

STATEMENT OF ENVIRONMENTAL EFFECTS

S96 (1A) APPLICATION

3 PEACHTREE ROAD PENRITH

MARCH 2015



statement of environmental effects

Submission to

PENRITH COUNCIL

S96 (1A) EPAA APPLICATION

3 PEACHTREE ROAD PENRITH

Prepared on behalf of

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This statement has been prepared having regard to Schedule 7 of the Uniform Civil Procedure Rules 2005 (Expert Witness Code of Conduct) under the Civil Procedure Act 2005 (NSW). The opinions in the statement represent the professional opinions of the authors, based on an assessment of the facts, circumstances and literature as have been cited in the document.



TABLE OF CONTENTS

1.0 INTRODUCTION	5
2.0 SITE LOCATION AND DESCRIPTION	5
2.1 Location	5
2.2 The Site	6
3.0 DEVELOPMENT PROPOSAL	6
4.0 STATUTORY PLANNING FRAMEWORK	8
4.1 Penrith Local Environmental Plan 2010	8
4.1.1 Zoning	8
4.1.2 Permissibility	8
4.1.3 Zone Objectives	8
4.2 Penrith Development Control Plan 2010	8
5.0 KEY ISSUES	9
5.1 Parking	9
5.2 Amenity	9
6.0 CONCLUSION	9



TABLE OF ANNEXURES

ANNEXURE 1 – LOCALITY MAP

ANNEXURE 2 – AERIAL PHOTOGRAPH

ANNEXURE 3 – CADASTRAL PLAN

ANNEXURE 4 – PHOTOGRAPHIC PALETTE

ANNEXURE 5 – WASH BAY PHOTOGRAPH

ANNEXURE 6 – NOTICE OF DETERMINATION DA 14/0119

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1.0 INTRODUCTION

This document has been prepared in order to provide information and assessment in respect of a s96 (1A) EPAA application which proposes amending a development consent for DA 14/0119. The amendment requests clarification of the wash bay configuration and modification of Conditions 5 and 8 of approved DA 14/0119.

To summarise, the following matters are required to be addressed by the consent authority in its assessment of the proposal under the *Environmental Planning and Assessment Act 1979* (EPAA):

1. *Whether the development is substantially the same as that which has been consent to (refer 96 (1A) EPAA);*
2. *Those matters in Section 79C (1) EPAA as are relevant (refer s96 (3));*
3. *The nature of any submissions relating to the modification request.*

We submit that the amendments proposed, relating to the existing consent would not, of itself, create any environmental impacts.

Submissions are for the consent authority to consider and determine.

The development will remain 'substantially the same' as that which has already been granted consent by the Council, in terms of that which was proposed in the original development application.

Consideration has been given to the environmental merit of the proposal as well as in relation to the following principal legislature, relevant statutory planning instruments and subordinate policies and documents as follow:

- *Environmental Planning and Assessment Act 1979 (EPAA);*
- *Environmental Planning and Assessment Regulation (EPAR);*
- *Penrith Local Environmental Plan 2010 (PLEP); and*
- *Penrith Development Control Plan 2010 (PDCP).*

2.0 SITE LOCATION AND DESCRIPTION

2.1 Location

The property is known as 3 Peachtree Road, Penrith and is legally described as Lot 45 in DP249986.

The site is located in a general industrial area, 1.4km from the Penrith retail centre (Westfield Penrith).

The locality can be described as a general industrial area



containing factory units with diverse uses ranging from car service centre, a gym, auto electrical repair, a truck body manufacturer. The Penrith Concrete Batching Plant is nearby to the East.

The site is currently approved as an Industrial Development – Hire of Builders Equipment (DA 14/0119).

A locality map is provided at **Annexure 1**.

An aerial photograph is provided at **Annexure 2**.

A cadastral plan is attached at **Annexure 3**.

2.2 The Site

The property consists of a large stand alone industrial shelter of approximately 1060 square metres with a total property area of 3944 square metres. The site is relatively level.

The property has direct road access to Peachtree Road. To the north, south and west are large general industrial buildings very similar to the improvements on the subject property. To the east is Peachtree Road and beyond that other industrially zoned land.

Photographs of the premises can be found at **Annexure 4**.

