

PENRITH CITY COUNCIL

MAJOR ASSESSMENT REPORT

Application number:	DA17/1247.01
Proposed development:	Section 4.55(1A) Modifications to Finished Ground Levels, Siting & Internal Layout of Buildings, Car Parking, Landscaping & Associated Site Works - Place of Public Worship including Hindu Temple (Mandir), Assembly Hall, Community Kitchen & Dining Hall, Monks Residence, Landscaped Areas, Internal Roads, Car Parking & Associated Site Works
Property address:	230 - 242 Aldington Road, KEMPS CREEK NSW 2178
Property description:	Lot 18 DP 253503
Date received:	30 April 2020
Assessing officer	Jane Hetherington
Zoning:	SEPP - (WSEA) 2009 - ZONE IN1 SEPP WSA - Affected by Obstacle Limitation SEPP WSA - Affected by Wildlife Buffer Zone
Class of building:	Class 9b , Class 1a
Recommendations:	Approve

Executive Summary

Council is in receipt of a Section 4.55(1A) application to modify an approved Hindu Temple at 230-242 Aldington Road, Kemps Creek.

The application seeks to modify the finished ground levels, siting and internal layout of buildings, car parking, landscaping and associated site works.

The subject site is zoned IN1 General Industrial under the provisions of State Environmental Planning Policy (Western Sydney Employment Area) 2009 and the proposal is a permissible land use in the zone, subject to Council consent. The site was re-zoned in June 2020.

The original development application was determined by the Sydney Western City Planning Panel (SWCPP) as the proposal has a CIV over \$30 million. Clause 123BA of the Environmental Planning and Assessment Regulation 2000 specifies that Council has the authority to exercise the functions of a regional panel for the determination of applications to modify a development consent under Section 4.55(1A) of the Act.

The application has been advertised, notified and exhibited in accordance with Penrith Development Control Plan 2014. No submissions were received in response.

An assessment under Section 4.15 and Section 4.55(1A) of the Environmental Planning and Assessment Act 1979 has been undertaken and the application is recommended for approval, subject to modified conditions.

Site & Surrounds

Properties of the Site

The subject site is located on the eastern side of Aldington Road between Bakers Lane and Abbots Road, Kemps Creek. The site has an area of 10.16 hectares and is rectangular in shape, with a frontage of approximately 142 metres to Aldington Road and a depth of approximately 720m. Vehicular access is currently provided via a driveway crossing onto Aldington Road.

The topography of the site is undulating in nature however generally falls from east to west with levels dropping from RL 88m AHD at the south-eastern corner of the site to RL 56m AHD at the south-western corner of the site.

The site currently contains a single storey dwelling, one vacant single storey office, two sheds/workshops and two dams. The site is predominantly cleared for agriculture with few scattered trees. The surrounding area is characterised by rural-residential development.

Site Constraints

- The subject is mapped as bushfire prone land.
- A watercourse transects the site.
- The site is affected by local overland flows.
- The slope of the land.
- The site is mapped as having "Scenic and Landscape Values".
- The site is not connected to Sydney Water sewer services.
- There are heritage items in the vicinity of the site.

History

DA17/1247 was approved by the Sydney Western City Planning Panel (SWCPP) on 29 September 2019 which included deferred commencement conditions of consent relating to landscaping, a plan of management and waste management. These conditions of consent were subsequently satisfied with an operational consent being issued on 28 February 2020.

The site is located within the Mamre Road Precinct in the Western Sydney Employment Area and was re-zoned in June 2020.

Proposal

The application seeks the following modifications to the originally approved development:

- The level of the site pad for the Central Building. An increase of 0.840m (from RL 60.400 to RL 61.240).
- Increase in height of the Central Building of 1.07m (from RL 71.103 to RL 72.171).
- Re-siting of the Sabha Hall Building in a westerly direction 12.5m.
- Re-siting of the Dining Hall Building in a westerly direction 2.5m.
- Minor reconfiguration of the internal spaces of the central facilities buildings.
- Minor reconfiguration of the external balconies, including windows, doors and columns.
- Extra storage areas within the basement.
- A second entry/exit to the basement on the south side.
- Re-sited waste collection area to the east closer to the kitchen area.
- Re-located children's playground at the level of, and adjacent to, the central buildings.
- An entry landscaped forecourt, drop off area, parking and accessible parking has been included at the level of the central buildings.
- Reduction in the number of retaining walls.
- Deletion of 12 car parking spaces between the Central Building and the Mandir.
- Additional 15 parking spaces in the basement.
- Main parking level provided so that all parking spaces are on a single level.
- Increase in width of perimeter road widths from 8m to 9.3m to include kerb and gutter.
- Increased landscaping between the Central Building and the Mandir.

Plans that apply

- Development Control Plan 2010
- State Environmental Planning Policy (Infrastructure) 2007
- State Environmental Planning Policy (Western Sydney Aerotropolis) 2020
- State Environmental Planning Policy (Western Sydney Employment Area) 2009
- State Environmental Planning Policy No 55—Remediation of Land
- Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

Planning Assessment

• Section 4.15 - Evaluation

The modified development has been assessed in accordance with the matters for consideration under Section 4.15 and Section 4.55(1A) of the Environmental Planning and Assessment Act 1979, and having regard to those matters, the following issues have been identified for further consideration.

• Section 4.46 - Integrated development

Section 4.46 of the EP&A Act outlines the types of developments deemed to be defined as “Integrated Development”. The original application required concurrent approval from the Natural Resources Access Regulator (NRAR) and the NSW Rural Fire Service (RFS) in accordance with this section of the Act. NRAR issued their General Terms of Approval on 21 February 2018, raising no objection to the proposal subject to conditions. The RFS issued their GTAs on 1 August 2019, raising no objection to the proposal subject to conditions. As the subject modification application seeks to change the proximity of the central facilities buildings to a mapped watercourse, a referral was sent to NRAR. NRAR provided correspondence dated 2 June 2020 advising that their previously issued GTAs are adequate, remain current, and no further assessment is necessary. A referral to the NSW RFS was not considered necessary given the nature of the proposed modifications. The modification application was supported by a letter from a certified bushfire consultant confirming that the proposed modifications do not change the original bushfire assessment or impact on compliance with the RFS conditions.

• Section 4.55(1A) - Modifications involving minimal environmental impact

The modification application has been lodged pursuant to Section 4.55(1A) of the *Environmental Planning and Assessment Act 1979*. To be considered under this section, the consent authority must be satisfied that the proposed modifications:

- (a) are of minimal environmental impact;
- (b) result in the modified development being substantially the same development as the originally approved development (before any other modifications were granted, if any); and
- (c) have been notified in accordance with the Penrith DCP and any submissions taken into account.

