

PENRITH CITY COUNCIL

MAJOR ASSESSMENT REPORT

Application number:	DA20/0214
Proposed development:	Construction of 28 x Industrial Units including Car Parking, Drainage, Landscaping and Subdivision
Property address:	7 Renshaw Street, CRANEBROOK NSW 2749
Property description:	Lot 14 DP 286568
Date received:	28 April 2020
Assessing officer	Jane Hetherington
Zoning:	IN2 Light Industrial - LEP 2010
Class of building:	Class 7b , Class 8
Recommendations:	Approve

Executive Summary

Council is in receipt of a development application for the construction of an industrial building containing 28 units at 7 Renshaw Street, Cranebrook NSW 2749. The subject site is zoned IN2 Light Industrial under Penrith Local Environmental Plan 2010 (LEP) and the uses of the site include 'industry', 'light industry' and 'warehouse or distribution centre', which are permissible land uses in the zone with consent.

Concerns were raised during the assessment process regarding stormwater management, land contamination, traffic and maneuverability, building design, excessive fill and landscaping. The applicant has satisfactorily addressed these concerns raised through the assessment process. The proposed development is unlikely to have a negative impact on the surrounding environment. The site is suitable for the proposed development and the proposal is in the public interest.

In accordance with Appendix F4 of Penrith Development Control Plan 2014 (DCP), the proposal was notified to nearby and adjoining properties between 11 May 2020 to 25 May 2020 and no submissions were received in response.

An assessment under Section 4.15 of the Environmental Planning and Assessment Act 1979 has been undertaken and the application is recommended for approval, subject to the recommended conditions.

Site & Surrounds

Properties of the Site:

The subject site is located on the western side of Renshaw Street, approximately 80m from its intersection with Andrews Road in Cranebrook, NSW 2749. The site is 10,280m² in area with a 30m frontage to Renshaw Street. The land slopes in a northerly direction and also to the street. The site is narrow at the street frontage but widens out.

The site is zoned IN2 Light Industrial, and forms part of a well established industrial precinct (Industrial Precinct No.5 as per Chapter D4 of Penrith DCP 2014).

To the west of the site is a man made waterbody, which is not identified as a watercourse. A pathway extends between the site and the waterbody and provides access to the area known as Waterside.

Proposal

The proposed development involves:

- Earthworks including cut and fill;
- Construction of 28 Industrial/warehouse units, comprising loading bay areas, ground level warehouse/factory area and mezzanine areas for administration/office type usage.
- Units vary in size from 150m² to 306m².
- 74 parking spaces (including 1 accessible space), with car parking is provided at the front of each unit.
- Vehicular access to the development is from Renshaw Street.
- Landscaping.
- Signage in the form of a pylon sign at the front of the site for all units being 2m wide x 7m high.
- Strata Subdivision.

Plans that apply

- Local Environmental Plan 2010 (Amendment 4)
- Development Control Plan 2014
- State Environmental Planning Policy No 55—Remediation of Land
- State Environmental Planning Policy No 64—Advertising and Signage
- Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

Planning Assessment

• Section 4.14 - Bushfire prone land assessment

The site is identified as bushfire prone land. However, the Waterside Corporate area was cleared at the subdivision stage. Consistent with the adjoining development (DA 20/0488), a BAL Low is recommended for the site.

• Section 4.15 - Evaluation

The development has been assessed in accordance with the matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979, and having regard to those matters, the following issues have been identified for further consideration:

• Section 7.12 - Developer Contributions

The site and proposal are subject to Penrith City Council's City-Wide Section 7.12 Development Contributions Plan for Non-Residential Development. Based on the applicable rate under this Development Contributions Plan, the following development contribution applies to the proposal:

- $1\% \times \$5,776,720.00$ (cost of construction works) = \$57,767.20
- Total 7.12 contributions due: \$57,767

A condition of consent requiring the payment of this development contribution, prior to the issue of a Construction Certificate, has been recommended.

Section 4.15(1)(a)(i) The provisions of any environmental planning instrument

State Environmental Planning Policy No 55—Remediation of Land

As assessment has been undertaken of the application against relevant criteria with State Environmental Planning Policy No. 55—Remediation of Land and the application is considered to be unsatisfactory.

When determining a development application for any development of land, Clause 7 of SEPP 55 requires that Council consider 'whether the land is contaminated' and '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'.

Council's Environmental Management Officer reviewed historical aerial imaging and noted that fill material has been imported to the site in the North-Eastern corner and North-Western corner between Aug - Oct 2018. As the source of this material is unknown, Council cannot be certain that the site is not contaminated. Further, the submitted Clearance Certificate provided by Geotechnique is devoid of supporting information. As such, further information was requested from the applicant.