3.0 DEVELOPMENT PROPOSAL

The application proposes that **Conditions 8 and 5** of Development Consent 14/0119 be modified.

Condition 8 provides that *'all materials and goods associated with the use shall be contained within the building at all times'*.

We propose that Condition 8 be modified as detailed under;

'All materials and goods associated with the use shall be contained within the boundaries of the property at all times'.

The goods to be stored include builders hire equipment, predominantly portable toilets. Consistent with the objectives of the IN1 zone.

The structure located on the site is a three sided open 'shed' building. The only 'enclosed' building being a small office space within the shed (per approved *Plan of Proposal* dated January 2014). As such any storage of goods within the confines of the shed can be seen by neighbouring properties to the north. The property to the south is bound by a 6m (approximately) high brick wall, and a large masonry wall (approx. 8m high) extends for a large part of the eastern boundary. Any storage of builders hire equipment would not be visible from neighbouring properties to the south and



east. This notwithstanding the storage of builders hire equipment is consistent with the zone objectives and surrounding industrial uses in the immediate locality.

Restricting storage of goods to the boundaries of the shed results in only approximately 1/7 of the total site area (approx. 550sqm of approx. 3900sqm total site area) being useable for the primary approved use, storage of builders hire equipment.

No construction works are proposed. All toilet effluent is disposed of prior to builders hire equipment arriving at 3 Peachtree Road Penrith, further all hire equipment is washed externally and internally at the premises upon arrival at the site. Hire equipment is then stored at 3 Peachtree Road until such a time as it is needed.

Condition 5 provides that '*the operating hours are from 6.00am to 2.30om Monday to Sunday*'.

We propose that Condition 5 be amended to reflect an extension of operating hours from 6.00am to 6.00pm. There is no proposed change to the business operation per the approved Plan of Management and Statement of Enviromental Effects (DA14/0119). That is, the site will be occupied sporadically and for short periods of time. The extension of operatoring hours from 6.00am to 6.00pm will allow for deliveries of builders hire equipment to be made to and from the site inaccordance with the demands of the clients of the Builder's Hire Equipment company, Viking Rentals Pty Ltd.

The subject s96 (1A) EPAA application proposes clarification of the wash bay construction which forms part of DA 14/0119. The wash bay is proposed to be a portable wash bay indicative of that shown on the approved stamped plan labelled *Plan of Proposal* and dated January 2014. Correspondence with Council officer Hannah Van De Werff dated 12 March 2014 indicates a concrete slab be used as a permanent wash bay, this is no longer the case. The proposed wash bay is consistent with that described in the Statement of Environmental Effects and *Plan of Proposal* approved under DA 14/0119. A macerator pump will be attached to the portable wash bay and used to pump the grey water from the wash bay into the waste water holding tanks.

There are no proposed changes to the approved *Plan of Management* (POM) (outside of that mentioned above regarding the hours of operation) or *Plan of Proposal* approved by Council under DA 14/0119.

A photograph of the portable wash bay can be found at **Annexure 5**.

A copy of the Notice of Determination for DA 14/00119 can be found at **Annexure 6**.



4.0 STATUTORY PLANNING FRAMEWORK

4.1 Penrith Local Environmental Plan 2010

4.1.1 Zoning

The subject site is zoned IN1 General Industrial under the PLEP.

4.1.2 Permissibility

Council is empowered to vary the existing consent under s96 EPAA.

4.1.3 Zone Objectives

The objectives of the IN1 zone are:

- To provide a wide range of industrial and warehouse land uses.
- To encourage employment opportunities.
- To minimise any adverse effect of industry on other land uses.
- To support and protect industrial land for industrial uses.
- To promote development that makes efficient use of industrial land.
- To permit facilities that serve the daily recreation and convenience needs of persons working in industrial areas.

The proposal is consistent with the zone objectives

4.2 Penrith Development Control Plan 2010

The key aims of the Penrith Development Control Plan (PDCP)

In our opinion the proposed amendments are minor and unlikely to have a detrimental effect on the local natural environment. The earlier development approval (DA 14/0119) for Industrial Development – Hire of Builders Equipment, deals with the overall form and structure of the building and has dealt with relevant indicia as required.