In this regard, it is considered that the proposed modifications meet all three pre-requisites above. The application was supported by documentation confirming that the environmental impacts are consistent with those of the approved DA. This documentation included a Supplementary Landscape Character and Visual Impact Assessment (prepared by Clouston Associates and dated 22/09/2020); a Traffic Impact Assessment (prepared by TRAFFIX and dated 6/03/2020); a letter from a certified bushfire consultant (prepared by Katherine Harris from Harris Environmental Consulting and dated 21/07/2020); and amended stormwater and landscape plans. The development, as proposed to be modified, is considered to be substantially the same development as the development for which consent was originally granted. The modification application has been notified in accordance with Council's DCP and no submissions have been received.

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

State Environmental Planning Policy (Infrastructure) 2007

The original proposal was assessed against the provisions of the SEPP (Infrastructure) 2007 and found to be satisfactory subject to conditions. The modification application does not require any further assessment of the proposal against the provisions of the Policy.

State Environmental Planning Policy (Western Sydney Aerotropolis) 2020

The SEPP (Western Sydney Aerotropolis) 2020 contains a map that relates to wildlife buffer areas. This map is titled the "Wildlife Buffer Zone Map". The map shows that the subject site is within a 13 kilometre 'wildlife buffer zone' of the Western Sydney Airport site.

The Aerotropolis SEPP commenced on 1 October 2020, after the original development application and the subject modification application were lodged. The SEPP contains savings provisions which means that the SEPP does not strictly apply to the proposed development. Nevertheless, consideration has been given to Clause 21 of the SEPP and the proposed development. The objective of Clause 21 is to regulate development on land surrounding the Western Sydney Airport site where wildlife may present a risk to the operation of the airport. Certain types of development then trigger the requirements for further consideration under Clause 21. The proposed development, being a place of public worship, is not one of the types of uses that warrant additional consideration under the SEPP with regard to wildlife and the operation of the airport.

The subject site is also identified as being located within the Obstacle Limitation Surface Map area. Clause 24 of the SEPP relates to development that would penetrate the prescribed air space for the airport and be a 'controlled activity'. The proposed development neither penetrates the prescribed air space, nor is it a controlled activity, therefore not triggering any additional considerations under this clause.

State Environmental Planning Policy (Western Sydney Employment Area) 2009

State Environmental Planning Policy (Western Sydney Employment Area) 2009 aims to protect and enhance the land to which the SEPP applies for employment purposes.

The land application map shows that the subject site is located within Precinct 12 - Mamre Road and is zoned IN1 General Industrial. The proposal is defined as a *place of public worship* which is a permissible land use in the IN1 zone.

An assessment against the relevant clauses of SEPP (Western Sydney Employment Area) 2009 is provided below.

Clause 18 - Requirement for Development Control Plans

Clause 18 specifies except in such cases as the Director-General may determine by notice in writing, a consent authority must not grant consent to development to which SEPP (Western Sydney Employment Area) 2009 applies unless a development control plan has been prepared for that land. The original application was accompanied by an exemption from the Department of Planning & Environment Secretary (dated 20 December 2018). It is noted that this was granted on the basis that Penrith City Council's local environmental plan (Penrith LEP 2010) and Penrith DCP 2014 provide the relevant development controls for the development, which are no longer applicable since the land was re-zoned in June 2020. However, given that this clause applies to 'granting consent' and not 'modifying consent', this clause does not prohibit Council approving the subject modification application.

Clause 21 - Height of Buildings

The proposed shift in location of the central facilities building results in an increase in the height of the building by approximately 1m. The increase in height is not considered to result in an adverse impact on the amenity of adjacent residential areas given that the closest area zoned for residential purposes is over 400m away.

Clause 23 - Development Adjoining Residential Land

The subject site is not within 250m of land zoned primarily for residential purposes.

Clause 31 - Design Principles

The proposed modifications do not impact on the design of the buildings, the materials and external finishes, the quality of the landscaping or the scale and character of the development.

Clause 33C - Development within the Mamre Road Precinct

Clause 33C specifies that 'consent must not be granted to development on the land identified on the land application map as Precinct 12 (Mamre Road) that has a capital investment value of more than \$200,000 without the concurrence of Transport for NSW'. This clause was made by *State Environmental Planning Policy (Western Sydney Employment Area) Amendment 2020* and under Clause 34(3) is excluded from any savings provisions. Despite this, given that this clause applies to 'granting consent' and not 'modifying consent', this clause does not prohibit Council approving the subject modification application.

Further, it is noted that the original application was referred to Transport for NSW (TfNSW) in accordance with the provisions of the SEPP (Infrastructure) 2007. TfNSW provided comments relating to the provision of parking for Council to consider in their assessment. This was addressed in the assessment report for DA17/1247, and requires no further assessment given the proposed modifications do not impact on the number of visitors to the site or reduce the number of on-site parking spaces.

State Environmental Planning Policy No 55—Remediation of Land

The provisions of State Environmental Planning Policy No. 55 - Remediation of Land were considered in the assessment of the original development proposal approved for the site (DA17/1247). The subject modification application does not require any further assessment of the site against the provisions of the Policy.

Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

The modified proposal remains in keeping with the requirements of SREP No. 20 and appropriate conditions of consent remain in place.

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

Development Control Plan 2010

Provision	Compliance
Part B - DCP Principles	Complies

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

Context and Visual Impacts

Since the original application was approved, the site (and surrounding area) has been re-zoned primarily for industrial purposes. This is expected to result in a significant change to the context of the surrounding locality which is currently predominantly rural. The proposed modifications include increasing the size of the basement to include additional parking and storage areas. This results in a retaining wall up to 2.3m in height, along the southern side of the building. This is acceptable given that it is setback 15m from the boundary which includes a 6m wide landscaping buffer and the expected changes to the surrounding locality in the near future. Further, the application was accompanied by a Supplementary Landscape Character and Visual Impact Assessment, prepared by Clouston Associates and dated 22 September 2020. This document confirms that the proposed modifications do not increase the visual impacts of the buildings.

Access, Traffic and Parking

The application was supported by a Traffic Impact Assessment, prepared by TRAFFIX and dated 6 March 2020. This document states that as there is no increase to visitor numbers proposed, the previous parking assessment (Traffic Impact Assessment, prepared by TRAFFIX and dated 12 June 2019) still stands. The previous assessment determined a parking requirement of 267 car parking spaces based on the maximum attendance of 800 visitors. The proposed modifications include an additional 3 car parking spaces to the approved 272 car parking spaces for a total of 275 car parking spaces.

The approved development included the main car parking area over four levels. Under the subject modification application, this is proposed to be consolidated to two levels improving parking efficiency, amenity and safety. This has been reviewed by Council's Traffic Engineer who had no objection to the proposed modifications.

On-Site Sewage Management

The application has demonstrated that the proposed modifications will not impact on the proposed wastewater infrastructure, effluent disposal areas or buffer distances. No increase to visitor numbers is proposed. Council's Senior Environmental Health Officer has reviewed the modified proposal and has no objection to the proposed modifications.

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

The proposed modifications to the development do not alter the suitability of the site for the development.

Section 4.15(1)(d) Any Submissions

Community Consultation

The original development application was advertised in the local newspaper and notified to owners and occupiers of adjoining and nearby properties pursuant to the requirements of the Regulations and in accordance with Council's Development Control Plan. The subject modification application was also advertised and notified to nearby and adjoining property owners and occupiers, with the exhibition period being from 18 May to 17 June 2020. No submissions were received in response.

