

PENRITH CITY COUNCIL

MAJOR ASSESSMENT REPORT

Application number:	DA16/0882
Proposed development:	Awning
Property address:	42 - 46 Charles Street, ST MARYS NSW 2760
Property description:	Lot 300 DP 1143213
Date received:	26 August 2016
Assessing officer	Hannah Gilvear
Zoning:	IN1 General Industrial - LEP 2010
Class of building:	Class 10a
Recommendations:	Approve

Executive Summary

Council is in receipt of a Development Application seeking consent for the construction of a metal awning at 42-46 Charles Street, St Marys. The purpose of the awning will be to provide weather protection for vehicles and storage of empty transport containers in association with an existing licensed waste facility consent under DA13/0471.

Under Penrith LEP 2010 the proposal is defined as an ancillary element to the approved license waste facility. Waste facilities are identified as prohibited in the IN1 zone however the existing waste facility benefits from Clause 121 of State Environmental Planning Policy (SEPP) (Infrastructure) 2007.

In accordance with Appendix F4 of the Penrith Development Control Plan 2014 – Notification and Advertising, this application did not need to be notified.

An assessment under Section 79C of the Environmental Planning and Assessment Act 1979 has been undertaken and the application is recommended for approval by way of conditional consent.

Background:

In 2008, Council granted consent to DA08/0805 which included alterations and additions and use of the site as a metal recycling facility. The approval included the retrospective approval of existing works on the site, staged construction of a weighbridge, offices, employee facilities, gates, fence, and landscaping improvements and stormwater drainage via an easement which transverses the site.

In 2009, Council granted consent to a modification to DA08/0805 which included the amendment of conditions in regard to stormwater drainage for the site. The rationale for the Section 96 application was that the owner of the site was not able to obtain a legal right to drain to the easement and therefore was required to provide an alternative drainage solution.

In 2012, Council granted approval (DA12/0780) for change of use to "Waste Management Facility"

In 2013, Council granted approval for a "Waste Facility" expansion.

The applicant attended a pre-lodgement meeting (PL16/0074) which was held on the 20 July 2016. This meeting was organised to discuss future development works on this site.

Site & Surrounds

The subject site is situated on the southern end of Charles Street, with the southern portion adjoining Dunheved Circuit thus providing dual ingress and egress for vehicular traffic. The site is located within a central location of the industrial precinct of St Marys and is serviced by Link Road to the north. It is 1.528 Ha in area and the main entry is orientated in a western direction. The site is completely occupied by hardstand area except for some formal landscaping around the main reception/office area.

The site includes a previously approved industrial development comprising of two weighbridges, 424m² of office space and employee facilities, 2133m² of outbuildings or designated storage areas, fence with automated opening and closing facilities, boomgates and landscaping.

The surrounding area is characterised by large scale industrial development.

Proposal

The proposed development involves the construction of a 15m x 9m steel awning, located at 10.5m from the Dunheved Road frontage boundary.

Plans that apply

- Local Environmental Plan 2010 (Amendment 4)
- Development Control Plan 2014
- Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

Planning Assessment

• Section 79C - Evaluation

The development has been assessed in accordance with the matters for consideration under Section 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 (Amendment 4)

Provision	Compliance
Clause 2.3 Permissibility	Complies - See discussion
Clause 2.3 Zone objectives	Complies - See discussion
Clause 4.3 Height of buildings	Complies - See discussion

Clause 2.3 Permissibility

Under Penrith LEP 2010 the proposal is defined as an ancillary element to the approved license waste facility. Waste facilities are identified as prohibited in the IN1 zone however the existing waste facility benefits from Clause 121 of State Environmental Planning Policy (SEPP) (Infrastructure) 2007. This has been examined in details in the original development consent.

Clause 2.3 Zone objectives

The surrounding area is characterised by an established industrial precinct. The proposed development will be in keeping with the existing streetscape of the locality and is a typical form of development found in the industrial environment. Accordingly, the proposed development is considered to be consistent with the objectives of the zone.

Clause 4.3 Height of buildings

The subject site is affected by a building height limitation of 12 metres. The proposed structures on the site are all within the 12 metre height limitation with the maximum height of a structure being 4.5 metres.

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

There are no draft Environmental Planning Instruments that apply to the proposal.

