

# PENRITH CITY COUNCIL

## MAJOR ASSESSMENT REPORT

<b>Application number:</b>	DA18/0236.02
<b>Proposed development:</b>	Section 4.55(1a) Modification to the Buildings DADO Wall Panelling to Sheet Metal and Relocation of the Rainwater Tank to Aboveground
<b>Property address:</b>	15 Tresco Street, ST MARYS NSW 2760
<b>Property description:</b>	Lot 1 DP 1260273
<b>Date received:</b>	25 May 2020
<b>Assessing officer</b>	Jake Bentley
<b>Zoning:</b>	IN1 General Industrial - LEP 2010
<b>Class of building:</b>	Class 8
<b>Recommendations:</b>	Approve

### Executive Summary

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Council is in receipt of a modification application for amendments to the external finishes and materials of an approved cardboard waste recycling facility and amendments to its stormwater disposal system at 15 Tresco Street, St Marys. The modified proposal remains permissible with consent under the provisions of State Environmental Planning Policy (Infrastructure) 2007.

In accordance with Clause 4.4 of Appendix F4 in the Penrith Development Control Plan (DCP) 2014, the modification application did not require notification to surrounding property owners. As a result no submissions have been received.

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

### Site & Surrounds

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The subject site is legally identified as Lot 1 DP 1260273 with three street frontages being; Christie Street to the north, Tresco Street to the west and Bent Street to the South. The site has an irregular shape, an overall size of 1.518 hectares and is identified as being partly bush fire prone land and impacted by an easement for the purposes of a water pipe located within the south-eastern corner.

The site is occupied by a northern car parking area, central building and buildings along the eastern boundary as well as a storage area to the south of the site. It is noted that the Christie Street road reserve and the western boundary are densely vegetated. The site is benefited by approvals for the demolition of the existing central building, use as a truck depot, car parking rearrangement and construction of an associated office building to the north-western corner of the site as well as landscaping embellishment to the boundaries of the site (DA18/0189). In addition, the site is benefited by an approval for a cardboard baling facility within the south-eastern corner of the site connecting to the existing eastern boundary building (DA18/0236 as modified).

The surrounding sites are also zoned IN1 General Industrial under the provisions of Penrith Local Environmental Plan 2010 (PLEP) and are occupied by industrial uses.

## Proposal

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The modified proposal seeks approval for the following:

- Replacement of 3m high concrete panels to the eastern, southern and western facades of the building with consistent metal cladding, and
- Removal of the underground rainwater tank and installment of an above ground rainwater tank to the southern side of the building with associated changes to the stormwater drainage system.

## Plans that apply

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- Local Environmental Plan 2010 (Amendment 4)
- Development Control Plan 2014
- State Environmental Planning Policy (Infrastructure) 2007
- State Environmental Planning Policy No 55—Remediation of Land
- Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

## Planning Assessment

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- **Section 4.14 - Bushfire prone land assessment**

A small slither of the site within the north-eastern corner is identified as being bush fire prone land in accordance with the Bush Fire Prone Land Map. This affected area is outside of the modified proposal and therefore, bush fire considerations are not relevant.

- **Section 4.46 - Integrated development**

It is noted that the original application (DA18/0236) and previously modified proposal (DA18/0236.01) were issued general terms of approval from the Environmental Protection Authority (EPA) considering the development requires an environmental protection license. It is also noted that the previous modification application included changes to the internals of the facility being of an extent far greater than the changes within this modified proposal.

The subject modification application involves only minor amendments to the external finishes and stormwater disposal method of the development and in this regard, was not notified to the EPA. A review of Condition O4.1 of the issued general terms of approval does not indicate that any issues arise from the proposed stormwater drainage system amendments considering the condition provides provisions for situations when a stormwater management plan has not been prepared. In this regard, the modified proposal is not considered to generate any conflicts with the issued general terms of approval.

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

In accordance with Section 4.55(1A) of the Environmental Planning and Assessment Act 1979 a consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify a consent if:

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

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

*(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*

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

The proposed modification has been assessed in accordance with the above provisions as follows:

(a) The modified proposal involves minor amendments to the external building treatment and replacement of a below ground rainwater tank to an above ground rainwater located on the southern side of the building with associated amendments to the stormwater disposal system. In this regard, the modified proposal is of minimal environmental impact.

(b) The modified proposal remains substantially the same development to that as originally approved under DA18/0236.