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
Waste Services	No objections - subject to conditions
Traffic Engineer	No objection subject to conditions
Community Safety Officer	No objections - subject to conditions
Social Planning	No objections - subject to conditions

Section 4.15(1)(e)The public interest

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

Conclusion

The proposed modifications to the development have been assessed against the relevant heads of consideration contained in Section 4.15 and Section 4.55(1A) of the Environmental Planning and Assessment Act 1979 and have been found to be satisfactory. Each of the relevant criteria under Section 4.55(1A) of the Act has been satisfied. The development as modified will result in minimal environmental impact only and is substantially the same development as originally approved. The proposed modifications to the development are therefore worthy of Council's support.

Recommendation

That the subject Section 4.55(1A) modification application in relation to an approved place of public worship (modifications to finished ground levels, siting and internal layout of buildings, car parking, landscaping and associated site works) at 230-242 Aldington Road, Kemps Creek, be approved subject to the following condition amendments (refer to Condition 1 and Condition 61).

General

1 A001

The development must be implemented substantially in accordance with the following plans stamped approved by Council, the application form and any supporting information received with the application, except as may be amended in red on the approved plans and by the following conditions.

Drawing Title	Drawing No	Prepared By	Dated
Site Plan	19022 - S4.55-03	Jakaan Architects	07/08/20
	Issue 15		
Staging Plan	19022 - S4.55 -04	Jakaan Architects	16/04/20
	Issue 6		
Site Plan - Landscaped Precinct	19022 - S4.55-05	Jakaan Architects	16/04/20
	Issue 8		
Site Plan - Central Facilities and Carpark Precinct	19022 - S4.55-06	Jakaan Architects	16/04/20
	Issue 9		
Site Plan - Mandir and Upper Sub Soil Irrigation	19022 - S4.55-07	Jakaan Architects	16/04/20
	Issue 8		
Sections	19022 - S4.55-12	Jakaan Architects	16/04/20
	Issue 6		
Site Boundary Elevations	19022- S4.55-13	Jakaan Architects	16/04/20
	Issue 5		
Basement Plan	19022 - S4.55 -20	Jakaan Architects	16/04/20
	Issue 9		
Ground Floor Plan - Central Buildings	19022 - S4.55 -21	Jakaan Architects	16/04/20
	Issue 8		
First Floor Plan - Central Buildings	19022 - S4.55 -22	Jakaan Architects	16/04/20
	Issue 8		
Roof Plan - Central Buildings	19022 - S4.55-24	Jakaan Architects	16/04/20
	Issue 5		
Elevations and Section - Central Building	19022 - S4.55 -25	Jakaan Architects	16/04/20
	Issue 6		
Entry Forecourt - Mandir	19022 - S4.55 -31	Jakaan Architects	16/04/20
	Issue 5		
Ground Floor Plan - Mandir	19022 - S4.55 -32	Jakaan Architects	16/04/20
	Issue 5		
First Floor Plan - Mandir	19022 - S4.55 -33	Jakaan Architects	16/04/20
	Issue 5		
Elevations and Sections - Mandir	19022 - S4.55 -34	Jakaan Architects	16/04/20
	Issue 5		
Simplified Site Plan for Section Reference	19022 - S4.55 -100	Jakaan Architects	16/04/20
	Issue 5		
Cross Sections	19022 - S4.55-101	Jakaan Architects	16/04/20
	Issue 4		
Cross Sections	19022 - S4.55 - 102	Jakaan Architects	18/09/20
	Issue 5		
Cross Sections	19022 - S4.55 -103	Jakaan Architects	16/04/20
	Issue 3		
Cross Sections	19022 - S4.55 - 104	Jakaan Architects	16/04/20
	Issue 4		
Perimeter Road Grades - Landscape Zones	19022 - S4.55- 105	Jakaan Architects	16/04/20
	Issue 5		
Perimeter Road Grades - Central Facilities and Carpark Zone	19022 - S4.55 - 106	Jakaan Architects	16/04/20
	Issue 5		
Perimeter Road Road Grades - Mandir & Upper Sub Soil Irrigation Zone	19022 - S4.55 - 107	Jakaan Architects	16/04/20
	Issue 5		

Stormwater Management Plan	2017-0260 HDA01-14/P7	INLINE Hydraulic Services	21/09/20
Landscape Plan	L.1 - L.22 (Rev G/H)	Nicholas Bray Landscapes	06/08/20 17/09/20
Waste Management Plan	Revision 1	Dickens Solutions	December 2019

As amended on 10 November 2020 under Section 4.55(1A) of the Environmental Planning and Assessment Act 1979.

2 **A005 - APPROVED BODYS CONSENT (FOR INTEGRATED DAS)**

A copy of the General Terms of Approval (dated 21 February 2018) issued by the NSW Natural Resource Access Regulator under the *Water Management Act 2000* shall be submitted to the Principal Certifying Authority, before the Construction Certificate can be issued for the same development. A copy of the approval shall be submitted to Penrith City Council with the copy of the Construction Certificate, if Council is not the Principal Certifying Authority.

3 **A012 - Food Shop**

The proprietor of the food business shall ensure that the requirements of the NSW Food Act 2003, NSW Food Regulation 2010 and the Australian and New Zealand Food Standards Code are met at all times.

4 **A019 - OCCUPATION CERTIFICATE (ALWAYS APPLY)**

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

A satisfactory inspection from an authorised officer of Council's Environmental Health Department is required prior to the issue of the Occupation Certificate. The occupier is to contact the Environmental Health Department to organise an appointment at least 72 hours prior to the requested inspection time.

5 **A021 - BUSINESS REGISTRATION**

The business is to be registered with Penrith City Council by completing the "Registration of Premises" form. This form is to be returned to Council **prior to the commencement of the business.**

6 **A026 - Advertising sign (not for residential)**

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.

7 **A038 - LIGHTING LOCATIONS**

Prior to the issue of an Occupation Certificate, a lighting system shall be installed for the development to provide uniform lighting across common areas and driveways. 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).

8 **A039 - Graffiti**

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

9 **A044 - Compliance with NSW Rural Fire Service conditions of consent**

All requirements of the Rural Fire Service's General Terms of Approval (dated 1 August 2019) shall be satisfied **prior to the issue of a Construction Certificate and/or a Occupation Certificate**, as relevant.

10 **A046 - Obtain Construction Certificate before commencement of works**

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

11 **A Special (Accessibility)**

Prior to the issue of a Construction Certificate, the design recommendations of the Access Report, prepared by Morris Goding Accessibility Consulting and dated 27 November 2017 shall be incorporated into the Construction Certificate plans. The works shall be certified accordingly by a suitably qualified access consultant **prior to the issue of an Occupational Certificate.**

12 **A Special (BLANK)**

Prior to the issue of a Construction Certificate, a detailed external colour schedule is to be submitted to and approved by the Development Services Manager of Penrith City Council.

