accordance with Section 81A of the Environmental Planning and Assessment Act 1979.

19 **Q05F - Occupation Certificate for Class10**

An Occupation Certificate is to be obtained from the Principal Certifying Authority on completion of all works.

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 2010**

### **Part C - Controls applying to all land uses**

#### **2.11 Car Parking**

A traffic report prepared by Colston Budd Hunt and Kafes Pty Ltd accompanied the application for the construction of the bunnings warehouse (DA03/1177). This report found that the proposed car parking spaces (376) were adequate for the construction of the bunnings warehouse. The report used the rate of 1 car space per 100m<sup>2</sup> of ground floor area, which is specified in the DCP for warehouses. The ground floor area of the outdoor nursery was included in this original calculation. As the proposal does not increase the floor area from what was originally approved, the existing car parking is considered satisfactory.