

# PENRITH CITY COUNCIL

## MAJOR ASSESSMENT REPORT

<b>Application number:</b>	DA14/0398
<b>Proposed development:</b>	Temporary Educational Establishment (3 years)
<b>Property address:</b>	153 - 233 Old Castlereagh Road, CASTLEREAGH NSW 2749
<b>Property description:</b>	Lot 21 DP 1092147
<b>Date received:</b>	15 April 2014
<b>Assessing officer</b>	Aimee Lee
<b>Zoning:</b>	RURAL 1(A2) (IDO 93) RURAL (A2) & SPECIAL USES 5(B) ROADS (IDO 93) IDO 13
<b>Class of building:</b>	Class 9b , Class 10a , Class 10a
<b>Recommendations:</b>	Approve

### Executive Summary

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Council is in receipt of a development application for the installation of two (2) demountable buildings and construction of a garage and a COLA for the purposes of a temporary educational establishment and associated tree removal and drainage works at 153-233 Old Castlereagh Road, Castlereagh. The site is partly zoned Rural (A2) and Special Uses 5(B) under the provisions of the Penrith Interim Development Order No. 93. The proposal will be located with the Rural (A2) zone and being defined as an educational establishment is permitted in zone subject to consent.

Key issue identified for the proposed development and site being :

- flooding

In response to the above, the applicant has submitted a Flood Evacuation Plan to Council. A condition is recommended to ensure that the Flood Evacuation Plan will be implemented with the Local Flood Plan and the Floodsafe Guide of the State Emergency Services.

An assessment under Section 79C of the Environmental Planning and Assessment Act 1979 has been undertaken. It is acknowledged that the current location of the proposal is not ideal due to the flooding issue however in view of the urgency to relocate the existing facility to facilitate continued delivery of the educational programmes and the temporary nature of the use, it is considered that the development can be supported subject to the implementation of the Flood Evacuation Plan. In view of the above, the application is recommended for approval subject to conditions.

## Site & Surrounds

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The site is located within the Sydney International Regatta Centre (SIRC) and is surrounded by developments associated with the Penrith Lakes Scheme. The development site has a total site area of 178.4 hectares. It is irregular in shape and was used previously as part of the Sydney 2000 Olympic Games. The site is currently used for recreational and sporting activities.

The site is located to the southwest corner of SIRC and is currently used as an overflow carpark associated with SIRC. The site consisting existing vegetation, slopes 2 metres from south to north.

According to Council's information, the site is located within the high flood hazard area.

There are no records of the applicant attending any pre-lodgement meetings for this site however it is noted that representatives from the Department of Education and Communities have met with Council officers in March 2014 to discuss alternate site locations.

## Proposal

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The proposed development involves:

- Installation of two (2) demountable buildings
- Erection of a double garage and a COLA
- Removal of seventeen (17) trees

for the purposes of a temporary educational establishment for a period of three (3) years. The proposed educational establishment offers programmes based on the science curriculum and Aboriginal /European heritage from a local area perspective.

Up to 9000 students per year, from kindergarten to Year 12, from the surrounding region and further afield will be transported by buses to and from the site between 10am and 2pm for the excursion programme and approximately 40-45 students present on any given day.

The site will be staffed by two (2) full time Department of Education and Communities teachers, a full time School Administration Manager and up to two (2) occasional casual staff assisting the excursion programmes.

A carpark and bus drop off zone are located to the east of the proposed structures. The carpark is accessible via an existing driveway. One (1) bus will visit the site each day and after delivering students to the site, the bus will park in the designated bus area.

## Plans that apply

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- Penrith Interim Development Order No.13
- Penrith Interim Development Order No.93
- Development Control Plan 2006
- State Environmental Planning Policy (Penrith Lakes Scheme) 1989
- State Environmental Planning Policy No 55—Remediation of Land

### • 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 (Penrith Lakes Scheme) 1989**

The proposed educational establishment is an interim development for the purposes of the SEPP and would not adversely impact upon the implementation of the Penrith Lakes Scheme. Accordingly, the proposal is permitted with development consent by virtue of Clause 9 of the SEPP.

##### **State Environmental Planning Policy No 55—Remediation of Land**

Clause 7(1) of the SEPP states that

A consent authority must not consent to the carrying out of any development on land unless:

- (a) it has considered whether the land is contaminated, and
- (b) if the land is contaminated, it 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, and
- (c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.