(c) In accordance with Clause 4.4 of Appendix F4 in the Penrith Development Control Plan (DCP) 2014, the modification application did not require notification to surrounding property owners.

(d) No submissions were received.

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

# State Environmental Planning Policy (Infrastructure) 2007

## Clause 104 Traffic generating development

It is noted that any waste or resource management facility is identified as being traffic generating development however, the modified proposal does not provide for any traffic generating activities. It is also noted that the original and previously modified proposal were referred to the Roads and Maritime Services (RMS) which provided for recommended conditions of consent. These conditions will remain on the consent and there are no inconsistencies with the RMS requirements and the modified proposal. In this regard, concurrence from the RMS is not required for the modified proposal.

## Division 23 Waste or resource management facilities

The modified proposal remains permissible with consent in accordance with the provisions within this division.

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

In accordance with Clause 7 Contamination and remediation to be considered in determining development application a consent authority must not consent to the carrying out of any development on land unless:

*"(a) it has considered whether the land is contaminated, and*

*(b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*

*(c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose."*

The site remains suitable for the modified proposal considering land contamination was addressed under previous applications.

## Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

An assessment of the original proposal had been undertaken against relevant criteria within Sydney Regional Environmental Plan No. 20—Hawkesbury-Nepean River (No. 2—1997) which found the original approval to be satisfactory subject to recommended conditions of consent. An assessment of the modified proposal against this criteria has not altered the original findings.

## Local Environmental Plan 2010 (Amendment 4)

Provision	Compliance
Clause 1.2 Aims of the plan	Complies
Clause 2.3 Permissibility	Complies - See discussion
Clause 2.3 Zone objectives	Complies
Clause 4.3 Height of buildings	Complies - See discussion
Clause 7.4 Sustainable development	Complies
Clause 7.6 Salinity	Complies
Clause 7.7 Servicing	Complies

### Clause 2.3 Permissibility

As mentioned previously the modified proposal remains permissible under the provisions of State Environmental Planning Policy (Infrastructure) 2007.

### Clause 4.3 Height of buildings

The modified proposal does not provide for any building height increase from that already approved.

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

### **Draft Environment SEPP**

The Draft Environment SEPP was exhibited from 31 October 2017 to 31 January 2018. This consolidated SEPP proposes to simplify the planning rules for a number of water catchments, waterways, urban bushland, and Willandra Lakes World Heritage Property. Changes proposed include consolidating a total of seven existing SEPPs being:

- State Environmental Planning Policy No. 19 – Bushland in Urban Areas
- State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011
- State Environmental Planning Policy No. 50 – Canal Estate Development
- Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment
- Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (No.2-1997)
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005
- Willandra Lakes Regional Environmental Plan No. 1 – World Heritage Property.

It is noted that the amendments to Sydney Regional Environmental Plan No 20 – Hawkesbury – Nepean River (No. 2 – 1997) do not impact the modification application. In this regard, the modified proposal is not inconsistent with the provisions of this Draft Instrument.

### **Draft Remediation of Land SEPP**

The Department of Planning and Environment has announced a Draft Remediation of Land SEPP, which will repeal and replace the current State Environmental Planning Policy No 55—Remediation of Land.

The proposed new land remediation SEPP will:

- provide a state-wide planning framework for the remediation of land,
- maintain the objectives and reinforce those aspects of the existing framework that have worked well,
- require planning authorities to consider the potential for land to be contaminated when determining development applications and rezoning land,
- clearly list the remediation works that require development consent, and
- introduce certification and operational requirements for remediation works that can be undertaken without development consent.

It is also proposed that it will transfer the requirements to consider contamination when rezoning land to a direction under Section 9.1 of the Environmental Planning and Assessment Act 1979. Whilst the proposed SEPP will retain the key operational framework of SEPP 55, it will adopt a more modern approach to the management of contaminated land. Noting the above, the Draft SEPP will not alter or affect the findings in respect to contamination of the site.

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

### Development Control Plan 2014

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

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

The modified consent will ensure that all conditions of consent relating to compliance with the Building Code of Australia and the regulations are retained.

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

The modified proposal is not considered to generate any adverse impacts to the built form, landscaping or the stormwater disposal system noting the minor extent of the proposed changes.

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

The site remains suitable for the modified proposal.

### Section 4.15(1)(d) Any Submissions

#### Community Consultation

In accordance with Clause 4.4 of Appendix F4 in the Penrith Development Control Plan (DCP) 2014, the modification application did not require notification to surrounding property owners. As a result no submissions have been received.