Subsequently, an email was provided which contains reference to a validation certificate previously provided to Council under DA14/1396.01. A search of said application identifies an email from the environment team which verifies that the validation certificate has been received and was suitable. The applicant also explained that the neighbouring premises used the land to stockpile their landscaping material and documentation was provided to support the purchase of said materials by the day care centre next door. The dates correspond with the historical aerial imaging.

Accordingly, Council can be satisfied that the land is suitable for its proposed use.

State Environmental Planning Policy No 64—Advertising and Signage

As assessment has been undertaken of the application against relevant criteria with State Environmental Planning Policy No 64—Advertising and Signage and the application is satisfactory.

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 the recommended conditions of consent.

Local Environmental Plan 2010 (Amendment 4)

Provision	Compliance
Clause 1.2 Aims of the plan	Complies
Clause 2.3 Permissibility	Complies - See discussion
Clause 2.3 Zone objectives	Complies - See discussion
Clause 2.6 Subdivision - consent requirements	Complies
Clause 4.3 Height of buildings	Complies - See discussion
Clause 4.4 Floor Space Ratio	N/A
Clause 7.1 Earthworks	Complies - See discussion
Clause 7.5 Protection of scenic character and landscape values	Complies - See discussion
Clause 7.7 Servicing	Complies - See discussion
Clause 7.22 Waterside	Complies - See discussion

Clause 2.3 Permissibility

The subject site is zoned IN2 Light Industrial under Penrith Local Environmental Plan 2010 (LEP) and the main use is Industry, specifically 'light industry' and 'warehouse or distribution centre', which are permissible land uses in the zone with consent. Other land uses may occur and would be subject to separate approval. The uses are defined as:

light industry means a building or place used to carry out an industrial activity that does not interfere with the amenity of the neighbourhood by reason of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, or otherwise, and includes any of the following—

- (a) high technology industry,
- (b) home industry,
- (c) artisan food and drink industry.

Note—

Light industries are a type of industry—see the definition of that term in this Dictionary.

and

warehouse or distribution centre means a building or place used mainly or exclusively for storing or handling items (whether goods or materials) pending their sale, but from which no retail sales are made, and includes local distribution premises.

Clause 2.3 Zone objectives

The objectives of the IN2 zone are as follows:

- To provide a wide range of light industrial, warehouse and related land uses.
- To encourage employment opportunities and to support the viability of centres.
- To minimise any adverse effect of industry on other land uses.
- To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.
- To support and protect industrial land for industrial uses.
- To promote development that makes efficient use of industrial land.
- To limit the impact of industrial development on adjacent residential areas, in terms of its built form, scale, acoustic and visual privacy and air quality.

The proposed development satisfies these objectives and provides new light industrial units which are capable of being used for a variety of uses. Efficient use of the land is proposed and the appearance of the development and the associated amenity impacts satisfactory.

Clause 4.3 Height of buildings

The LEP allows for a maximum height limit of 12m. The land is not flat around the edges of the site and as such fill is required as well as retaining walls in those areas. The overall height of the building in these areas of fill, when measured from natural ground, are still below the maximum height limit.

Clause 7.1 Earthworks

The land is not flat around the edges of the site and as such fill is required and retaining walls in those areas. However, the fill and finished land form is considered suitable and satisfactory.

Clause 7.1(3) of the LEP states:

(3) Before granting development consent for earthworks, the consent authority must consider the following matters—

- (a) the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality,*
- (b) the effect of the proposed development on the likely future use or redevelopment of the land,*
- (c) the quality of the fill or the soil to be excavated, or both,*
- (d) the effect of the proposed development on the existing and likely amenity of adjoining properties,*
- (e) the source of any fill material and the destination of any excavated material,*
- (f) the likelihood of disturbing relics,*
- (g) the proximity to and potential for adverse impacts on any waterway, drinking water catchment or environmentally sensitive area,*
- (h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development,*
- (i) the proximity to and potential for adverse impacts on any heritage item, archaeological site, or heritage conservation area.*

The above issues have been considered as part of the assessment and Council's Engineer and Environmental Management Officer are satisfied with respect to the above.

Clause 7.5 Protection of scenic character and landscape values

Clause 7.5 of the LEP states:

7.5 Protection of scenic character and landscape values

(1) The objectives of this clause are as follows—

- (a) to identify and protect areas that have particular scenic value either from major roads, identified heritage items or other public places,*
- (b) to ensure development in these areas is located and designed to minimise its visual impact.*

(2) This clause applies to land identified as "Land with scenic and landscape values" on the Scenic and Landscape Values Map.

