

PENRITH CITY COUNCIL

MAJOR ASSESSMENT REPORT

Application number:	DA18/1232.01
Proposed development:	Modification to Approved Vehicle Sale/ Hire Premises - Changes to Fencing Building Levels, Gate and Walls Added
Property address:	1 Willett Close, CRANEBROOK NSW 2749
Property description:	Lot 10 DP 286568
Date received:	15 May 2019
Assessing officer	Surreti Bajwa
Zoning:	IN2 Light Industrial - LEP 2010
Class of building:	Class 6
Recommendations:	Approve

Executive Summary

The subject application was lodged under Section 4.55(1A) of the Environmental Planning and Assessment Act 1979, proposing a number of internal, external and landscaping modifications to the approved building and associated works approved as part of DA18/1232. The subject site is located within the IN2 Light Industrial Zone and the proposed development is permissible with Council's consent.

History

On 2 April 2019, Development Application DA18/1232 was approved by Council for the use of the site as a vehicle sale/hire premises and construction of a two (2) storey building, including an office space, workshop and staff room and associate works including landscaping.

Assessment

Key issues identified with the proposed modifications include:

Fencing and landscaping: The proposed modifications provide changes to the location of the boundary fence from the approved location behind the landscape verge to in front (as seen from the streetscape). Chapter E3 of the Penrith Development Control Plan (DCP) 2014 requires that development within Waterside Corporate create opportunities for additional views within and through the site and that landscaping must comprise canopy trees under planted with suitable shrubs and/or ground cover. Chapter D4 provides objectives and controls for industrial land and stipulates that fencing may be positioned along the property boundary provided that it has an open style appearance. In this instance, the approved fencing is a metal palisade fence with the vertical pickets approximately 108mm apart. The permeable fence style will provide opportunities for passive surveillance.

Additionally, development north and north west of the subject site, fronting Renshaw Street provide a similar style and material of fencing located on the boundary line and landscaping provided behind it. A visit to these sites (being Wiggle and Giggles and Young Academic childcare centres) demonstrates that these open style fences allow for adequate opportunities for passive surveillance both into and out of the premises and the landscaping is predominantly visible. Taking this into consideration, the proposed location of the fence is considered acceptable, however per Condition 33 of the original consent, the applicant must ensure that a minimum of two (2) canopy trees are provided on site.

Additional planning matters concerning the proposed modifications are discussed in the appendix of this report under the DCP Compliance section.

An assessment under Section 4.15 and Section 4.55 of the Environmental Planning and Assessment Act 1979 has been undertaken and the Section 4.55 application is recommended for approval, subject to recommended consent condition amendments.

Site & Surrounds

Properties of the site

The site is located on the south-eastern corner of Renshaw Street and Willett Close. The site has a total area 1060m², is irregular in shape with three street frontages, Willett Close to the south and west and Renshaw Street to the north. The site is currently vacant, with no built form or land use being undertaken. The site is part of the Waterside Corporate Precinct and is located within an emerging light industrial area. The locality is a characterised by a residential, industrial and recreational uses.

Site constraints

It is noted that the site is identified as 'Bushfire Prone Land (Entirely)' per Council's internal mapping system. Notwithstanding this, the site is not located in close proximity to major bushland or vegetation and its bushfire prone status is largely related to historic hazards associated with grassland fuels on site and on adjacent lands. However, those grassland fuels have been removed as part of approved civil works associated with the construction and delivery of the industrial subdivision of Waterside Corporate, within which the site now sits.

The site is identified as possessing scenic and landscape values per the provisions of Penrith LEP 2010. The development sits within an emerging industrial precinct and its identification of the scenic protection is a consequence of its residential/industrial interface between Waterside Corporate and Waterside residential in addition to its proximity to Penrith lakes and the Nepean River.

The site is located within approximately 100m of Waterside residential and within 2km of the Nepean river. Notwithstanding this, due to the location of the site within the industrial precinct, it is expected to be 'absorbed' into the built landscape that forms part of the adjacent development. The minor increase in the height of the built form is unlikely to result in adverse visual impacts on residents or the scenic landscape values of the Nepean River.