## Referrals

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

Referral Body	Comments Received
Building Surveyor	No objections - subject to conditions
Development Engineer	No objections - subject to conditions
Environmental - Environmental management	No objections - subject to conditions
Environmental - Waterways	No objections - subject to conditions
Traffic Engineer	No objection subject to conditions

### Development Engineer

The proposed modification application was not referred to Council's Building Surveying, Environmental Management, Environmental Waterways and Traffic Engineering Departments. These department appears on the report because they were used to extract conditions from the previous modification in order to ensure the conditions imposed on this modified consent are consistent.

It is noted that Council's Development Engineering Department did receive a referral for the modified proposal and raised not objections subject to one condition amendment.

### Section 4.15(1)(e)The public interest

There are no significant issues relating to the public interest envisioned as a result of the modified proposal.

### Section 94 - Developer Contributions Plans

The modified proposal does not trigger the requirement for any development contributions.

## Conclusion

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In assessing the modified development against the relevant environmental planning policies, being State Environmental Planning Policy (Infrastructure) 2007, Penrith Local Environmental Plan 2010 and Penrith Development Control Plan 2014, the modified proposal satisfies the aims, objectives and provisions of these policies. The site is suitable for the modified proposal and there are no negative impacts envisioned as a result of the modified proposal. Therefore, the application is worthy of support, subject to recommended condition amendments and additions.

## Recommendation

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That DA18/0236.02 for amendments to the external finishes and stormwater disposal method associated with an approved cardboard waste recycling facility at 15 Tresco Street, St Marys be approved, subject to the attached recommended condition amendments and additions.

# CONDITIONS

## General

### 1 A001

The development must be implemented substantially in accordance with the 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.

Title	Reference	Issue	Author	Date
Site Plan	P3932/A101	A	Algorry Zappia & Associates	26/02/18
Floor Plan	P3932/A200	A	Algorry Zappia & Associates	26/02/18
Elevations & Section A	P3932/A300	A	Algorry Zappia & Associates	26/02/18
External Colour Schedule	P3932/A400	A	Algorry Zappia & Associates	26/02/18
Landscape Plan (1)	LPDA 18-176	A	Conzept Landscape Architects	12/01/18
Landscape Plan (2)	LPDA 18-176	A	Conzept Landscape Architects	12/01/18
Specification and Detail	LPDA 18-176	A	Conzept Landscape Architects	12/01/18
Stormwater Drainage Concept Plan	P3932/D01	B	Algorry Zappia & Associates	08/03/18
<b>As amended 24 October 2019 under Section 4.55 (1A) of the Environmental Planning Assessment Act 1979 (as amended) by the following plans:</b>				
Site Plan	P3932/A101	C	Algorry Zappia & Associates	19/09/19
Floor Plan	P3932/A200	C	Algorry Zappia & Associates	19/09/19
Elevations & Section A	P3932/A300	C	Algorry Zappia & Associates	19/09/19
External Colour Schedule	P3932/A400	C	Algorry Zappia & Associates	19/09/19
Stormwater Drainage Concept Plan	P3932/D01	E	Algorry Zappia & Associates	23/09/19
Sediment Control Plan	P3932/D02	D	Algorry Zappia & Associates	23/09/19
<b>As amended on 30 July, 2020 under Section 4.55(1A) of the Environmental Planning and Assessment Act 1979 by the following plans</b>				
Site Plan	P93932/A100	E	Algorry Zappia & Associates	22/04/2020
Baling Facility Floor Plan	P3932/A200	E	Algorry Zappia & Associates	22/04/2020
Elevations & Section A	P3932/A300	E	Algorry Zappia & Associates	22/04/2020
External Colours Schedule	P3932/A400	E	Algorry Zappia & Associates	22/04/2020
Stormwater Drainage Concept Plan	P3932/D01	G	Algorry Zappia & Associates	29/04/2020

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

A copy of the General Terms of Approval issued by the Environment Protection Authority (EPA) dated 27 August 2019, pursuant to Section 4.46 of the *Environmental Planning and Assessment Act 1979* shall be submitted to the Principal Certifying Authority, prior to the commencement of the development. A copy of the approval shall be submitted to Penrith City Council with the copy of the Occupation Certificate, if Council is not the Principal Certifying Authority.