As this application is for minor modifications to an existing development consent (Da 14/0119), the PDCP controls are of peripheral relevance to the application.

The proposal uses as existing space without any alterations. Site planning has already been undertaken. Furthermore the



site is large enough that there will be no impact on existing vegetation nor parking provisions.

5.0 KEY ISSUES

5.1 Parking

The proposal will have no impact on the parking configuration approved under DA 14/0119. Ample off street parking is also available.

5.2 Amenity

The proposal is of negligible impact to the existing amenity enjoyed in the locality. The area is characterised by industrial uses including (but not limited to) car yards, storage facilities and mechanics. The proposed extension of operating hours will have virtually no impact on existing amenity. The proposed hours are within 'business hours' and consistent with the existing amenity enjoyed in the area during the hours of 6.00am to 6.00pm. The proposed amendments are minor and, in our opinion, will have no to impact on amenity. The proposal is in keeping with the existing uses in the area.

6.0 CONCLUSION

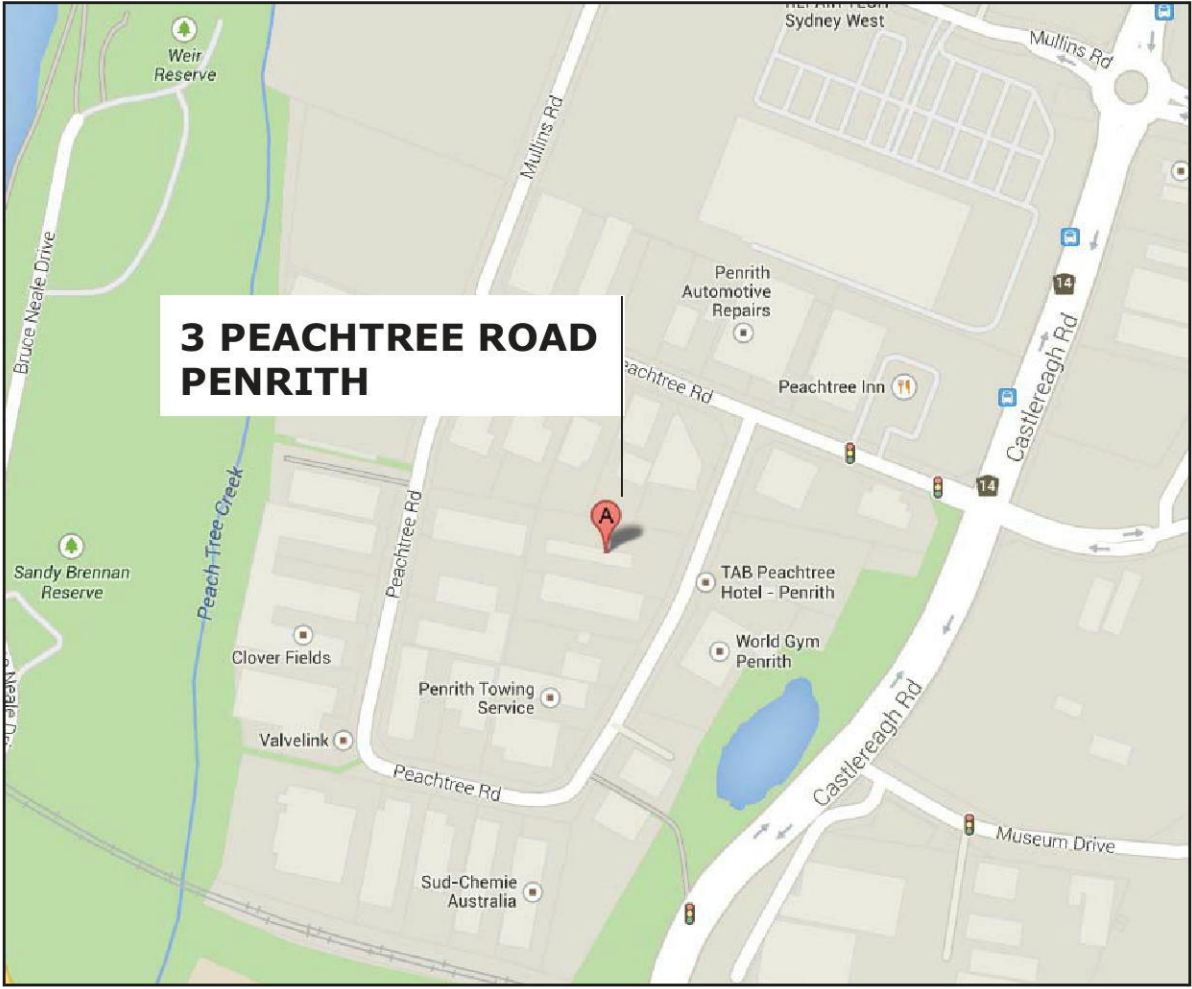
The documents addresses the statutory planning regime applicable to the application and demonstrates that modification of consent DA 14/0119 is warranted in all of the circumstances.