13 **A Special (BLANK)**

As per the plans marked in red, the security houses and amenities buildings within the landscape zone, do not form part of this approval.

14 [A Special \(BLANK\)](#)

The development is to be carried out in 2 stages as per approved Drawing No. 16079-DA-04 (Staging Plan) and anything in this consent making reference to a Construction Certificate or Occupation Certificate is to be read as applying to the relevant Construction Certificate or relevant Occupation Certificate for the relevant stage. For the avoidance of doubt, this consent permits the issue of early works Construction Certificates, or staged Construction Certificates within the relevant Stage of the development and any conditions referring to the relevant stage are to be read as applying to the relevant Construction Certificate for the relevant stage.

15 [A Special \(BLANK\)](#)

The endorsed Plan of Management (Version 1.3) must be complied with at all times. In this regard, the maximum number of people permitted on site in association with the operation of the Central Facilities Building is limited to 800 people at any time.

16 [A Special \(BLANK\)](#)

All garbage must be stored in accordance with the requirements of the Food Safety Standards of the Australian and New Zealand Food Standards Code and the *Protection of the Environment Operations Act 1997* to prevent the harbourage of vermin or generation of odours.

Demolition

17 [B001 - Demolition of existing structures](#)

The dwelling and associated structures are to be demolished as part of the approved work.

18 [B002 - AS FOR DEMOLITION AND DISPOSAL TO APPROVED LANDFILL SITE](#)

All demolition works are to be conducted in accordance with the provisions of AS 2601-1991 "The Demolition of Structures". **Prior to demolition**, all services shall be suitably disconnected and capped off or sealed to the satisfaction of the relevant service authority requirements.

All demolition and excavated material shall be disposed of at a Council approved site or waste facility. Details of the proposed disposal location(s) of all excavated material from the development site shall be provided to the Principal Certifying Authority **prior to commencement of demolition**.

19 [B003 - ASBESTOS](#)

You should read Council's Fact Sheet titled "Handling and Disposal of Fibrous Cement Products" **before any demolition works commence on the site**.

Prior to commencement of demolition works on site, a portaloo with appropriate washing facilities shall be located on the site and the Principal Certifying Authority is to be satisfied that:

- Measures are in place so as to comply with the WorkCover Authority's "Short Guide to Working with Asbestos Cement" and
- The person employed to undertake the works is a licensed asbestos removal contractor and is holder of a current WorkCover Asbestos Licence.

Any demolition works involving the removal of all asbestos shall only be carried out by a licensed asbestos removal contractor who has a current WorkCover Asbestos Licence.

All asbestos laden waste, including asbestos cement flat and corrugated sheeting must be disposed of at a tipping facility licensed by the Environmental Protection Authority to receive asbestos wastes.

20 [B006 - Hours of work](#)

Demolition works will 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 demolition work is permitted on Sundays and Public Holidays.

In the event that the demolition relates to works inside the building and do not involve external walls or the roof, and do not involve the use of equipment that emits noise then the demolition works are not restricted to the hours stated above.

The provisions of the Protection of the Environment Operations Act, 1997 in regulating offensive noise also apply to all construction works.

Environmental Matters

21 **D002 - Spraygrass**

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

22 **D004 - Dust**

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

23 **D005 - Mud/Soil**

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

24 **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.

25 **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.

26 **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.

27 **D013 - Approved noise level 1**

Noise levels from the premises shall not exceed the relevant noise criteria detailed in the 'Acoustic Assessment' (20171171.1/1001A/R2/TT) for BAPS Hindu Temple at 230-242 Aldington Road, Kemps Creek prepared by Acoustic Logic dated 5/3/2019 and 'Further Response to Council Queries Letter for 230-242 Aldington Road, Kemps Creek' prepared by Acoustic Logic dated 12/6/2019. The recommendations provided in the above-mentioned acoustic report/letter and the 'Plan of Management for BAPS Hindu Mandir' at 230-242 Aldington Road, Kemps Creek prepared by Acoustic Logic shall be implemented and incorporated into the design, construction and operation of the development, and shall be shown on plans accompanying the Construction Certificate application. A certificate is to be obtained from a qualified acoustic consultant certifying that the building has been constructed to meet the noise criteria in accordance with the approved acoustic report. This certificate is to be submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

The provisions of the Protection of the Environment Operations Act 1997 apply to the development, in terms of regulating offensive noise.

28 **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.

29 **D06A – Approval for bulk earthworks/major filling operations (Use for bulk earthworks/ major filling 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 the PCA. 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 Contaminated Land Development Control Plan) with consideration of all relevant guidelines (e.g. EPA, ANZECC, NH&MRC), standards, planning instruments and legislation,
- 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.

An appropriately qualified person/s (as defined in the Penrith City Council Development Control Plan) shall:

- Supervise the filling works,
- (On completion of filling works) carry out an independent review of all documentation relating to the filling of the site, and shall submit a review findings report to Council and any Principal Certifying Authority,
- Certify by way of a Compliance Certificate or other written documentation that fill materials have been placed on the site in accordance with all conditions of this consent and that the site will not pose an unacceptable risk to human health or the environment. A copy of the Compliance Certificate or other documentation shall be submitted to Council and any Principal Certifying Authority.

The contact details of any appropriately qualified person/s engaged for the works shall be provided with the Notice of Commencement.

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.

{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, soils 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."}

30 **D Acoustic Assessment after Operation**

An acoustic assessment is to be undertaken by an appropriately qualified environmental consultant within 60 days of occupying the site in accordance with the Noise Policy for Industry and the Noise Guide for Local Government. The assessment must be submitted to Council for review and approval. Should the assessment find that noise from the premises exceeds 5dB(A) above the background, appropriate measures must be recommended and employed to rectify excessive noise.

31 **D Dam Dewatering Management Plan**

Prior to the issue of a Construction Certificate, a Dam Dewatering Management Plan is to be prepared by an appropriately qualified environmental consultant and submitted to Council for review and approval. Subject to Council approval, the Dam Dewatering Management Plan is to be implemented for the decommissioning of the dams at the site.

32 **D Special (BLANK)**

Prior to the issue of a Construction Certificate, a Sustainability Management Plan outlining the specific sustainability measures to be installed in the central facilities building shall be submitted to and approved by Penrith City Council. The plan must:

- (i) confirm the total greenhouse gas savings achieved in comparison to a base case development (i.e. a development constructed in accordance with the minimum requirements of Section J of the BCA);
- (ii) include a calculation of water requirements and measures incorporated to reduce water use;
- (iii) include a program to monitor and report annually on the efficiency of the measures implemented; and
- (iv) provide for the inclusion of solar panels on the roof.