**As amended 24 October 2019 under Section 4.55 (1A) of the Environmental Planning Assessment Act 1979 (as amended).**



- 3 [A008 - Works to BCA requirements \(Always apply to building works\)](#)  
The work must be carried out in accordance with the requirements of the Building Code of Australia. If the work relates to a residential building and is valued in excess of \$20,000, then a contract of insurance for the residential development shall be in force in accordance with Part 6 of the Home Building Act 1989.

{Note: Residential building includes alterations and additions to a dwelling, and structures associated with a dwelling house/dwelling such as a carport, garage, shed, rural shed, swimming pool and the like}.

4 [A014 - LOT CONSOLIDATION](#)

**Prior to the issue of a Construction Certificate**, Lot 202 in Deposit Plan 31911 and Lot 15 in Deposited Plan 851972 are to be consolidated as one lot. Written evidence that the request to consolidate the lots has been lodged with NSW Land Registry Services is to be submitted to the certifying authority before the Construction Certificate for the development can be issued by the certifier.

**Prior to the issue of an Occupation Certificate**, a copy of the registered plan of consolidation from NSW Land Registry Services is to be submitted to the Principal Certifying Authority (PCA) and Penrith City Council, if Council is not the PCA.

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

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

6 [A026 - Advertising sign \(not for residential\)](#)

A separate development application for the erection of a sign or advertising structure, other than the signage approved by this consent or listed as exempt development, is to be submitted to Penrith City Council, complying with the requirements of Penrith Development Control Plan.

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

The operating hours of the cardboard baling facility are from 7.00am to 7.00pm Mondays to Fridays.

8 [A046 - Obtain Construction Certificate before commencement of works](#)

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

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

The conditions issued by Roads and Maritime Services (Dated 21 June 2018, Reference SYD18/00610) must be complied with and forms part of this consent.

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

The General Terms of Approval issued by NSW Environment Protection Authority under the *Protection of the Environment Operations Act 1997* dated 27 August 2019, must be complied with and forms part of this consent.

***As amended 24 October 2019 under Section 4.55 (1A) of the Environmental Planning Assessment Act 1979 (as amended).***

## Demolition

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

The existing administration building, petroleum storage tank and associated structures (other than the workshop) are to be demolished as part of the approved work.

12 [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**.

### 13 B003 - ASBESTOS

**Prior to commencement of demolition works on site**, a portaloos 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.

## Environmental Matters

### 14 D004 - Dust

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

### 15 D005 - Mud/Soil

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

### 16 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 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: An appropriately qualified person is defined 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.

### 17 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.

### 18 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.

#### 19 [D131 - Approved noise level 2](#)

Noise levels from the premises shall not exceed the relevant noise criteria detailed in '*Noise Impact Assessment for Remondis Australia Pty Ltd 15 Tresco Street and 11A Bent Street, St Marys*' prepared by Benbow Environmental dated February 2018. The provisions of the Protection of the Environment Operations Act 1997 apply to the development, in terms of regulating offensive noise. Should Council determine that offensive noise is being generated from the premises, an acoustic assessment is to be carried out by a qualified and experienced consultant in accordance with the *Policy for Industrial Noise* (NSW EPA 2017) and other relevant guidelines. The report shall provide mitigation measures for offensive noise generated at the premises.

#### 20 [D Special Environment Protection License](#)

**Prior to the issue of a Construction Certificate**, An Environment Protection License shall be obtained from the NSW Environment Protection Authority. A copy of the approved license shall be provided to Penrith City Council with the construction certificate application.

### BCA Issues

#### 21 [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.

#### 22 [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.

### Utility Services

#### 23 [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.

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

#### 24 [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 **prior to the 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.

# Construction

## 25 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 are 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.

## 26 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.

## 27 H022 - Survey

The building shall be set out by a registered surveyor. A Survey Certificate shall be undertaken and submitted to the Principal Certifying Authority when the building is constructed to ground floor slab level.

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

Demolition and construction works that are carried out in accordance with an approved consent that involve the use of heavy vehicles, heavy machinery and other equipment likely to cause offence to adjoining properties shall be restricted to the following hours in accordance with the NSW Environment Protection Authority Noise Control Guidelines:

- Mondays to Fridays, 7am to 6pm
- Saturdays, 7am to 1pm (if inaudible on neighbouring residential premises), otherwise 8am to 1pm
- No work is permitted on Sundays and Public Holidays.

Other construction works carried out inside a building/tenancy and do not involve the use of equipment that emits noise are not restricted to the construction hours stated above.