History

The applicant attended a pre-lodgement meeting with Council staff on 27 September 2018 (PL18/0074).

Proposal

The specific elements of the proposed modification are as follows:

External:

- Building levels raised by 230mm to suit the drainage design drawings;
- Fence relocated to boundary line (consequently the landscaping will be located behind the fence line as opposed to in front);
- concrete wing walls proposed along the eastern side boundary as required for fire protection of the roller doors (located on the northern and southern elevations)

Internal

- Addition of accessible toilet on the ground floor;
- Addition of kitchenette in first floor staff room;
- relocation of internal staircase from office to the void area
- Addition of two (2) windows along internal walls of the first floor office and staff room (adjacent to the void above the ground floor workshop area).

Plans that apply

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

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

Under the provisions of Section 4.55(1A) of the Environmental Planning and Assessment Act 1979, Council may, in response to an application being made, issue consent to modify a development if:

(a) it is satisfied that the proposed modification is of minimal environmental impact, and

Comment: The modified proposal is considered to create minimal environmental impact noting the internal modifications provided to an approved building (as yet not constructed) and minor external modifications.

(b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and

Comment: The following test of 'substantially the same development' is noted;

In *Vacik Pty Ltd v Penrith City Council (1992) NSWLEC 8* the question of substantially the same development was considered by Stein J and in particular the meaning of the word 'substantially'. In his opinion, 'substantially' is taken in the context to mean 'essentially or materially or having the same essence'.

In *North Sydney Council v Michael Standley & Associates Pty Ltd (1998)* the NSWCA recognised that a modified development must be different in some respect to the approved development and used the formulation that 'modify' meant 'to alter without radical transformation'.

Based on the review of the relevant case law, the Section 4.55 application is considered to result in "substantially the same development" as the originally approved development and hence, may be considered.

(c) it has notified the application in accordance with:

(i) the regulations, if the regulations so require, or

(ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and

Comment: The Section 4.55 modification application was notified in accordance with Penrith Development Control Plan 2014, from 21 May 2019 to 14 June 2019.

(d) it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.

Comment: No submissions were received during the public notification period.

(3) In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 4.15 (1) as are of relevance to the development the subject of the application. The consent authority must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified.

Comment: Consent for the approved development was granted on 2 April 2019 by Penrith City Council. In accordance with Clause 4.55(3), the assessment report previously approved has been taken into consideration. The development as modified is regarded to maintain compatibility with the existing and future desired character of the surrounding area and is unlikely to negatively impact the locality with noise attenuation and traffic remaining largely unchanged.

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

Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

An assessment has been undertaken of the application against relevant criteria within Sydney Regional Environmental Plan No 20—Hawkesbury-Nepean River (No 2—1997) and the application is satisfactory subject to recommended conditions of consent.

Local Environmental Plan 2010 (Amendment 4)

Provision	Compliance
Clause 1.2 Aims of the plan	Complies

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

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

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

Development Control Plan 2014

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

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

There are no planning agreements applying to this application.

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

The proposed development complies with the requirements of the Regulations.

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

The likely impacts of the development, including streetscape appearance, bulk and massing, have been addressed earlier in this report. Overall, the proposed modification is considered to be acceptable when considering the resultant environmental impacts.

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

The approved development as modified by the current section 4.55(1A) application does not alter the suitability of the development to the site. The modifications sought as part of this application involve minimal environmental impact and will result in substantially the same development for which consent was originally granted.

Section 79C(1)(d) Any Submissions

Referrals

The application was referred to the following stakeholders and their comments have formed part of the assessment:

Referral Body	Comments Received
Development Engineer	No objections

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

The public interest is served through the detailed assessment of this application under the relevant local planning controls and legislation. The approved development as modified by the current modification application is not contrary to the public interest.