The sustainability measures outlined in the approved Sustainability Management Plan in the Construction Certificate drawings **prior to the issue of any Occupation Certificate**

33 **D Special BLANK**

The following waste management requirements must be complied with and details of compliance demonstrated to Council **prior to the issue of a Construction Certificate**:

- The waste collection rooms (Sabha Hall Building & Kitchen/Dining/Classroom Building) to provide waste collection rooms large enough to accommodate the full bin allocation in accordance with 3.4.1 of the 'industrial, commercial and mixed-use waste management guideline' document. Amended architectural's to illustrate the full bin allocation (1100L and 240L bins) stored within the on-site collection infrastructure.
- The waste collection rooms (Sabha Hall Building & Kitchen/Dining/Classroom Building) to include dual, outwards opening, sealed, self-closing, 1.8m wide doors for all access points to permit the movement of 1100L bins within the development.
- All on-site waste infrastructure to provide wash facilities through the use of a centralised mixing valve and hose cock. Respective drainage and water proofing to be installed to support the use of hose facilities.
- All on-site waste infrastructure to provide adequate light and ventilation in accordance with the Building Code of Australia.

34 **D Special BLANK**

Prior to the issue of an Occupation Certificate the following is to be submitted to and approved by Penrith City Council:

- Councils Waste and Resource Recovery Department to conduct a site inspection of the on-site infrastructure to permit a safe and efficient waste collection service.

35 **D Unexpected Finds Protocol**

Prior to the issue of a construction certificate, an Unexpected Finds Protocol (UFP) is to be developed by an appropriately qualified environmental consultant and submitted to Council for approval. The UFP is to address, at a minimum, the management of any contamination found on the site during the excavation and construction phases of the development for contaminated soils, groundwater, buried building materials, asbestos, odours and staining etc. The approved UFP is to be complied with at all times during the excavation and construction phases of the development.

BCA Issues

36 **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

37 **F001 - Food shop construction & plans**

The construction, fit out and finishes of the food premises must comply with Standard 3.2.3 of the Australian and New Zealand Food Standards Code, and AS 4674-2004 *Design, Construction and Fitout of Food Premises*.

38 **F Special (BLANK)**

Light bulbs or tubes are to be shatterproof or fitted with approved light diffusers (covers or shields) to prevent contamination of food by glass from a broken light globe or tube. Light fittings must be free from any feature that would collect dirt or dust, harbour insects or make the fitting difficult to clean. Light fittings must be recessed into ceilings or equipment where possible. Heat lamps must be protected against breakage by a shield extending beyond the bulb.

39 **F Special (BLANK)**

All food preparation benches must be constructed in stainless steel or finished in a smooth and non-absorbent approved material that is free of joints.

40 **F Special (BLANK)**

All fixtures, fittings and equipment must be provided with smooth and impervious surfaces, free from cracks and crevices to enable easy cleaning.

All fittings and fixtures must be built into the wall and floor so as to be free from joint, gaps and cavities to enable easy cleaning or alternatively, supported on one of the following:

a. Plinths – plinths must be an integral part of the floor, constructed of solid materials similar to the floor at least 75mm in height and coved at the intersection with the floor. All plinths must have a smooth and impervious finish. All fittings and fixtures must be properly sealed to the plinth so to be free from gaps, cracks and cavities.

b. Wheels or castors – fittings and fixtures can be supported on wheels or castors. The wheels and castors must be capable of supporting and easily moving a full loaded fitting. All wheels and castors must be provided with a restraining device.

c. Legs – fittings and fixtures can be supported on legs but must be constructed of a non-corrosive, smooth metal or moulded plastic. All legs must be free from cracks and crevices. All legs must have a clearance space between the floor and the underside of the fitting of at least 200 mm.

NOTE: False bottoms under fittings are not permitted (AS4674-2004 – Section 4.2 and 4.3).

41 **F Special (BLANK)**

The cleaners sink must be serviced with hot and cold water through taps fitted with hose connectors. Cleaner's sinks must be located outside of areas where open food is handled.

42 **F Sspecial (BLANK)**

Cooking appliances which exceed a total maximum power input of 8kw for electrical, or a total gas input of 29MJ/h for a gas appliance are required to have a kitchen exhaust system installed in accordance with Clause F4.12 of the Building Code of Australia and Australian Standard 1668, Parts 1 & 2.

Detailed plans together with calculations for the system must be provided as part of the Construction Certificate application.

The exhaust hood must completely cover the equipment to be ventilated and extend at least 200mm beyond the perimeter of the equipment. The exhaust hood must be provided with a condensation gutter around it's base. The gutter must be at least 50mm wide by 25mm deep. Where abutting walls are located the hood must be constructed so as to finish flat against the wall surface.

The low edge of a canopy type exhaust hood must be at least 2000mm above floor level.

Prior to the issue of an Occupation Certificate and operation of the business, the exhaust system shall be certified by an appropriately qualified person to comply with the Building Code of Australia and Australian Standard 1668, Parts 1 & 2. A copy of the certification and supporting documentation must be provided to Council's Environmental Health Department if Council is not the Principal Certifying Authority.

43 **F Sspecial (BLANK)**

A Food Safety Supervisor, with a current Food Safety Supervisor Certificate recognised by the NSW Food Authority, must be appointed by the business prior to commencement of the business.

44 **F Sspecial (BLANK)**

Hand basins in the kitchen and staff toilets must be serviced with hot and cold water through a single outlet, able to be mixed at a temperature of at least 40°C and fitted with a hands free operation. Where sensor taps are installed the basin must not be more than 6 metres from the hot water system. Disposable paper hand towels and soap must be provided and serviced from a dispenser adjacent to each hand basin.

45 **F Sspecial (BLANK)**

The floor of the food premises must be finished in an approved non absorbent material, evenly laid, or graded and drained to a trapped floor waste. All floor wastes in the food preparation, service and scullery area must be fitted with a sump removable basket and grate, a minimum 200mm in diameter, and finished in all stainless steel.

46 **F Sspecial (BLANK)**

The walls of the food preparation area must be of solid construction and finished with glazed ceramic tiles or other approved material to a height of 2 metres. The intersection of tiles and render must have a flush finish, or be splayed at a 45 degree angle to eliminate a ledge that would allow dust and grease to accumulate.

47 **F Sspecial (BLANK)**

The walls at the rear of cooking appliances must be surfaced with an impervious material, such as stainless steel, which extends from the canopy to the floor. Where a cooking appliance is sealed to the wall, the material must be lapped over the top edge of the appliance to provide a grease and vermin proof seal. Cooking appliances must only be sealed to walls made of a non-combustible material.

48 **F Sspecial (BLANK)**

The ceiling in the preparation, service and scullery areas must be constructed with a rigid, non-absorbent, smooth faced material free from open joints, cracks and crevices and be painted with a light coloured washable paint. The intersection of the walls and ceiling must be tight jointed, sealed and dust proofed. Drop-in panel style ceilings are not permitted.

49 **F Sspecial (BLANK)**

Service pipes, electrical conduits, refrigeration condensate pipes shall be enclosed or chased into walls, floors or plinths. Where it can be demonstrated that this is not feasible pipes and conduits fixed on brackets, providing a minimum of 25 mm clearance from the adjacent wall and 100 mm from the floor or adjacent horizontal surface, can be used. All openings in walls, floors and ceilings, through which service pipes and conduits pass, must be vermin proof.