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

## Engineering

### 29 [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.

### 30 [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.

### 31 [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 application, 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, waster 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.
- 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.
- Separate approvals may also be required from the Roads and Maritime Services for classified roads.
- All works associated with the Roads Act approval must be completed prior to the issue of any Occupation Certificate or Subdivision Certificate as applicable.

32 **K210 - Stormwater Management**

The stormwater management system shall be consistent with the plan lodged for development approval, prepared by Algorry Zappia & Associates, reference number P3932 D01, revision G, dated 29.04.2020.

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.

***As amended on 30 July, 2020 under Section 4.55 (1A) of the Environmental Planning Assessment Act 1979.***

33 **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, AS2890.2, AS2890.6 and Penrith City Council's Development Control Plan.

34 **K301 - Sediment & Erosion Control**

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

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

35 **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.

- A copy of the Traffic Control Plan shall accompany the Notice of Commencement to Penrith City Council.
- 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.

36 **K405 - Turf to Verge**

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

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

**Prior to the issue of any Occupation Certificate**, 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.

38 **K503 - Stormwater Compliance**

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

39 [K503 - Works as executed – General and Compliance Documentation](#)

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

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

40 [K504 - Restriction as to User and Positive Covenant](#)

**Prior to the issue of an Occupation Certificate** a restriction as to user and positive covenant relating to the stormwater management systems (including on-site detention and water sensitive urban design) 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 Drainage for Building Development.

41 [K510 - Entry/ Exit signage](#)

**Prior to the issue of any Occupation Certificate**, signage which is clearly visible from the public road shall be placed within the development site.

The signage shall indicate that the industrial vehicular access on Tresco Street is to be used for ingress purposes only and appropriately signposted "Entry Only". The industrial vehicular access on Bent Street is to be used for egress purposes only and appropriately signposted "No Entry".

42 [K511 - Directional signage](#)

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

43 [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.

## Landscaping

44 [L001 - General](#)

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

Landscaping shall be maintained:

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

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

45 [L008 - Tree Preservation Order](#)

No trees are to be removed, ringbarked, cut, topped or lopped or wilfully destroyed (other than those shown on the approved plans or identified in the Arboricultural Impact Assessment, prepared by Advanced Treescape Consulting, dated 19/02/2018) without the prior consent of Penrith City Council and in accordance with Council's Tree Preservation Order and Policy.

46 [L Special \(BLANK\)](#)

**Prior to the issue of an Occupation Certificate**, street trees are to be planted as per the stamped approved landscape plan. All works are to be in accordance with Penrith City Council's Design Guidelines for Engineering Works for Subdivisions and Developments and Penrith Development Control Plan 2014.

## Certification

47 [Q009 - Strata Certificate](#)

Deleted

***As amended 24 October 2019 under Section 4.55 (1A) of the Environmental Planning Assessment Act 1979 (as amended).***

48 [Q01F - Notice of Commencement & Appointment of PCA2 \(use for Fast Light only\)](#)

Prior to the commencement of any earthworks or construction works on site, the proponent is to:

- (a) employ a Principal Certifying Authority to oversee that the said works carried out on the site are in accordance with the development consent and related Construction Certificate issued for the approved development, and with the relevant provisions of the Environmental Planning and Assessment Act and accompanying Regulation, and
- (b) submit a Notice of Commencement to Penrith City Council.

The Principal Certifying Authority shall submit to Council an "Appointment of Principal Certifying Authority" in accordance with Section 81A of the Environmental Planning and Assessment Act 1979.

Information to accompany the Notice of Commencement

Two (2) days before any earthworks or construction/demolition works are to commence on site (including the clearing site vegetation), the proponent shall submit a "Notice of Commencement" to Council in accordance with Section 81A of the Environmental Planning and Assessment Act 1979.

49 [Q05F - Occupation Certificate for Class10](#)

An Occupation Certificate is to be obtained from the Principal Certifying Authority on completion of all works and prior to the occupation of the building.

The Certificate shall not be issued if any conditions of this consent, but not the conditions relating to the operation of the development, are outstanding.