The heads of consideration that are set out in *Section 79C* of the EPAA have been examined and in our opinion there are no matters which would prevent Council from altering the consent as requested.

The proposal merits support from the consent authority.

ANNEXURE 1

LOCALITY MAP



LOCALITY MAP
Courtesy Google Maps

ANNEXURE 2

AERIAL PHOTOGRAPH

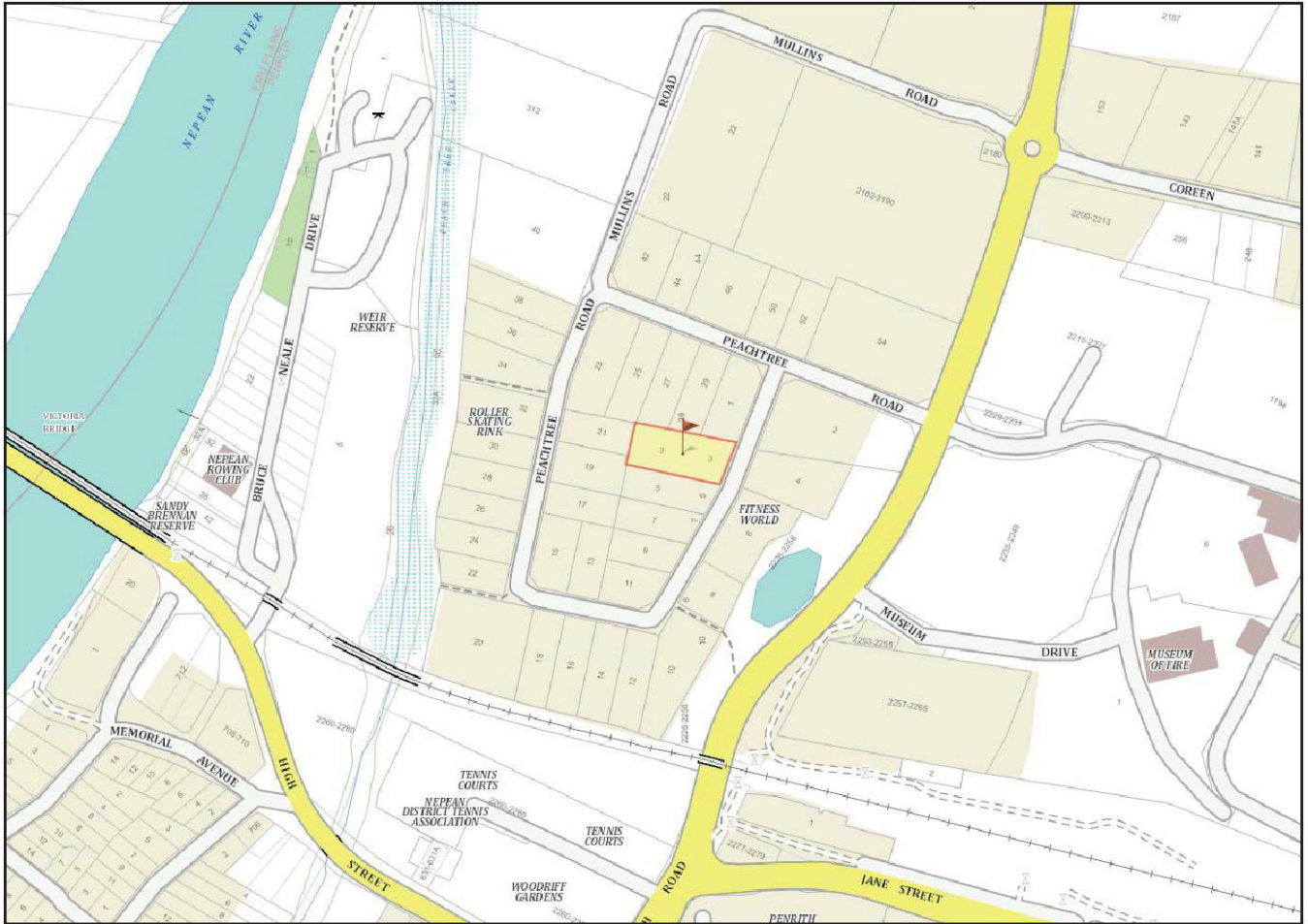


AERIAL PHOTOGRAPH

Courtesy SIX Maps

ANNEXURE 3

CADASTRAL PLAN



CADASTRAL PLAN

Courtesy SIX Maps

ANNEXURE 4

PHOTOGRAPHIC PALETTE



Photo 1: The front of the shed looking south west



Photo 2: The rear of the shed looking north east



Photo 3: Looking west along the property boundary



Photo 4: Rear of the shed looking north west

ANNEXURE 5

WASH BAY PHOTOGRAPH



Photo: Indicative portable wash bay

ANNEXURE 6

NOTICE OF DETERMINATION DA 14/0119

PENRITH CITY COUNCIL

NOTICE OF DETERMINATION

DESCRIPTION OF DEVELOPMENT

Application number:	DA14/0119
Description of development:	Industrial Development - Hire of Builders Equipment
Classification of development:	Class 5 , Class 7b

DETAILS OF THE LAND TO BE DEVELOPED

Legal description:	Lot 45 DP 249986
Property address:	3 Peachtree Road, PENRITH NSW 2750

DETAILS OF THE APPLICANT

Name & Address:	Turnball Planning International Suite 2301 Quattro Building 2 Level 3 Daydream Street WARRIEWOOD NSW 2102
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DECISION OF CONSENT AUTHORITY

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

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

Date from which consent operates	20 May 2014
Date the consent expires	20 May 2016
Date of this decision	16 May 2014

POINT OF CONTACT

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

Assessing Officer:	Hannah Van De Werff
Contact telephone number:	(02) 4732 7714

ATTACHMENT 1: CONDITIONS OF CONSENT

General

- 1 The development must be implemented substantially in accordance with the Site Plan prepared by Turnbull Planning International Pty limited (ref: nor.pea3p_PlanofProposal) dated January 2014 and the supporting information stamped and approved by Council, except as may be amended in red on the attached plans and by the following conditions.