Conclusion

The proposed Section 4.55 modifications have been assessed against the relevant environmental planning policies including the *Penrith Local Environmental Plan 2010* and *Penrith Development Control Plan 2014* and in this regard, the proposal as amended is considered to satisfy the aims, objectives and provisions of these policies.

The proposal as amended is also not considered to create any significant impacts on the natural, social or economic environment and in this regard, the application is considered worthy of support and is recommended for approval subject to recommended consent condition amendments.

Recommendation

That DA18/1232.01 providing for modifications to an approved vehicle sale/hire premises be approved subject to the attached consent condition amendments.

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 attached plans and by the following conditions.

Drawing Title	Reference No.	Prepared By	Dated	Issue
Drainage Plan	-	Gerard Balkin	11/12/18	A
Site Plan	A001	Kleyn Creations	13/05/2019	A
Elevations	A200	Kleyn Creations	13/05/2019	A
Schedule of External Finishes	Sheet 10 of 11 habitat	habitat Design Studio	1/11/2018	
Ground & First Floor Plan	A100	Kleyn Creations	13/05/2019	A
Proposed Showroom	A301	Kleyn Creations	13/05/2019	A

Waste Management Plan, dated December 2018 accompanying the application

As amended on 28 June 2019 in accordance with the Section 4.55(1) of the Environmental planning and Assessment Act.

2 [A019 - OCCUPATION CERTIFICATE \(ALWAYS APPLY\)](#)

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

3 [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.

No signage or advertising structure(s) are to be displayed along the eastern wall or the wall extensions without Council approval.

As amended on 28 June 2019 in accordance with the Section 4.55(1) of the Environmental planning and Assessment Act.

4 [A029 - HOURS OF OPERATION AND DELIVERY TIMES](#)

The operating hours are from 8:00am to 6:00pm Monday to Sunday.

5 [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 and pedestrian entryways and exits. 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).

As amended on 28 June 2019 in accordance with the Section 4.55(1) of the Environmental planning and Assessment Act.

6 **A039 - Graffiti**

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

The wall extensions along the eastern boundary shall be finished in the same materials and colours as the approved development. Compliance with this condition is to be demonstrated to the Principal Certifying Authority, prior to the issue of any Occupation Certificate.

As amended on 28 June 2019 in accordance with the Section 4.55(1) of the Environmental planning and Assessment Act.

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

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

8 **A Special (BLANK)**

The operating noise levels inside the buildings involved in the future use will not exceed the noise level criterion shown in the following Table:

Noise descriptor	Time period	Criterion
Sleeping areas 10% of LA1 15min	10:00 pm to 7:00 am	60 dBA

Note: 10% of LA1 15min means the noise level which is exceeded by 10% of all of the valid LA1 15 min noise levels within the specified period.

Demolition

9 **B004 - Dust**

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

10 **B005 - Mud/Soil**

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

Environmental Matters

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

Erosion and sediment control measures shall be installed **prior to the commencement of works on site** including approved clearing of site vegetation. The erosion and sediment control measures are to be maintained in accordance with the approved erosion and sediment control plan(s) for the development and the Department of Housing's "Managing Urban Stormwater: Soils and Construction" 2004.

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

12 **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 Contaminated Land 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 Contaminated Land 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.

13 **D009 - Covering of waste storage area**

All waste materials stored onsite 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 the areas are to be fully enclosed when the site is unattended.

14 **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.

15 **D022 - Mechanical repairs**

No mechanical work including the painting of vehicles and preparation of vehicles for painting such as rubbing back and washing shall be carried out in open driveways or car Certificate application.

16 **D Special (BLANK)**

Spray painting is not permitted on the site.

17 **D Special (BLANK)**

No washing of vehicles is to be carried out. The installation of a wash bay will require consent from Penrith City Council.

18 **D Special (BLANK)**

No vehicle fuel or oil is to be stored on site.