50 **F Sspecial (BLANK)**

Appliances used to store potentially hazardous food must have a capacity to keep foods hotter than 60°C, refrigerated foods less than 5°C, and frozen foods less than 18°C and be provided with a digital thermometer, accurate to 1°C that can be easily observed from outside the appliance.

51 **F Sspecial (BLANK)**

Details of the dishwashing/glass washing machines must be submitted to Council and approved prior to installation. All utensils and equipment must undergo a washing, sanitising and rinsing cycle. The sanitising rinse cycle must achieve a water temperature of 80°C for 2 minutes or 75°C for 10 minutes.

52 **F Sspecial (BLANK)**

All wash sinks and food preparation sinks must be serviced with hot and cold water through a single outlet. Wash sinks must be supplied with water at a temperature of not less than 54 °C for washing.

Utility Services

53 **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.

54 **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.

55 **G Special (Sydney Water)**

Prior to the issue of any Construction Certificate, the approved plans must be submitted to the Sydney Water Tap in™ online service to determine whether the development will affect any Sydney Water sewer or water main, stormwater drains and/or easement, and if further requirements need to be met.

The Sydney Water Tap in™ online self-service replaces our Quick Check Agents as of November 2015.

The Tap in™ service provides 24/7 access to a range of services, including:

- building plan approvals
- connection and disconnection approvals
- diagrams
- trade waste approvals
- pressure information
- water meter installations
- pressure boosting and pump approvals
- changes to an existing service or asset, e.g. relocating or moving an asset.

Sydney Water's Tap in™ online service is available at:

<http://www.sydneywater.com.au/SW/plumbing-building-developing/building/sydney-water-tap-in/index.htm>

Construction

56 **H01F - Stamped plans and erection of site notice 2**

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 on completion of earthworks or construction works and when a Compliance Certificate has been issued by the Principal Certifying Authority certifying that the development has complied fully with the development consent and, where required, been constructed in accordance with the Construction Certificate.

57 **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

58 K101 - Works at no cost to Council

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

59 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 (02) 4732 7777 or visit Penrith City Council's website for more information.

60 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, 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) Road opening for utilities and stormwater (including stormwater connection to Penrith City Council roads and other Penrith City Council owned drainage)
- c) Road occupancy or road closures
- d) The placement of hoardings, structures, containers, waste skips, signs etc. in the road reserve
- e) 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 Works Department on (02) 4732 7777 or visit Penrith City Council's website for more information.

Note:

- a) 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.
- b) All works associated with the Roads Act approval must be completed prior to the issue of any Occupation Certificate or Subdivision Certificate as applicable.

61 K209 - Stormwater Concept Plan

The stormwater management system shall be provided generally in accordance with the concept plan/s lodged for development approval, prepared by INLINE Hydraulic Services, Project Number 2017-0260, Drawing Numbers HDA01-14 / P7, dated 21/9/20. Engineering plans and supporting calculations for the stormwater management system are to be prepared by a suitably qualified person and shall accompany the application for a Construction Certificate.

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

As amended on 10 November 2020 under Section 4.55(1A) of the Environmental Planning and Assessment Act 1979.

62 **K213 - Flooding - Flood Report Recommendations**

Prior to the issue of any Construction Certificate, the Certifying Authority shall ensure that the proposed development is compatible with the recommendations of the Flood Report prepared by (Wood & Grieve Engineers), Project number (33696), dated (6/11/2017).

Certifying Authority shall ensure that the size of proposed culvert is able to convey the 100 year flows. Evacuation route via internal access road shall be flood free up to 100 year storm event. An emergency evacuation plan shall be prepared by a suitable qualified person for Probable Maximum Flood.

63 **K220 - Overland Flow Report Recommendations**

Prior to the issue of any Construction Certificate, the Certifying Authority shall ensure that the proposed development is compatible with the recommendations of the Overland Flow Flood Report prepared by (Wood & Grieve Engineers), Project number (33696), dated (6/11/2017).

Certifying Authority shall ensure that the size of proposed culvert is able to convey the 100 year flows. An emergency evacuation plan shall be prepared by a suitable qualified person.

64 **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.

65 **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.

66 **K302 - Traffic Control Plan**

Prior to commencement of any works associated with the development, a Traffic Control Plan, including details for pedestrian management, shall be prepared in accordance with AS1742.3 "Traffic Control Devices for Works on Roads" and the Roads and Maritime Services' publication "Traffic Control at Worksites" and certified by an appropriately accredited Roads and Maritime Services Traffic Controller.

Traffic control measures shall be implemented during the construction phase of the development in accordance with the certified plan. A copy of the plan shall be available on site at all times.

Note:

- a) A copy of the Traffic Control Plan shall accompany the Notice of Commencement to Penrith City Council.
- b) Traffic control measures may require road occupancy / road closure approvals issued under Section 138 of the Roads Act by Penrith City Council prior to the issue of a Construction Certificate.

67 **K406 - Underground Services**

All existing (aerial) and proposed services for the development, including those across the frontage of the development are to be located or relocated underground in accordance with the relevant authorities regulations and standards.

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

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

69 **K502 - 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 Certificate where Council is not the Principal Certifying Authority.

70 **K503 - Stormwater Compliance**

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

- a) Stormwater management systems (including on-site detention and water sensitive urban design)
- 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.

71 **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.

72 **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.

73 **K Special (BLANK)**

All car parking and manoeuvring must be in accordance with AS 2890.1, AS 2890.2, AS 2890.6 and Council's requirements.

74 **K Special (BLANK)**

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

Prior to the issue of any Occupation Certificate, the Certifying Authority shall ensure that the direction of vehicular circulation, bus and car parking, waste and service vehicle areas are clearly indicated by signs and pavement arrows at the driveways, internal aisles, bus parking, car parking, waste and service vehicle areas. This shall include the internal loop vehicle connection in the two way aisle to allow drivers to return to the "in" driveway without exiting the site if required.

As amended on 10 November 2020 under Section 4.55(1A) of the Environmental Planning and Assessment Act 1979.

75 **K Special Condition (BLANK)**

Monitoring of the proprietary treatment device

a) The owner of the development must engage a suitably qualified independent consultant to develop and implement a stormwater monitoring program to determine the performance of the proprietary stormwater treatment devices adopted in the approved stormwater management plan for a minimum of two years, at no cost to Council.

The monitoring program shall demonstrate the performance of the stormwater treatment systems ability to meet the pollutant retention criteria outlined in Council's WSUD Policy.

An annual report of the monitoring and results must be prepared by a suitably qualified professional specialised in stormwater and must be submitted to Council for consideration.

b) Alternatively, the proponent must submit to Council for approval, further certification confirming performance of the treatment system from an independent stormwater treatment expert and supporting results based on the testing from a local field test site in Australian conditions.

Landscaping

76 L001 - General

All landscape works are to be constructed in accordance with the stamped approved plan and 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.

77 L002 - Landscape construction

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

78 L003 - Report requirement

The following series of reports relating to landscaping are to be submitted to the nominated consent authority at the appropriate time periods as listed below. These reports shall be prepared by a suitably qualified and experienced landscape professional.

i. Implementation Report

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.