(3) Development consent must not be granted for any development on land to which this clause applies unless the consent authority is satisfied that measures will be taken, including in relation to the location and design of the development, to minimise the visual impact of the development from major roads and other public places.

This clause applies to the site and consideration has been given to the visibility of the subject site from the surrounding area. To the north of the site is an existing large acoustic wall which screens the development from Lakeview Drive. To the east and south is industrial land and the proposed building is consistent with the appearance of these buildings (existing and approved). To the west is an area of open space with vegetation and watercourse which has a footpath adjacent to the boundary. Fencing will be provided along this boundary and the materials and finishes are a mixture of greys and black.

Overall, the appearance of the development is appropriate.

Clause 7.7 Servicing

Water, sewer, electricity and telecommunications are already available to the site and will be utilised in the development.

Clause 7.22 Waterside

The objectives of this Clause are to provide an acoustic, physical and visual buffer between industrial and residential development; and to require a built form that protects the amenity (particularly with respect to noise) of residential development at Waterside.

Subclause (3) states that despite any other provision of Penrith Local Environmental Plan 2010, the consent authority must not grant consent to development unless it is satisfied that they carrying out of activities in the development will not generate any increase in existing background noise levels.

The proposed satisfies the requirements of Clause 7.22 Waterside. See discussion under C12 Noise and Vibration in relation to the assessment of Penrith Development Control Plan 2014 for further information.

Section 4.15(1)(a)(ii) The provisions of any draft environmental planning instrument

There are no applicable draft controls.

Section 4.15(1)(a)(iii) The provisions of any development control plan

Development Control Plan 2014

Provision	Compliance
DCP Principles	Complies
C1 Site Planning and Design Principles	Complies
C2 Vegetation Management	N/A
C3 Water Management	Complies - see Appendix - Development Control Plan Compliance
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	Complies - see Appendix - Development Control Plan Compliance
C10 Transport, Access and Parking	Complies - see Appendix - Development Control Plan Compliance
C11 Subdivision	Complies
C12 Noise and Vibration	Complies - see Appendix - Development Control Plan Compliance
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
D4.5. Storage of Materials and Chemicals	N/A
D4.6. Accessing and Servicing the Site	Complies - see Appendix - Development Control Plan Compliance
D4.7. Fencing	Complies
D4.8 Lighting	N/A

Section 4.15(1)(a)(iia) The provisions of any planning agreement

There are no planning agreements in place applying to this development proposal.

Section 4.15(1)(a)(iv) The provisions of the regulations

The requirements of the Regulations have been considered in the assessment of the application, with applicable conditions of consent being recommended.

Section 4.15(1)(b) The likely impacts of the development

Context and Setting

The proposed development is located within a well established industrial precinct. The development suits its industrial context and will not negatively impact upon the industrial area.

Access, Traffic and Transportation Impacts

Any traffic generated from development will not impact adversely on the local road network. See discussion under the *C10 Transport, Access and Parking* section of this report for more information.

Utilities / Water and Energy

The site connections to the development can be appropriately serviced. The standard conditions for obtaining relevant written clearances for utilities are recommended.

Drainage

See discussion under the C3 Water Management section of this report for more information.

Section 4.15(1)(c) The suitability of the site for the development

The application has adequately addressed key concerns such as flooding, geo-technical considerations, traffic and manoeuvrability on the site, landscaping and building design. In addition, the site is located within close proximity to services and amenities such as the Penrith central business district and key transport corridors. The proposed development is compatible with surrounding and adjoining land uses, therefore Council can be satisfied that the site is suitable for the proposed development.

Section 4.15(1)(d) Any Submissions

Community Consultation

Between 11 May 2020 and 25 May 2020 the Application was notified to adjoining and nearby properties. No submissions were received.

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	No objections - subject to conditions
Environmental - Environmental management	No objections - subject to conditions
Environmental - Waterways	No objections - subject to conditions
Traffic Engineer	No objection subject to conditions
Community Safety Officer	No objections - subject to conditions

Section 4.15(1)(e) The public interest

The proposed development should not generate any issues of public interest.

Conclusion

In assessing this application against several state policies, Penrith Local Environmental Plan 2010 and Penrith Development Control Plan 2014, the proposal satisfies the aims, objectives and provisions of these policies.

The proposed design is responsive, generally complies with key development standards and generates no significant issues of public interest. Therefore, the application is worthy of support, subject to recommended conditions.