BCA Issues

19 **E009 - Annual fire safety-essential fire safety (Class 2-9 buildings)**

The owner of a building, to which an essential fire safety measure is applicable, shall provide Penrith City Council with an annual fire safety statement for the building. The annual fire safety statement for a building must:

(a) deal with each essential fire safety measure in the building premises, and

(b) be given:

- within 12 months after the last such statement was given, or
- if no such statement has previously been given, within 12 months after a final fire safety certificate was first issued for the building.

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As soon as practicable after the annual fire safety statement is issued, the owner of the building to which the statement relates:

- must also provide a copy of the statement (together with a copy of the current fire safety schedule) to the Commissioner of New South Wales Fire Brigades, and
- prominently display a copy of the statement (together with a copy of the current fire safety schedule) in the building.

20 **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.

Construction

21 **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.

22 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.

23 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

24 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.

25 **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) Concrete footpaths and or cycleways
- 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 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) Separate approvals may also be required from the Roads and Maritime Services for classified roads.
- c) All works associated with the Roads Act approval must be completed prior to the issue of any Occupation Certificate or Subdivision Certificate as applicable.
- d) 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

26 **K210 - Stormwater Management**

The stormwater management system shall be provided generally in accordance with the concept plan/s lodged for development approval, prepared by Gerrard Balkin, reference number 2018-062 Sheet 1, revision A, dated 25/02/2019.

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.

27 **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.

28 **K Special (BLANK)**

All car parking and manoeuvring must be in accordance with AS2890.1-2004; AS2890.2- 2002; AS2890.6-2009 and Council's requirements.

29 **K Special (BLANK)**

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

30 [K Special \(BLANK\)](#)

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

A separate, clearly marked footpath or walkway is to be established from the proposed pedestrian gate to the entrance of the approved office building using lines painted on the ground or different coloured surfacing. Compliance with this condition is to be demonstrated to the Principal Certifying Authority, prior to the issue of any Occupation Certificate.

The pedestrian gate is to be shut to the public during any vehicle maneuvering within the northwestern portion of the site.

As amended on 28 June 2019 in accordance with the Section 4.55(1) of the Environmental planning and Assessment Act.

31 [K Special \(BLANK\)](#)

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

32 [K Special \(BLANK\)](#)

Prior to the issue of any Construction Certificate, the southern driveway is to be relocated so the edge of the driveway is a minimum 1m clear of the electrical boxes.

Landscaping

Prior to the issue of a Construction Certificate the following information must be submitted to the Principal Certifying Authority:

1. Plans demonstrating elevations of the fencing and the fence must be a maximum height of 2.5m (measured from natural ground level). The fence is to be an open style iron palisade coloured dark grey or black. The spacing between each metal infill shall be a minimum of 108.33mm as demonstrated on the originally approved site plan.
2. A landscape plan prepared by a qualified landscape architect or landscape consultant to a scale of 1:100 or 1:200, is to be submitted to the satisfaction of the Principal Certifying Authority with the following details:
 - The plan must demonstrate the planting of at least two (2) canopy trees on site;
 - The plans must demonstrate a landscape verge with a minimum width of 1.35m, consistent with Ground Floor Plan (Revision A) drawn by K Kleyn Creations, dated 13/05/2019). The landscaped area must comprise of deep soil landscaping;
 - Planting should consist of a variety of trees, shrubs and ground covers to contribute to biodiversity;
 - The plants and trees should ideally be comprised of native or indigenous species suitable to the existing site conditions such as soils, aspect, drainage and micro-climate;
 - Species selected should not include those listed in the Noxious Weeds Act 1993 or on the list of environmental weeds (see Appendix F5 Technical Information in Penrith DCP 2014);
 - The location of all proposed landscape features including materials to be used;
 - A detailed plant schedule which includes proposed species listed by botanical (genus and species) and common names, quantities of each species, pot sizes and the estimated size at maturity;
 - Consideration within the design should be given to the scale of planting in proportion to the proposed development, consistency with the existing landscape character of the area, potential views, solar access and privacy for neighbouring development.