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



50 **Q Special (BLANK)**

The rainwater tank is to be:

- erected on a self-supporting base in the approved location on the property in accordance with the stamped-approved site plans for the development,
- structurally sound and constructed in accordance with AS/NZS 3500 1.2- 1998: National Plumbing and Drainage - Water Supply - Acceptable Solutions,
- fully enclosed and all openings sealed to prevent access by mosquitoes,
- fitted with a first flush device,
- fitted with a trickle system to top up from mains water,
- provided with an air gap, and
- installed by a licensed plumber in accordance with Sydney Water's "Plumbing requirements Information for rainwater tank suppliers and plumbers April 2003" and the NSW Code of Practice: Plumbing and Drainage.

Additionally, the following are to be provided:

- A back flow prevention device shall be provided at the water meter in accordance with Sydney Water requirements,
- In the event of a power failure, a back up supply of mains water shall be provided to at least one toilet,
- The rainwater tank and associated piping is to be labelled 'Rainwater - Not for Drinking' in accordance with Sydney Water requirements,
- The rainwater tank and pipework is to be painted in colours matching the external finishes of the building and is to be of non-reflective finish,

Before a rainwater tank can be used, a certificate or suitable document is to be submitted to the Principal Certifying Authority stating that the rainwater tank has been installed in accordance with:

- the Manufacturer's Specifications, and
- Sydney Water and NSW Health requirements.

This certificate or documentation is to be provided by the licensed plumber who installed the rainwater tank on the property, and is to be submitted **prior to the issue of the Occupation Certificate**.

***Added on 30 July 2020 under Section 4.55(1A) of the Environmental Planning and Assessment Act 1979.***

51 **Q Special (BLANK)**

The catchment area for the rainwater tank includes the parts of the roof from which water is collected and includes gutters. To ensure a safe supply of water:

- roof catchment areas must be kept clear of overhanging vegetation,
- gutters must have sufficient fall to downpipes to prevent pooling of water,
- overflow, discharge from bleed off pipes from roof mounted appliances such as air conditioners, hot water services and solar heaters must not discharge into the rainwater catchment area,
- for roofs containing lead based, tar based or asbestos material the tank supply must not be connected to drinking, bathing and gardening tap water outlets, and
- appropriate measures must be installed to prevent foreign materials from contaminating the water which enters the rainwater tank.

***Added on 30 July, 2020 under Section 4.55(1A) of the Environmental Planning and Assessment Act 1979.***

52 **Q Special (BLANK)**

The rainwater tank supply must not be connected to drinking and bathing water tap outlets.

***Added on 30 July, 2020 under Section 4.55(1A) of the Environmental Planning and Assessment Act 1979.***

53 **Q Special (BLANK)**

The exit pathway to the south of the building shall maneuver around the rainwater tank in a manner which does not impact approved landscaping.

***Added on 30 July, 2020 under Section 4.55(1A) of the Environmental Planning and Assessment Act 1979.***

# Appendix - Development Control Plan Compliance

## Development Control Plan 2014

### Part C - City-wide Controls

#### C3 Water Management

The modified proposal has been referred to Council's Development Engineering Department which have raised no issues with the under ground rainwater tank now being provided above ground and relocated to the south of the building. The modified rainwater tank will be setback behind approved dense vegetation and recommended conditions of consent will ensure the rainwater tank is treated with a colour complimenting the surrounds to ensure it is visually appropriate.

#### C6 Landscape Design

The above ground rainwater tank will be located on an approved exit pathway to the south of the building. In this regard, a recommended condition of consent will ensure the pathway maneuvers around the above ground rainwater tank. A review of the approved landscape plans shows that there is sufficient space for the pathway to maneuver around the rainwater tank without providing for any conflicts with the approved landscaping facing Bent Street.

### D4 Industrial Development

#### D4.4 Building Design

This section of the DCP encourages a blend of external finishes and treatments and states that large unrelieved expanses of wall or building mass will not be supported. The modified proposal seeks to remove the lower 3m high portion of concrete panel wall and replace it with metal cladding for the full extent of the eastern, southern and western elevations. A review of the site surrounds shows that the neighbouring eastern property has a building hard up against the boundary therefore, blocking views of the building noting the 3.05m eastern boundary setback.

In addition, the proposed landscaping to Bent Street includes numerous plantings with a 3m height, limiting views to the 3m high concrete panel wall. Further to the above, a review of the plans shows that the use of metal cladding minimises the overall extent of the building when compared to the plans showing the concrete panel wall.

In consideration of the above and that the proposal utilises a variety of external colours, vertical and horizontal cladding, an awning and steps in the built form both vertically and horizontally (when combined with existing structures) the modified proposal is considered to provide for appropriate building articulation.