Council's Environmental Health Officer has requested additional information be provided in regard to the assessment of potential contamination on the site. It is considered that issues related to suitability of the site should have been considered during assessment of the site for the Sydney International Regatta Centre. Therefore revisiting this issue is not necessary noting that the proposal is temporary in nature.

##### **Penrith Interim Development Order No.13**

Provision	Compliance
All Clauses	N/A

The northeast corner of the SIRC site is zoned 4(a) General Industrial however this does not affect that part of the site proposed to be used for the proposed educational establishment.

##### **Penrith Interim Development Order No.93**

Provision	Compliance
All Clauses	Complies

The SIRC site is zoned Rural (A2) and Special Uses 5(B) Roads under the provisions of IDO 93. Educational establishments are permitted in the zone subject to consent.

Clause 10 of the IDO stipulates a property located within 300m of the road alignment of a designated road, in this case, being Castlereagh Road, shall provide a 30m setback between any buildings and the nearest alignment. The proposed demountables and double garage are located more than 30m from Castlereagh Road.

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

Draft Stage 2 of the Penrith Local Environmental Plan 2010 applies to the site. The site will be zoned RU1 Primary Production. The proposal defined as an information and education facility which means:

"a building or place used for providing information or education to visitors, and the exhibition or display of items, and includes an art gallery, museum, library, visitor information centre and the like"

is permitted with consent in the zone.

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

### Development Control Plan 2006

Provision	Compliance
Chapter 2.1 - Contaminated land	N/A
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	N/A
Chapter 2.8 - Significant trees and gardens	N/A
Chapter 2.9 - Waste planning	Complies
Chapter 2.10 - Flood liable land	Does not comply - see Appendix - Development Control Plan Compliance
Chapter 2.11 - Car parking	Complies
Chapter 2.12 - On-site sewage management	Complies
Chapter 2.13 - Tree preservation	Complies

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

The application has been referred to Council's Building Surveyors for assessment who 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**

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

### *Context and setting*

The proposal is sympathetic to the rural and recreation/sporting character of the locality.

### *Access, traffic and transportation impacts*

The site is located to the west of an existing carpark which is serviced by an existing access road off Old Castlereagh Road . The carpark provides eleven (11) parking spaces inclusive of one (1) accessible parking space. A bus drop off zone is proposed opposite to the existing building. Bus parking is located the eastern side of the access road. The proposal would have minimal impact on local traffic and parking conditions having considered the condition of the vehicular access and availability of on-site parking facilities. A 1.8m wide path with an accessible ramp is proposed connecting the bus drop off zone to the demountable administration/classroom.

Council's Traffic Engineer raised no objection to this aspect of the proposal having considered the availability of carparking and bus drop-off/pick up, the provisions for access and circulation and capacity of the existing road network to accommodate the additional traffic to be generated by the proposal.

### *Utilities*

The site is connected to water, electricity and telecommunication facilities and do not require amplification of these services. Two (2) rainwater tanks (1 x 5000 litre and 1 x 10000 litre) are proposed to be installed adjacent to the demountable buildings collecting roof water from these structures. Overflow from these tanks will be discharged to the swale drain.

### *Water, Soil and Air*

Council's Environmental Management Officer has requested a detailed plan of sediment and erosion control measures be submitted to ensure the appropriate type of sediment and erosion control measures can be utilised during construction. This is conditioned accordingly.

### *Noise and vibration*

To maintain the acoustic privacy of the surrounding developments during construction, the standard condition restricting working hours is recommended.

### *Flood*

Consideration of flood impacts are addressed in the Appendix.

### *Site design and internal design*

The siting of the demountable buildings, double garage and cola are appropriate and have considered the environmental capabilities of the site particularly in terms of the topography, connectivity to existing services, access and parking facilities.

### *Landscaping*

An arborist report is submitted with this application. The report recommended the following:

- removal of a total of seventeen (17) trees
- raising the crown of two (2) trees
- planting of two (2) replacement trees
- provision of tree protection zone for other existing trees as per AS 4970-2009

Council's Tree Management Officer raised to the proposal having considered the trees to be removed were part of a recent planting undertaken in the late 1990s.

### *Socioeconomic impacts*

The proposal will continue to provide educational programmes that benefits the wider community.

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

The site is suitable for the following reasons:

- The site is zoned Rural (2A) under IDO 93 which permits the proposed use.
- The use is compatible with surrounding/adjoining land uses.
- The Flood Evacuation Management Plan is considered satisfactory.