Recommendation

That DA20/0214 for the construction of an industrial building containing 28 units, at 7 Renshaw Street, Cranebrook NSW 2749, be approved subject to the attached conditions.

General

1 A001 - Approved plans table

The development must be implemented substantially in accordance with the plans stamped approved by Council below, 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.

Description	Plan No.	Revision	Prepared By	Date
Site & Ground Floor Plan	DA.01	G	N.F. Billyard P/L	19/10/20
Ground Floor Plan & Pylon Sign	DA.02	F	N.F. Billyard P/L	15/10/20
Mezzanine Floor Plan	DA.03	F	N.F. Billyard P/L	15/10/20
Roof Plan	DA.04	F	N.F. Billyard P/L	15/10/20
Ground Floor Part 1	DA.05	F	N.F. Billyard P/L	15/10/20
Ground Floor Part 2	DA.06	F	N.F. Billyard P/L	15/10/20
Mezzanine Floor Plan	DA.07	F	N.F. Billyard P/L	15/10/20
Elevations	DA.08	F	N.F. Billyard P/L	15/10/20
Elevations & Sections	DA.09	F	N.F. Billyard P/L	15/10/20
Sections	DA.10	-	N.F. Billyard P/L	18/06/19
External Colour Samples Sheet	-	-	-	Undated
Civil Engineering Plans	02216_100 to 02216 - 702	02/03/04/05	C&M Consulting Engineers	08/04/20, 23/10/20, 21/12/20, 20/01/21
Landscape Plans	LD01 & LD02	R1	Colourburst Gardens	2/10/20
Waste Management Plan	-	-	-	24/04/20

2 A017 - DA FOR USE

Prior to occupation of the building or a tenancy within the building, a separate development approval is to be obtained from Penrith City Council to use the building or each tenancy within the building/complex.

3 A019 - OCCUPATION CERTIFICATE (ALWAYS APPLY)

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

4 A038 - LIGHTING LOCATIONS

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).

5 A039 - Graffiti

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

6 A046 - Obtain Construction Certificate before commencement of works

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

7 A Special (BLANK)

The sign shall be erected strictly in accordance with the manufacturer's or engineer's specifications, and the relevant Australian Standards. Any installation fixtures associated with the sign or internal illumination shall be wholly contained within the body of the sign and shall not be visible from the public domain.

8 A Special (BLANK)

The sign must not contain any advertising of a person/business which does not carry out business at the premises or place. The sign content is to be limited to:

- (a) the name of the building and address of the property,
- (b) a logo or other symbol that identifies the businesses operating at the premises, and
- (c) may include way-finding requirements for access to the site.

9 [A Special CPTED Requirements](#)

The following community safety and crime prevention through environmental design (CPTED) requirements are required to be implemented:

Lighting

- All outdoor/public spaces throughout the development, including the unit entry/exit points, must be lit to the minimum Australian Standard of AS 1158. Lighting must be consistent in order to reduce the contrast between shadows and illuminated areas and must be designed in accordance with AS 4282 - Control of the obtrusive effects of outdoor lighting.

Car parking

- A security system must be installed on any pedestrian and vehicle entry/exit points to the site (i.e. at the automatic entrance gate off Renshaw St).
- All areas of the car park must be well-lit, with consistent lighting to prevent shadowing or glare.

Building Security & Access Control

- Intercom, code or card locks or similar must be installed for all entries to the warehouse units.
- Australian Standard 220 – door and window locks must be installed in all units.
- CCTV is to be provided to cover communal public space areas. Cameras must be of sufficient standard to be useful for police in the event of criminal investigations. Lighting must be provided to support cameras at night (alternatively infra-red cameras are recommended). Signage must be displayed to indicate that CCTV cameras are in use.
- Monitored alarm systems must be installed in all units.

Building identification

- Unit numbers must be clearly visible and signage must be located throughout the site identifying the warehouse buildings, unit numbers and other facilities on site.

Graffiti/Vandalism

- Graffiti resistant coatings must be used to external surfaces where possible, including signage, roller shutters etc.
- Procedures must be in place to ensure the prompt removal and/or repair of graffiti or vandalism to the warehouse units, fencing, and common areas. This includes reporting incidents to police and/or relevant authorities.

Landscaping

- All vegetation must be regularly pruned to ensure that sight lines are maintained.

Environmental Matters

10 [D002 - Spraygrass](#)

All land that has been disturbed by earthworks is to be spray grassed or similarly treated to establish a grass cover.