The approved landscaping shall be maintained in a healthy state and high standard, 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.

Twelve months after the date of the occupation certificate, the landscape design must be submitted with a Maintenance Report. This is to certify that the landscaping works are still in accordance with the consent and that the plant material has established and is thriving.

As amended on 28 June 2019 in accordance with the Section 4.55(1) of the Environmental planning and Assessment Act.

Certification

34 **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 1979, 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 of 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.

Appendix - Development Control Plan Compliance

Development Control Plan 2014

D4 Industrial Development

4.1 Key precincts:

The subject site is not located within any industrial key precinct.

4.2 Building Height:

The proposed modifications include raising the building level by 230mm to suit the approved drainage design plan. The application was referred to Council's development Engineer and no objection or concerns were raised regarding the proposed level.

The proposed modification will result in a maximum building height of 7.31m which complies with maximum height of 12m standards of the Penrith LEP 2010 and considered to achieve a scale and height that is in keeping with the existing and desired future character of Waterside Corporate.

4.4 Building Design

The proposed modifications will not significantly alter the approved built form. The proposed wall extension along the eastern side boundary is to provide fire protection to the adjacent roller door openings located on the northern and southern elevations of the building. Notwithstanding this, a condition of consent will be imposed to ensure that no advertising structures are fixed/applied to the wall extensions and they be finished in the same materials and colours as the approved development to achieve an integrated design of the built form.

4.5 Storage of materials

The modifications do not propose to store materials external to the office building.

4.6 Accessing and Serving the site

The development has been approved with a combined entry and exit at the south eastern corner of the site with car parking provided at the southern boundary, in a location that will not require pedestrians to cross any vehicle movement paths.

Whilst located in an industrial area, it is not expected that heavy vehicles will access the site, however, an alternate ingress and egress to the site is available through the site and the proposed workshop along the northern boundary.

The proposed modifications include a pedestrian gate along the northern boundary (adjacent to the approved electrical sliding gate). Whilst the gate is an appropriate entry point from Renshaw Crescent, the applicant has not provided any safety measures for pedestrians. Accordingly, a condition of consent will be recommended for a separate, clearly marked footpath or walkway to be established from the proposed pedestrian gate to the entrance of the approved office building using lines painted on the ground or different coloured surfacing. Additionally conditions of consent will be imposed for the entrance to be adequately lit and be closed to the public during vehicular maneuverability within the north western portion of the site to ensure pedestrian safety.

4.7 Fencing

A 2.1m black, palisade type fencing was approved on the site perimeter behind the landscaped area. The proposed modification satisfies the DCP controls in that it will maximise natural surveillance from the street to the building and will not impede the natural flow of stormwater drainage. The proposal includes the relocation of the approved fence to the site boundary. Section 4.7 of the Industrial Chapter specifies:

*'3) Fencing may be positioned along the front property boundary only if:
a) the site is not located on, facing or fronting: i) Andrews Road, Castlereagh Road, Christie Street, Forrester Road, Great Western Highway, Mulgoa Road, Old Bathurst Road, Parker Street or any other classified road or major road; or
ii) The main road or collector road of the industrial precinct; and
iii) it is decorative fencing that has an open style appearance (metal, pool type fencing); and
iv) the fencing is complementary to the landscaping.'*

As discussed in the Executive summary, the proposal will not alter the fencing material and as such the open style fence will provide opportunities for looking in and out (passive surveillance). The boundary fencing in front of the landscaping verge is unlikely to negatively impact on the aesthetics of the landscaping as the fence will provide adequate permeability and visibility.

4.8 Lighting

The approved hours of operation are typically standard business hours and as such limited lighting will be required. The Statement of Environmental Effects submitted with the original application states that external lighting will be provided at the entrances and car park areas to assist in providing safety and security as well as convenience to site users. A condition of consent will be recommended for additional lighting to be provided adjacent to the proposed pedestrian gate along the northern boundary.

There are no adjacent or nearby uses that would be sensitive to lighting provided on site.