An Occupation Certificate should not be issued until such time as a satisfactory Implementation Report has been received. If Penrith City Council is not the Principal Certifying Authority, a copy of the satisfactory Implementation Report is to be submitted to Council together with the Occupation Certificate for the development.

ii. Maintenance Report

On the first anniversary of the date of the Occupation Certificate issued for the development, a Landscape Maintenance Report is to be submitted to Penrith City Council certifying that the landscape works are still in accordance with the development consent and the plant material is alive and thriving.

79 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.

80 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.

81 L Special (BLANK)

A two year plant establishment period is to be undertaken by the landscape contractor.

82 L Special (BLANK)

Prior to the issue of a Construction Certificate, the principal certifier shall ensure the play grounds will be to the relevant Australian Standards and best practice (i.e. shade, soft fall).

Certification

83 **Q004 - Occupation Certificate (Staged DA)**

An Occupation Certificate shall be sought from the Principal Certifying Authority prior to occupation of or commencement of use of each stage of the development. Before the Occupation Certificate can be issued for each stage of the development, a Compliance Certificate or other documentation suitable to the Principal Certifying Authority shall be sought indicating that all conditions of this development notice, but not those conditions relating to the operations of the development, commensurate with that stage of the development have been satisfied or met prior to the occupation or use of that stage of the development.

A copy of the Compliance Certificate or other documentation shall be submitted to Penrith City Council if obtained from an accredited certifier. A copy of the Occupation Certificate is also to be submitted to Penrith City Council, if Council is not the Principal Certifying Authority.

Operation of OSSM

84 **R101 - Operational Approval prior to use**

The on-site sewage management (OSSM) system and effluent management area shall be installed and operated in accordance with the:

- "Environmental and Health Protection Guidelines On Site Sewage Management for Single Households"
- Australian Standards AS1547:2012,
- the intent of Australian Standards AS 1546
- Council's On-Site Sewage Management and Greywater Reuse Policy,
- current (at the time of installation) NSW Health Accreditation documentation,
- the 'Soil and Site Assessment for Onsite Wastewater Disposal' at 230-242 Aldington Road, Kemps Creek (2383WW V3.0) prepared by Harris Environmental Consulting dated 1/3/2019,
- the 'Wastewater Management Plan - Site Detail' (2812WW)(DWG#1 Issue E) prepared by Harris Environmental Consulting dated 12/6/2019,
- 'Aquacell Recycling System Proposal - Aquacell Water Recycling' (19-3003-1) for BAPS Hindu Temple at Kemps Creek prepared by Aquacell Pty Ltd dated 22/2/2019,
- And, the conditions of this consent.

Prior to the issue of the 'Approval to Operate', a Commissioning Certificate for the OSSM system shall be provided to Penrith City Council for approval. This Certificate shall certify that the wastewater treatment system has been installed and is operating in accordance with the requirements of the manufacturer and the above guidelines, standards and reports.

Prior to the issue of the Occupation Certificate and before the OSSM system can be used, an 'Approval to Operate' for the OSSM system is to be sought from and issued by Penrith City Council.

85 **R102 - OSSM System Type and Disposal Area (all systems)**

All wastewater generated on the site is to be diverted to an Aquacell Wastewater Treatment System and be disposed of by way of subsurface irrigation in the approved effluent management area. The effluent management area is to be located in accordance with the stamped approved 'Wastewater Management Plan - Site Detail' (2812WW)(DWG#1 Issue E) prepared by Harris Environmental Consulting dated 12/6/2019 and have a minimum primary area of 8423m² with a reserve area of 5035m².

The system and effluent management area are to be installed and managed in accordance with the:

- "Environmental and Health Protection Guidelines On Site Sewage Management for Single Households"
- Australian Standards AS1547:2012,
- the intent of Australian Standards AS 1546
- Council's On-Site Sewage Management and Greywater Reuse Policy,
- current (at the time of installation) NSW Health Accreditation documentation,
- the 'Soil and Site Assessment for Onsite Wastewater Disposal' at 230-242 Aldington Road, Kemps Creek (2383WW V3.0) prepared by Harris Environmental Consulting dated 1/3/2019,
- the 'Wastewater Management Plan - Site Detail' (2812WW)(DWG#1 Issue E) prepared by Harris Environmental Consulting dated 12/6/2019,
- 'Aquacell Recycling System Proposal - Aquacell Water Recycling' (19-3003-1) for BAPS Hindu Temple at Kemps Creek prepared by Aquacell Pty Ltd dated 22/2/2019,
- And, the conditions of this consent.

86 **R103 - Council inspections for Installation**

Penrith City Council is both the consent authority and certifying authority for the installation of the On-Site Sewage Management System (OSSM). **It is your responsibility to contact Council's Development Services Department to organise all inspections required for the installation of the system.**

In this regard, the Aquacell Wastewater Treatment System including all tanks and subsurface effluent management areas will need to be inspected on completion of the system's installation (before backfilling occurs) and prior to its commissioning, to ensure compliance with those conditions specific to the installation of the system.

A copy of the satisfactory inspection reports carried out by Council shall be submitted to the Principal Certifying Authority if Council is not the Principal Certifying Authority.

87 **R104 - No alterations without approval**

The onsite sewage management system and effluent management area shall not be altered without the prior approval of Council. In addition, the wastewater tanks shall not be covered. Structures are not to be constructed over the wastewater tanks which will prevent access. In the event structures are to be constructed over the wastewater tanks, a structural engineer must design all aspects of the proposed structure to ensure the safety of persons and so as the integrity of the wastewater tanks is not compromised.

88 **R105 - Plumbing Code of Australia**

All drainage and sanitary plumbing shall be carried out in accordance with the requirements of the Plumbing and Drainage Act 2011 and the Plumbing Code of Australia.

89 **R106 - AWTS - Design of Irrigation System**

The design of the irrigation system for the effluent management area is to be such that:

- The distribution line is to be buried from the treatment system to the designated effluent management area.
- The subsurface irrigation within the effluent management area cannot exceed the designated boundaries.
- The treated wastewater can be evenly irrigated across the entire designated effluent management area, avoiding the drip line of native trees.
- Sited so as not to contaminate the natural watercourse that traverses the subject property.

90 **R107 - AWTS - Irrigation pipework (surface or sub-surface)**

All irrigation pipework and fittings shall comply with AS2698 "Plastic Pipes and Fittings for Irrigation and Rural Applications". In this regard:

- the irrigation system is not to be connected to/not capable of connection to the mains water supply,
- standard household fittings, soaker hoses, garden sprinklers and standard water hose fittings are not to be used,

Sub surface -

- subsurface drip irrigation lines are also to be installed in accordance with AS 1547:2012 and are to evenly distribute treated effluent over the designated disposal area, and
- all subsurface drip irrigation is to be buried within a minimum of 250mm of topsoil in accordance with AS 1547:2012. Mulch is not to be used as part of the minimum top soil requirement.

91 **R109 - No effluent runoff**

There shall be no effluent runoff from the subject property to adjoining premises, public places or reserves.