11 [D004 - Dust](#)

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

12 [D005 - Mud/Soil](#)

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

13 **D006 - No filling without prior approval (Use always, except for bulk earthworks/ major fill operations)**

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

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

{Note: Penrith Development Control Plan defines an appropriately qualified person as "a person who, in the opinion of Council, has a demonstrated experience, or access to experience in hydrology, environmental chemistry, soil science, eco-toxicology, sampling and analytical procedures, risk evaluation and remediation technologies. In addition, the person will be required to have appropriate professional indemnity and public risk insurance."}.

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

14 **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.

15 **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.

16 **D014 - Plant and equipment noise**

The operating noise level of plant and equipment shall not exceed 5dB(A) above the background noise level when measured at the boundaries of the premises. The provisions of the Protection of the Environment Operations Act 1997 apply to the development, in terms of regulating offensive noise.

17 **D026 - Liquid wastes**

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

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

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

BCA Issues

18 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.

Health Matters and OSSM installations

19 F006 - Water tank & nuisance

The rainwater tank must be maintained so as not to create a nuisance and it must be protected against mosquito infestation.

Utility Services

20 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 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.

21 G004 - Integral Energy

Prior to the issue of a Construction Certificate, 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 before the Construction Certificate for the development is issued as the location of the substation may impact on other services and building, driveway or landscape design already approved by Council.

22 G006 -

Prior to the issue of a Construction Certificate, the Principal Certifying Authority shall be satisfied that telecommunications infrastructure may be installed to service the premises which complies with the following:

- The requirements of the Telecommunications Act 1997:
- For a fibre ready facility, the NBN Co's standard specifications current at the time of installation; and
- For a line that is to connect a lot to telecommunications infrastructure external to the premises, the line shall be located underground.

Unless otherwise stipulated by telecommunications legislation at the time of construction, the development must be provided with all necessary pits and pipes, and conduits to accommodate the future connection of optic fibre technology telecommunications.

Prior to the issue of an Occupation Certificate, written certification from all relevant service providers that the telecommunications infrastructure is installed in accordance with the requirements above and the applicable legislation at the time of construction, must be submitted to the Principal Certifying Authority.

Construction

23 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 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 when the Occupation Certificate has been issued for the development.

24 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.

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

Construction 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

26 [K101 - Works at no cost to Council](#)

All stormwater drainage works, associated civil works and dedications, required to effect the consented development shall be undertaken by the applicant at no cost to Penrith City Council.

27 [K201 - Infrastructure Bond](#)

An Infrastructure Restoration Bond is to be lodged with Penrith City Council for development involving works around Penrith City Council's Public Infrastructure Assets. The bond is to be lodged with Penrith City Council prior to commencement of any works on site or prior to the issue of any Construction Certificate, whichever occurs first. The bond and applicable fees are in accordance with Council's adopted Fees and Charges.

An application form together with an information sheet and conditions are available on Council's website.

Contact Penrith City Council's City Works Department on 4732 7777 or visit Penrith City Council's website for more information.

28 **K202 - S138 Roads Act – Works and Structures - Minor Works in the public road DRIVEWAYS ROAD OPENINGS**

Prior to the issue of any Construction Certificate, a Section 138 Roads Act applications, including payment of application and inspection fees together with any applicable bonds, shall be lodged and approved by Penrith City Council (being the Roads Authority for any works required in a public road). These works may include but are not limited to the following:

- a) Vehicular crossings (including kerb reinstatement of redundant vehicular crossings)
- b) Concrete footpaths
- c) Road opening for utilities and stormwater (including stormwater connection to Penrith City Council roads and other Penrith City Council owned drainage)
- d) Road occupancy or road closures
- e) The placement of hoardings, structures, containers, waste skips, signs etc. in the road reserve
- f) Temporary construction access

All works shall be carried out in accordance with the Roads Act approval, the development consent, including the stamped approved plans, and Penrith City Council's specifications, guidelines and best engineering practice.

Contact Penrith City Council's City Assets Department on 4732 7777 or visit Penrith City Council's website for more information.

Note:

- Where Penrith City Council is the Certifying Authority for the development, the Roads Act approval for the above works may be issued concurrently with the Construction Certificate.
- All works associated with the Roads Act approval must be completed prior to the issue of any Occupation Certificate or Subdivision Certificate as applicable.
- On completion of any awning over the road reserve, a certificate from a practising structural engineer certifying the structural adequacy of the awning is to be submitted to Council before Council will inspect the works and issue its final approval under the Roads Act

29 **K205 - S68 Local Government Act – Stormwater drainage works CIVIL CONSTRUCTION IN LOTS**

Prior to the issue of any Construction Certificate, the Certifying Authority shall ensure that an application under Section 68 of the Local Government Act, including payment of application and inspection fees, has been lodged with, and approved by Penrith City Council for conversion of an existing stormwater kerb inlet pit lintel located within the proposed driveway on Renshaw Street.