- 2 **The development shall not be used or occupied until an Occupation Certificate has been issued.**
- 3 The building shall not be used under any circumstances for any commercial or habitable residential activity.
- 4 A separate development application for the erection of a sign or advertising structure, other than an advertisement listed as exempt development, is to be submitted to Penrith City Council, complying with the requirements of Penrith Development Control Plan-Advertising Signs.
- 5 The operating hours are from 6:00am to 2:30pm Mondays to Sunday.
- 6 No retail sale of goods shall be conducted from the subject premises.
- 7 No motor vehicles are to be displayed for sale on the subject premises.
- 8 All materials and goods associated with the use shall be contained within the building at all times.
- 9 The provision of 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).
- 10 The finishes of all structures and buildings are to be maintained at all times and any graffiti or vandalism immediately removed/repaired.
- 11 Mechanical repairs of vehicles is not permitted to occur on the subject site. No storage of goods and materials associated with mechanical repairs is to occur).
- 12 No effluent generated from the use of the portaloos shall be stored onsite within the portaloos or any other location. All effluent generated from the use of the portaloos shall be disposed of offsite at a suitably licensed waste facility prior to the return and storage of any hire portaloos equipment on the site.
- 13 The operation of the premises and associated equipment shall be in accordance with the *Plan of Management for the Proposed Builders Hire Equipment Storage Facility - 3 Peachtree Road PENRITH - prepared by Turnbull Planning International PTY LIMITED - dated March 2014.*
- 14 The wastewater holding tank located onsite shall be emptied on a regular basis of at least once a week or as required to prevent overflow. All wastes and liquid wastes are to be disposed of in accordance with the requirements of the Protection of the Environment Operations Act 1997.