Section 79C(1)(a)(iii) The provisions of any development control plan**Development Control Plan 2014**

Provision	Compliance
C1 Site Planning and Design Principles	Complies
C2 Vegetation Management	Complies
C3 Water Management	Complies
C4 Land Management	Complies
C5 Waste Management	Complies
C6 Landscape Design	Complies
C7 Culture and Heritage	N/A
C8 Public Domain	N/A
C9 Advertising and Signage	N/A
C10 Transport, Access and Parking	Complies
C11 Subdivision	N/A
C12 Noise and Vibration	Complies
C13 Infrastructure and Services	Complies
D4.1. Key Precincts	Complies
D4.2. Building Height	Complies
D4.3. Building Setbacks and Landscape	Complies
D4.4. Building Design	Complies - see Appendix - Development Control Plan Compliance
D4.5. Storage of Materials and Chemicals	Complies
D4.6. Accessing and Servicing the Site	Complies - see Appendix - Development Control Plan Compliance
D4.7. Fencing	Complies
D4.8 Lighting	Complies

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

There are no planning agreements applying to this application.

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

Subject to the imposition of conditions of consent, Council's Building Surveyor has raised no objection to the proposed development.

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

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

Traffic & Parking

The existing development is serviced by 15 parking spaces, pursuant to DA08/0805 there is a maximum of 15 employees on site at any given time and noting the current industrial use has been operating since 2008 the car spots available are sufficient to cater for the anticipated demand generated by the proposal. There will be no net increase in traffic movements as the existing use of the site remains unchanged.

Built Form

The proposed site is occupied by an existing waste management facility with associated car parking and landscaping. The proposal does not propose any additional works to the building and does not seek to increase the floor space ratio. The proposal involves minor physical works, the works include the installation of a steel awning which will provide shade for vehicles. The bulk, scale and design is considered to be appropriate in the area.

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

The proposed development is for the construction of a steel awning to provide weather protection to vehicles and empty transport receptacles. The proposal does not propose any additional works to the building and does not seek to increase the floor space ratio.

The site is considered suitable to support the proposed development as the site is zoned appropriately and is not anticipated to create any adverse environmental, social and economic impacts on the surrounding area.

The site is located within a central location of the industrial precinct of St Marys and is serviced by Link Road to the north. The development on the subject site is compatible with surrounding/adjoining land uses and will not detrimentally impact upon the existing character of the locality.

Section 79C(1)(d) Any Submissions

Community Consultation

In accordance with Appendix F4 of the Penrith Development Control Plan 2014 – Notification and Advertising, 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

In assessing this application against the relevant environmental planning policies, being Penrith Local Environmental Plan 2010, Penrith Development Control Plan 2014 and the Sydney Regional Environmental Plan No.20 - Hawkesbury/Nepean River, the proposal satisfies the aims, objectives and provisions of these policies.

The proposal site is responsive and complies with key development standards. Furthermore 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

1. That DA16/0882 for the construction of a steel awning at 42 - 46 Charles Street, St Marys be approved subject to the attached conditions (Development Assessment Report Part B).

General

1 A001

The development must be implemented substantially in accordance with the plans stamped approved by Council, 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.	Prepared By	Dated
Title Sheet	B100	CK Architects	Issue Date
Location Plan	B101	CK Architects	Issue Date
Site Plan	B102	CK Architects	Issue Date
Ground Floor Plan	B103	CK Architects	Issue Date
Roof Plan	B104	CK Architects	Issue Date
Elevation	B105	CK Architects	Issue Date
Detail Section	B106	CK Architects	Issue Date

2 A019 - OCCUPATION CERTIFICATE (ALWAYS APPLY)

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

3 A046 - Obtain Construction Certificate before commencement of works

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

Environmental Matters

4 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.

BCA Issues

5 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

6 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.

7 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.

8 [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

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

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

Certification

10 [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.

11 [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 use of the awning structure.

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

D4 Industrial Development

The proposed development is for the construction of a steel awning to provide weather protection to vehicles and empty transport receptacles. The proposal does not propose any additional works to the building and does not seek to increase the floor space ratio. In addition the proposal will not affect the number of car parking spaces, approved hours of operation, number of staff or capacity of the waste facility pursuant to DA08/0805.

The steel awning will be 15m x 9m with a cantilever roof and will aesthetically constructed to match the existing buildings on the site.

A waste management plan has been submitted as part of the application. Based on the information provided, all waste generated during construction will be appropriately handled on site and disposed of by approved licensed contractors.