## 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
Development Engineer	Not supported
Environmental - Environmental management	Not supported
Traffic Engineer	No objection

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

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

## Conclusion

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The proposed development is appropriately located within Rural (A2) zone under the provisions of IDO 93 and is generally consistent with the aims and objectives of the DCP. Issues related to flooding have been addressed in the report and it is considered that the proposal can be supported subject to conditions.

Furthermore, the development performs adequately in terms of its relationship to the surrounding built and natural environment, particularly in relation to likely impacts upon surrounding properties. Consequently, the proposal is supported from an environmental planning perspective.

## Recommendation

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1. That DA14/0398 for the installation of two (2) demountable buildings, construction of a double garage and a colar and removal of eight (8) trees at Lot 21 DP 1092147 No. 153 - 233 Old Castlereagh Road, Castlereagh, be approved subject to the attached conditions (Development Assessment Report Part B).

# CONDITIONS

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## General

### 1 A001

The development must be implemented substantially in accordance with the following plan 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.

	Plan No.	Prepared By	Date
Site Plan	A01 Revision D	Resi Design and Draft	10/04/14
Elevations	A02 Revision A	Resi Design and Draft	10/04/14

### 2 A007 - VARIABLE TIME PERIOD

This consent is limited to a period of three (3) years from the date of determination of this Development Application. Prior to the expiry date of this consent, the applicant will be required to submit a new development application for any continuance of the use.

### 3 A Special (BLANK)

The double garage/boat shed shall not be used for habitable purposes and storage of any chemicals.

### 4 A Special (BLANK)

Stormwater drainage from the site shall be discharged to the:

a) Existing site drainage system.

The proposed development and stormwater drainage system shall be designed to ensure no adverse impact on adjoining properties by the diversion, damming or concentration of stormwater overflow.

### 5 A Special (BLANK)

The Flood Evacuation Plan prepared by Woolacotts Consulting Engineers reference number 14-87 dated 3 June 2014 is to be:

- made aware to all occupants of the development site; and
- stored on the site; and
- implemented in coordination with the Local Flood Plan and Floodsafe Guides of the State Emergency Services

## Demolition

### 6 B004 - Dust

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

### 7 B005 - Mud/Soil

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

## Environmental Matters

### 8 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.

(Note: To obtain a copy of the publication, you should contact Landcom on (02) 98418600).

9 **D001 - Implement approved sediment& erosion control measures**

A detailed plan of erosion and sediment control measures shall be prepared prior to commencement of work. The erosion and sediment control measures shall be installed **prior to 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.

(Note: To obtain a copy of the publication, you should contact Landcom on (02) 98418600).

The sediment and erosion control measures are **maintained throughout the construction phase of the development until the construction is completed**. These measures shall ensure that mud and soil from vehicular movements to and from the site does not occur during the construction of the development.

10 **D005 – No filling without prior approval (may need to add D006)**

No fill material is to be imported to the site without the prior approval of Penrith City Council in accordance with Sydney Regional Environmental Plan No.20 (Hawkesbury- Nepean River) (No.2-1997). No recycling of material for use as fill material shall be carried out on the site without the prior approval of Council.

11 **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.

12 **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**

13 **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).

14 **E006 - Disabled access and facilities**

Access and sanitary facilities for persons with disabilities are to be provided and maintained in accordance with the requirements of the Building Code of Australia and AS 1428 - 2009 and the Disability (Access to Premises) Standards 2010.

## **Utility Services**



15 [G002 - Section 73 \(not for](#)

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](http://www.sydneywater.com.au) then the “e-developer” icon, or telephone 13 20 92.

The Section 73 Compliance Certificate must be obtained prior to commencement of works.

16 [G004 - Integral Energy](#)

Prior to commencement of works, a written clearance is to be obtained from Endeavour Energy stating that electrical services have been made available to the development or that arrangements have been entered into for the provision of services to the development.

In the event that a pad mounted substation is necessary to service the development, Penrith City Council shall be consulted over the proposed location of the substation to minimise any likley impact on other services and building, driveway or landscape design already approved by Council.

## **Construction**

17 [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 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 is 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 prior to occupation of the buildings.

## 18 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.

## 19 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

### 20 K221 - Access, Car Parking and Manoeuvring – General

**Prior to the issue of a Construction Certificate**, the Certifying Authority shall ensure that vehicular access, circulation, manoeuvring, pedestrian and parking areas associated with the subject development are in accordance with AS 2890.1, AS2890.2, AS2890.6 and Penrith City Council's Development Control Plan.

## Landscaping

### 21 L005 - Planting of plant

All plant material associated with the replacement planting is to be planted in accordance with Section 2.6 Landscape the Penrith Development Control Plan 2006.