Engineering plans are to be prepared in accordance with the development consent, Penrith City Council's Design Guidelines for Engineering Works for Subdivisions and Developments, Engineering Construction Specification for Civil Works, Austroads Guidelines, and best engineering practice.

Contact Penrith City Council's Development Engineering Department on 4732 7777 to obtain a formal fee proposal prior to lodgement and visit Penrith City Council's website for more information.

Note:

- All works associated with the Section 68 Local Government Act approval must be completed prior to the issue of any Occupation Certificate or Subdivision Certificate as applicable.

30 **K210 - Stormwater Management**

The stormwater management system shall be consistent with plan/s lodged for development approval, prepared by C&M Consulting Engineers, Reference number 02216, Revision No. 05, Dated 20/01/2021.

Engineering plans and supporting calculations for the stormwater management systems are to be prepared by a suitably qualified person and shall accompany the application for a Construction Certificate.

Prior to the issue of any Construction Certificate, the Certifying Authority shall ensure that the stormwater management system has been designed in accordance with Penrith City Council's Stormwater Drainage for Building Developments and Water Sensitive Urban Design (WSUD) policies.

31 **K222 - Access, Car Parking and Manoeuvring – General**

Prior to the issue of any 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, AS 2890.2, AS 2890.6 and Penrith City Council's Development Control Plan.

32 **K225 - Performance Bond**

Prior to the issue of a Roads Act Approval, a Performance Bond is to be lodged with Penrith City Council for existing road stormwater pit grate conversion works on Renshaw Street frontage.

The value of the bond shall be determined in accordance with Penrith City Council's adopted Fees and Charges.

Note:

- Contact Penrith City Council's Development Engineering Department on 4732 7777 for further information relating to bond requirements.

33 **K228 - Dilapidation Report**

The developer shall undertake a dilapidation report for all surrounding buildings and Council owned infrastructure that confirms that no damage occurs due to the excavations associated with the development. If Council is not the Certifying Authority the dilapidation report shall be submitted to Council prior to Construction Certificate and then updated and submitted prior to any Occupation Certificate confirming no damage has occurred.

34 **K301 - Sediment & Erosion Control**

Prior to commencement of any works associated with the development, sediment and erosion control measures shall be installed in accordance with the approved Construction Certificate and to ensure compliance with the Protection of the Environment Operations Act 1997 and Managing Urban Stormwater series from the Office of Environment and Heritage.

The erosion and sediment control measures shall remain in place and be maintained until all disturbed areas have been rehabilitated and stabilised.

35 **K403 - Major Filling/ Earthworks**

All earthworks shall be undertaken in accordance with AS3798 and Penrith City Council's Design Guidelines for Engineering Works for Subdivisions and Developments and Engineering Construction Specification for Civil Works.

The level of testing shall be determined by the Geotechnical Testing Authority/ Superintendent in consultation with the Principal Certifying Authority.

36 **K405 - Turf to Verge**

Upon completion of all works in the road reserve, all verge areas fronting and within the development are to be turfed. The turf shall extend from the back of kerb to the property boundary, with the exception of concrete footpaths, service lids or other infrastructure which is not to be turfed over. Turf laid up to concrete footpaths, service lids or other infrastructure shall finish flush with the edge.

37 **K501 - Penrith City Council clearance – Roads Act/ Local Government Act**

Prior to the issue of any Occupation Certificate or Subdivision Certificate, the Principal Certifying Authority shall ensure that all works associated with a S138 Roads Act approval and S68 Local Government Act approval have been inspected and signed off by Penrith City Council.

38 **K503 - Works as executed – General and Compliance Documentation**

Prior to the issue of an Occupation Certificate, Works As Executed drawings, final operation and maintenance management plans and any other compliance documentation shall be submitted to the Principal Certifying Authority in accordance with Penrith City Council's Engineering Construction Specification for Civil Works, WSUD Technical Guidelines and Stormwater Drainage for Building Developments.

An original set of Works As Executed drawings and copies of the final operation and maintenance management plans and compliance documentation shall also be submitted to Penrith City Council with notification of the issue of the Occupation and / or Subdivision (Strata) Certificate where Penrith City Council is not the Principal Certifying Authority.

39 **K504 - Stormwater Compliance**

Prior to the issue of any Occupation Certificate, the Principal Certifying Authority shall ensure that the:

- a) Stormwater management systems (including on-site detention and water sensitive urban design)
 - b) Overland flowpath works
- Have been satisfactorily completed in accordance with the approved Construction Certificate and the requirements of this consent.
 - Have met the design intent with regard to any construction variations to the approved design.
 - Any remedial works required to be undertaken have been satisfactorily completed.