92 **R110 - EMA Signage**

A minimum of two signs shall be erected within the effluent management area. These signs are to state "RECLAIMED EFFLUENT - NOT FOR DRINKING - AVOID CONTACT". The signage shall be maintained for the term of the development.

93 **R111 - AWTS Servicing**

The owner/occupier shall enter into an annual service contract with the manufacturer, distributor or other person authorised (in writing) by Penrith City Council to service the Aquacell Wastewater Treatment System every three (3) months (or more frequently if required by manufacturer) from the date of commissioning in the following manner:

i. A three monthly service shall include a check on all mechanical, electrical and functioning parts of the system including:

- the chlorinator,
- replenishment of the disinfectant,
- the UV disinfection unit,
- all pumps and switches,
- the air blower, fan or air venturi,
- the alarm system,
- the effluent disposal area and sub-surface irrigation lines and filters,
- the slime growth on the filter media, and
- the operation of the sludge returns system
- all other componentry as required by Aquacell Water Recycling.

ii. The following field tests are to be carried out at every service:

- free residual chlorine using DPD colorimetric or photometric method,
- pH from a sample taken from the irrigation chamber,
- dissolved oxygen from a sample taken from the final aeration or stilling chamber (although recommended) is optional.
- all other tests as required by Aquacell Water Recycling.

iii. On the yearly anniversary date of the commissioning of the system, an annual service of the system shall also be carried out which includes a check on the sludge accumulation in the septic tank (primary treatment tank) and the clarifier, where appropriate.

iv. For systems which utilise the sewage treatment principle of activated sludge or contact aeration, a sludge bulking test, known as a SV30 Test, shall also be conducted on an annual basis. This test is to determine whether the accumulated sludge is bulking, indicating that the aeration compartment(s) will require desludging.

v. On completion of each service, a service report sheet is to specify all service items and test results, the amount of chlorine compound provided, parts replaced (if applicable), the date the service was conducted and the technician's name. A copy of the service report is to be:

- given to the property owner and another to the applicant (if not the same), and
- forwarded to Penrith City Council.

Each service agent shall provide a registered business office which, if unattended during business hours, is provided with a telephone answering device or service. A means of reporting a malfunction or breakdown outside normal business hours shall be available. In the event of a breakdown or malfunction, the service agent shall, within 24 hours of the breakdown or malfunction, ensure that temporary repairs are carried out to the aerated system to ensure continued operation of the system. This may necessitate provision of adequate spare parts and temporary replacement blowers and irrigation pumps where repairs cannot be completed on site.

All servicing, maintenance and repairs to the Aquacell Wastewater Treatment System are to be undertaken by an appropriately qualified service technician with demonstrated experience with this system type.

94 **R113 - Decommission old system**

The contents of the existing septic tank are to be removed by a licensed waste contractor and deposited to an approved waste facility. The disconnected tank shall be removed, demolished or filled with clean soil and garden lime. Documentation of the collection and disposal of waste are to be retained and provided to Council on request.

95 **R114 - EMA Turfed**

The effluent management area is to be turfed to the satisfaction of Council. Where a specific variety of turf is identified in the approved Wastewater Report that variety is to be installed and maintained.

96 **R115 - No structures or access on EMA**

No concreting, driveways, vehicles or any other structure or access way is to be located over any portion of the effluent management area. The effluent management areas are to be fenced so as to restrict access to the public and visitors and are only to be accessed by authorised persons. Access is to be restricted to the Aquacell Wastewater Treatment System including all tanks.

97 **R116 - Diversion of stormwater**

All stormwater and seepage shall be diverted away from the wastewater treatment system and the effluent management area by using an agricultural drain or earthen bund and dish drain.

98 **R117 - No plants for human consumption within EMA**

Orchards, vegetable gardens or any other plant species that can be used for the purposes of human consumption are not to be planted within the effluent management area. Effluent from the onsite sewage management system is not to be used on fruit or vegetables grown for human consumption.

99 **R119 - Wastewater and Native Trees**

No wastewater associated with the onsite sewage management system is to be applied or irrigated within the drip line of any native trees within the effluent management area.

It is the responsibility of the applicant to ensure the ongoing health of the trees in relation to the effluent management area.

100 **R124 - Operational Wastewater Management Plan**

Prior to the issue of the Occupation Certificate, an Operational Wastewater Management Plan (OWMP) for the system is to be provided to Penrith City Council for consideration and approval. The OWMP shall be prepared by an appropriately qualified consultant in consultation with Council, and may need to be amended to include the comments provided by Council. The OWMP is to address:

- All environmental aspects of the operation of the on-site sewage management system
- All systems and controls to be implemented to minimise the potential for any adverse environmental impacts
- A program for ongoing monitoring and review to ensure that the OWMP remains contemporary with relevant environmental standards. Council is to be consulted prior to any amendments of the OWMP. Council may request a review of the OWMP or any proposed amendments.

The OWMP should include but is not limited to the following:

- System information (including specifications and site plans)
- Monitoring and testing
- Maintenance and servicing program (treatment system and irrigation system)
- System performance
- System failure contingency
- Odour management
- Landscape and disposal area management
- Health and safety
- Copy of the site and system specific Operation and Maintenance Manual

The on-site sewage management system is to be operated in accordance with the requirements of this Plan.

101 **R125 - Annual Environmental Performance Report**

Council is to be provided with an Annual Environmental Performance Report detailing the performance of the system including but not limited to the following information:

- Details and records of maintenance checks of disposal areas.
- Copies of maintenance report sheets.
- Results of effluent output testing.

The first Annual Environmental Performance Report is to be provided to Council 12 months after the system is commissioned.

102 **R126 - Testing of effluent output**

Annual testing of effluent output is to occur for the following parameters:

- Total Nitrogen
- Total Phosphorus
- Faecal Coliforms
- Biochemical Oxygen Demand
- Total Suspended Solids

Effluent is to be sampled by an appropriately qualified person and tested at a NATA accredited laboratory. The test results are to be provided to Council within 21 days of their receipt by the owner/operator. Testing is to occur at the stage of commissioning the system and every 12 months thereafter from the date of commissioning.

103 **R129 - Reserve area with plan**

The reserve effluent management areas, as marked on the 'Wastewater Management Plan - Site Detail' (2812WW)(DWG#1 Issue E) prepared by Harris Environmental Consulting dated 12/6/2019 are to be established with turf and are not to be used for any ancillary purpose. No materials are to be stored in the reserve areas, and the reserve areas are not to be developed. In the event that the primary effluent disposal area is to fail the reserve areas are to be used. Written approval is to be obtained from Penrith City Council prior to any works being undertaken.

104 **R Installation of Aquacell Wastewater Treatment System and effluent management area**

The Aquacell Wastewater Treatment System and subsurface effluent management irrigation area are to be installed by appropriately qualified persons with demonstrated training, experience and knowledge in the installation of these systems. Written confirmation of the installers is to be provided to Council prior to the issuing of an Occupation Certificate.

As amended on 28 February 2020. Deferred commencement conditions satisfied.