22 [L006 - Aust Standard](#)

All landscape works are to meet industry best practice and the following relevant Australian Standards:

- AS 4419 Soils for Landscaping and Garden Use,
- AS 4454 Composts, Soil Conditioners and Mulches, and
- AS 4373 Pruning of Amenity Trees.

23 [L007 - Tree protection measures—no TMP with DA](#)

All trees that are required to be retained as part of the development are to be protected in accordance with the minimum tree protection standards prescribed in section 2.6 Landscape of the Penrith Development Control Plan 2006.

24 [L008 - Tree Preservation Order](#)

No trees are to be removed, ringbarked, cut, topped or lopped or wilfully destroyed (other than those within the proposed building footprint or as shown on the approved plans) without the prior consent of Penrith City Council and in accordance with Council's Tree Preservation Order and Policy.

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

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

## **Payment of Fees**

26 [P001 - Costs](#)

All roadworks, dedications and drainage works are to be carried out at the applicant's cost.

# Appendix - Development Control Plan Compliance

## Development Control Plan 2006

### Part 2 - City wide controls

Penrith Development Control Plan 2006 applies to the site. However there are no controls of specific relevance to educational establishments. The proposal is considered to be consistent with the DCP except for the following:

#### 2.10 Flood Liable Land

Council's Development Engineer has identified the following issues during assessment of the proposal:

1. The 1% AEP flood level for the proposed location of the development is RL 23.48 AHD (Draft Nepean River Flood Model Worley Parsons 2008), which means that there will be approximately 2.0m-3.5m deep of flood water (based on the contours showing in Exponare).
2. The proposed structures and demountable buildings are identified to be located within the high and extreme high flood hazard area, which according to NSW Floodplain Management Manual 2005, will have:
3. Possible danger to personal safety
  - Evacuation by trucks difficult
  - Able-bodied adults would have difficulty in wading to safety
  - Potential for significant structural damage to buildings

Engineering conditions have also been recommended and they relate to:-

- restricting all habitable floor levels to a minimum RL 23.98AHD (standard flood level + 0.5m)
- certification of the habitable floor levels by a registered surveyor upon completion of the buildings
- all structures below RL 23.98AHD has been detailed with flood compatible building components in accordance with 'Reducing the Vulnerability of Buildings to Flood Damage'
- all structures shall withstand the forces up to the 1% AEP
- all electrical services associated with the development shall be adequately flood proof and flood sensitive equipment shall be located above RL 23.98AHD

The applicant has been advised of the flooding issue and requested to consider the option of relocating the structures to higher grounds such as to the eastern side of the access road. In response, the applicant stated that the current lease for their current operation at No. 89-151 Old Castlereagh Road will expire and this site is the only option available.

While it is acknowledged that the site is located within a high and extreme high flood hazard area, a merit approach has been undertaken during assessment of this application. To facilitate the continued operation of the Penrith Lake Environmental Educational Centre which will benefit the wider community and given the operation is only temporary, for three (3) years it is considered that this application is worthy of support subject to conditions to ensure the following aims of the DCP can be achieved:

- To reduce the impact of flooding and flood liability on individual owners and occupiers;
- To limit the potential risk to life and property resulting from flooding;
- To reduce the risk and implications of flooding to existing areas;
- To prevent the introduction of unsuitable land uses onto the land identified by council as being flood liable.

Should Council considers this application worthy of support, the following conditions are recommended to be imposed in the consent:

- Discharge the stormwater associated with the development to the existing site drainage system
- The flood evacuation plan be stored on the site, made aware to all occupants of the site and implemented in coordination with the Local Floor Plan and Flood safe Guide of the SES.

However, the above engineering conditions are not recommended to be imposed as the cost would outweigh the temporary nature of the proposal and the social benefits offered by the proposal.

### **2.11 Car Parking**

Council's Traffic Engineer raised no objection to the proposal having considered the following:

- the proposal will utilise the existing provisions for staff parking and a bus drop-off/pick up.
- the proposed development will utilise the existing provisions for access and circulation.
- the traffic generated by the proposal can be accommodated in the existing road network.

### **2.13 Tree Preservation**

An arborist report is submitted with the application. The report stated that a total of seventeen (17) trees are required to be removed, two (2) replacement trees will be planted, the crown of two (2) trees will be raised and Tree Protection Zone will be installed in accordance with AS 4970-2009. Council's Tree Management Officer raised no objection to the proposal considering the trees were part of a recent planting undertaken in the late 1990s.