Details of the approved and constructed system/s shall be provided as part of the Works As Executed drawings.

40 **K505 - Restriction as to User and Positive Covenant**

Prior to the issue of any Occupation Certificate a restriction as to user and positive covenant relating to the:

- a) Stormwater management systems (including on-site detention and water sensitive urban design)
- b) Overland flowpath works

Shall be registered on the title of the property. The restriction as to user and positive covenant shall be in Penrith City Council's standard wording as detailed in Penrith City Council's Stormwater and Drainage for Building Developments policy.

41 **K511 - Directional signage**

Prior to the issue of any Occupation Certificate, directional signage and linemarking shall be installed indicating directional movements and the location of customer parking to the satisfaction of the Principal Certifying Authority.

42 **K601 - Stormwater management system operation and maintenance**

The stormwater management systems shall continue to be operated and maintained in perpetuity for the life of the development in accordance with the final operation and maintenance management plan.

Regular inspection records are required to be maintained and made available to Penrith City Council on request. All necessary improvements are required to be made immediately upon awareness of any deficiencies in the stormwater management systems.

43 **K Special (BLANK)**

All vehicle parking spaces, parking aisles and driveways/circulating roads must be designed and built in accordance with AS2890.1-2004; AS2890.6-2009 and Council's requirements.

44 **K Special (BLANK)**

All car spaces are to be sealed/line marked and dedicated for the parking of vehicles only and not be used for storage of materials/products/waste materials etc.

45 **K Special (BLANK)**

The required sight lines around the driveway entrances are not to be compromised by landscaping, fencing or signage.

46 **K Special (BLANK)**

All vehicles are to enter/exit the site in a forward direction.

47 **K Special (BLANK)**

Trucks servicing the site shall be limited in size to a Heavy Rigid Vehicles up to 12.5 metres in overall length.

48 **K Special Condition BLANK**

Prior to the issue of Occupation or Subdivision Certificate, the principal certifier shall ensure that if the existing street trees on Renshaw Street frontage are removed to facilitate development, then they are relocated to Council's specifications.

Landscaping

49 **L001 - General**

All landscape works are to be constructed in accordance with the stamped approved plans and Chapter C6 Landscape Design of Penrith Development Control Plan 2014.

Landscaping shall be maintained:

- in accordance with the approved plan, and
- in a healthy state, and in perpetuity by the existing or future owners and occupiers of the property.

If any of the vegetation comprising that landscaping dies or is removed, it is to be replaced with vegetation of the same species and, to the greatest extent practicable, the same maturity as the vegetation which died or was removed.

50 **L002 - Landscape construction**

The approved landscaping for the site must be constructed by a suitably qualified and experienced landscape professional.

51 **L003 - Report requirement**

Upon completion of the landscape works associated with the development and prior to the issue of an Occupation Certificate for the development, an Implementation Report must be submitted to the Principal Certifying Authority attesting to the satisfactory completion of the landscaping works for the development. The report is to be prepared by a suitably qualified and experienced landscape professional.

52 **L005 - Planting of plant**

All plant material associated with the construction of approved landscaping is to be planted in accordance with the Tree Planting Specification prescribed in Penrith Council's Development Control Plan.

53 **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.

Subdivision

54 [M008 - Subdivision Certificate requirements](#)

Prior to the issue of the Subdivision Certificate, the following is to be submitted:

An original plan of subdivision and two (2) copies of the plan. The plan of subdivision must indicate, where relevant -

- All drainage easements, rights of way, restrictions and covenants.
- All proposed dedications of roads/drainage/public reserve, which are to be undertaken at no cost to Penrith City Council.

The following information is to be shown on one (1) copy of the plan.

- The location of all buildings and/or other permanent improvements shall comply with any statutory boundary clearances or setbacks as defined by the Building Code of Australia and Council's resolutions.
- All existing services are wholly contained within the lot served and/or covered by an appropriate easement.

Prior to lodgement of the Subdivision Certificate Application, street address numbering must be obtained/approved by Penrith City Council's Rates Team. Proposed street addresses can be forwarded to council@penrith.city for approval.

Development Contributions

55 [N001a - Section 7.11 contribution \(apply separate condition for each Contribution Plan\)](#)

This condition is imposed in accordance with Penrith City Council's Section 7.12 Contributions Plan for non-residential development. Based on the current rates detailed in the accompanying schedule attached to this Notice, \$57,767.00 is to be paid to Council **prior to the issue of a Construction Certificate** for this development (the rates are subject to quarterly reviews). If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted Section 7.12 Contributions plan. The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule.