- 22 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.
- 23 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.

Utility Services

- 24 A Section 73 Compliance Certificate under the Sydney Water Act 1994 shall be obtained from Sydney Water. The application must be made through an authorised Water Servicing Coordinator. Please refer to "Your Business" section of Sydney Water's website at www.sydneywater.com.au then the "e-developer" icon, or telephone 13 20 92.

The Section 73 Compliance Certificate must be submitted to the Principal Certifying Authority prior to the issue of [an Occupation Certificate.

Engineering

- 25 A total of 7 off-street parking spaces are to be provided, linemarked and maintained for the development, generally in accordance with the approved site plan. The parking space dimensions and manoeuvring areas are to comply with AS2890.1 and AS2890.2 the Building Code of Australia and the Commonwealth Disability Discrimination Act.

Certification

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

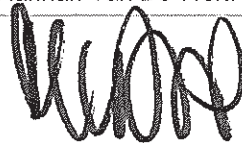
A copy of the Occupation Certificate and all necessary documentation supporting the issue of that Certificate including the above mentioned documents shall be submitted to Penrith City Council, if Council is not the Principal Certifying Authority.

SIGNATURE

Name:

Hannah Van De Werff

Signature:



For the Development Services Manager

ADVISORY NOTES FOR COMMERCIAL / INDUSTRIAL DEVELOPMENT

These advisory notes have been developed for your information and should be read in conjunction with Penrith City Council's Notice of Determination issued for the development.

I N F O R M A T I O N

1. A Construction Certificate must be issued before you can commence any construction works on the site. You can apply to Penrith City Council or an appropriately accredited certifier for a Construction Certificate. The application for a Construction Certificate should include detailed plans, specifications and any other documentation that may have been specified in the Notice of Determination.
2. To undertake construction of your development as approved, you will need to appoint a Principal Certifying Authority (PCA). A PCA may either be Penrith City Council or a private certifier. The critical mandatory inspections are listed in the documentation for the Construction Certificate. Failure to request a critical mandatory inspection will prevent the PCA from issuing an Occupation Certificate for the development. An Occupation Certificate needs to be obtained before you can occupy/use the new building works.
3. If Penrith City Council is required to undertake the critical mandatory inspection, you are requested to contact Council's Development Services Administration on 02 4732 7991, by phone before 4.00pm on the weekday before the inspection is required.
4. Damage to major utilities such as underground cables, pipe work, and other utility services can be a serious problem. Damage to the utilities can be avoided by contacting the "Dial before you Dig Service." You can obtain the information from the web page at www.1100.com.au or by phoning 1100. Individuals and companies who do not follow this procedure may be required to pay for any damage caused to a major utility. Consideration should also be given to other non member utility providers who do not participate in the "Dial before you Dig Service."
5. Prior to any work commencing on the site for development you are required to liaise and gain approval from Sydney Water for the approved development plans. Other utility providers that may require consultation include Integral Energy, AGL Gas, Telstra, Australia Post, WorkCover and other State or Federal Government departments.
6. For developments including an on – site detention system (OSD), you are advised that OSD levels are critical. They should be carefully checked prior to and during construction of the system to ensure that the OSD system is constructed in accordance with the approved plans to provide the required volume for storage.
7. A Fire Safety Certificate will need to be issued for the building/use before you can request the Principal Certifying Authority to issue the applicant with an Occupation Certificate. The Occupation Certificate is required to be issued before you can occupy and operate in the new building (work). Failure to obtain the Occupation Certificate is an offence and is subject to a penalty under the Environmental Planning & Assessment Act 1979.
8. For developments involving a food shop, Penrith City Council's Environmental Health Department must be contacted on 02 4732 7991 to arrange a final inspection of the food shop. The final inspection is required to assess compliance with Australian Standard 4674 Design, Construction and fit out of Food Premises, the Food Act 2003, and associated regulations. The business shall not operate until a satisfactory inspection of the food shop has been completed.

Revised 9 January 2013