Council should be contacted prior to payment to ascertain the rate for the current quarterly period. The S7.12 invoice accompanying this consent should accompany the contribution payment. The Section 7.12 Contributions Plan may be inspected at Council's Civic Centre, 601 High Street, Penrith.

Note: The timing of contributions payable may be otherwise affected in accordance with Planning Circular PS20-003 dated 3 July 2020 and the associated NSW Government Ministerial Direction - Infrastructure Contribution.

Certification

56 [Q008 - Subdivision Certificate](#)

A Subdivision Certificate is to be obtained prior to the release of the linen plan of subdivision. The Subdivision Certificate will not be issued if any of the conditions in this consent are outstanding.

57 [Q009 - Strata Certificate](#)

A Strata Certificate shall be obtained from the Principal Certifier prior to lodgement of the strata plan with NSW Land Registry Services. The Strata Certificate will not be issued if:

- (a) any of the conditions in this consent or the development consent DA 20/0214 issued for the building on the land are outstanding, and
- (b) if the Final Occupation Certificate for the building, the subject of the strata plan, has not been issued.

58 **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.

59 **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 occupation/use of the premises.

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

Part C - City-wide Controls

C3 Water Management

The proposal was referred to Council's Development Engineering team, who requested additional information including DRAINS model, OSD storage volume, freeboard requirements, details that show that the proposed outlet pipe system is sized to convey 1% AEP flows and updated Stormwater plans.

The applicant submitted amended plans and documentation, which was reviewed by Council's Development Engineering team, who raised no objections subject to conditions.

The proposal has satisfied that there is no net increase in flows discharging from site and any overland flows are safely conveyed through site to discharge point.

Councils WSUD policy section 3.1 requires proposed developments to achieve an 80% non-potable water reuse. The proposal incorporates a 100Kl rainwater tank will harvest rainwater and plumbed to each unit for use on external taps and toilet flushing. Toilet flushing incorporates 28 toilets at a usage of 0.1kl/day/toilet = 2.8kl/day. The proposal achieves an 80% water reuse.

Councils WSUD policy section 3.2 requires stormwater to be treated prior to discharge. In order to meet the reduction criteria the development incorporates 10 GPT traps of Enviropods that consist of a 200 micron filter system located at the surface inlet pits. 10 x 690 Psorb Stormfilter Cartridges are located adjacent to the OSD chamber to treat the stormwater.

A maintenance plan has been provided for the filter chamber.

Review of the MUSIC report confirms that the proposed development will comply with section 3.2 of council WSUD policy.

As such, the above matters have been resolved from both an engineering, waterways and planning perspective, and have satisfied the requirements of Chapter C3.

C9 Signage

The application includes a pylon sign at the front of the site, which will contain the names of the occupants of each unit. This is encouraged under the DCP to avoid the proliferation of signage and the proposed size being 2m wide x 7m high is appropriate.

C10 Transport, Access and Parking

Table C10.2: Car Parking Rates specifies that 'industries including ancillary office', are to provide 1 space per 75sqm of Gross Floor Area (GFA) or 1 space per 2 employees, whichever is the greater.

Based on the GFA proposed by the development, with 5,219.41m² of floor area, 70 spaces are generated and the proposal includes the provision of 74 parking spaces.

Concern was also raised regarding the accessibility of the maneuvering areas for the site. Upon request by Council, the applicant submitted amended plans in ensuring the site's driveway, access and parking areas comply with Australian Standards.

As such, the proposal satisfies the requirements of Chapter C10.

C12 Noise and Vibration

The objectives of Clause 7.22 of Penrith LEP 2010 are to provide an acoustic, physical and visual buffer between industrial and residential development; and to require a built form that protects the amenity (particularly with respect to noise) of residential development at Waterside.

Subclause (3) states that despite any other provision of Penrith Local Environmental Plan 2010, the consent authority must not grant consent to development unless it is satisfied that they carrying out of activities in the development will not generate any increase in existing background noise levels.

An Acoustic barrier is in place along the boundary and as such it is determined that the proposed development is not expected to have an adverse impact on nearby sensitive receivers. Council's Environmental Management team had no objections to the above, subject to conditions.

As such, the proposal satisfies the requirements of Clause 7.22 of Penrith LEP 2010 and of Chapter C12.

D4 Industrial Development

The objectives and controls of this Chapter have been satisfied by the proposed development. See discussion under the Chapter C sections of this report for more information.