

# PENRITH CITY COUNCIL

## MAJOR ASSESSMENT REPORT

<b>Application number:</b>	DA17/0279
<b>Proposed development:</b>	Alterations & Additions to Building "Z" of Western Sydney University's Penrith-Kingswood Campus & Associated Works
<b>Property address:</b>	56 Second Avenue, KINGSWOOD NSW 2747
<b>Property description:</b>	Lot 2 DP 1130750
<b>Date received:</b>	10 April 2017
<b>Assessing officer</b>	Lauren Van Etten
<b>Zoning:</b>	E2 Environmental Conservation - LEP 2010 SP2 Infrastructure - Educational Estab - LEP 2010
<b>Class of building:</b>	Class 9b
<b>Recommendations:</b>	Approve

## Executive Summary

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A Development Application has been received from Western Sydney University for building alterations and additions at Lot 2 DP 1130750, No. 56 Second Avenue Kingswood. The subject portion of the site is zoned SP2 Infrastructure Educational Establishment under the Penrith Local Environmental Plan (LEP) 2010. Educational establishments are permissible in this zone. Clause 28 of the State Environmental Planning Policy (Infrastructure) 2007 (Infrastructure SEPP) also permits 'educational establishments' with consent in this zone.

The proposed development is Crown Development and has a capital investment value in excess of \$5 million. As such, the Sydney West Planning Panel has the function of determining the application in accordance with Section 23G of the Environmental Planning and Assessment Act 1979.

The proposed development has been advertised in the local newspaper and notified to the owners and occupiers of adjoining and nearby properties with the exhibition period being from 28 April to 19 May 2017. No public submissions were received in relation to the proposal.

An assessment of the proposed development under Sections 23G, 79C, and 89 of the Environmental Planning and Assessment Act 1979 has been undertaken. The proposed development is in accordance with the relevant provisions of the Environmental Planning Instruments and Development Control Plan applicable to the subject site and is unlikely to have a negative impact on the surrounding environment. The proposed building alterations and additions do not involve an increase in the number of university students enrolled nor staff employed. The building site is suitable for the proposed development and the proposal is in the public interest.

In accordance with Section 89(1)(b) of the Environmental Planning and Assessment Act 1979, draft conditions of consent were forwarded to the applicant for consideration. In response, the applicant advised of their agreement to the recommended conditions of consent appended to this report.

It is therefore recommended that the application be approved, subject to recommended conditions of consent.

There are 5 appendices to this report, as detailed below.

- Appendix 1 – Existing Site Plan and Location Plan;
- Appendix 2 – Floor Plans;
- Appendix 3 – Elevations;
- Appendix 4 – Landscape Plan; and
- Appendix 5 – Applicant's Concurrence to Recommended Conditions of Consent.

## Site & Surrounds

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The subject site is described as Lot 2 DP 1130750, 56 Second Avenue, Kingswood and is occupied by the Western Sydney University's Penrith Kingswood campus.

The site covers a total area of 55.96 hectares having frontage to Second Avenue to the north, O'Connell Street to the east, residential development to the south and residential development and a school to the west. The site is approximately 350m south of the Great Western Highway and 1.3km north of the M4 Motorway.

The site of the proposed building works is located within the southern extent of the campus to the south-west of the existing Building Z and its car parking area. Existing toilets are provided within the ground floor of Building Z.

## Proposal

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The Development Application seeks consent for the following:

- Construction of a two storey building addition, incorporating an additional gross floor area of 1,845m<sup>2</sup> and a range of facilities including:
  - Undergraduate teaching laboratories (materials testing, nanotechnology, soil);
  - Workshops (concrete/metal/woodwork);
  - Printing laboratories (3D printing/3D metal printing);
  - Computer Laboratories, including virtual/BIM;
  - Project Rooms (commercial contracts, construction prototype, solar car/FSAE);
  - Meeting/collaborative space;
  - Research and office space;
- Removal of 22 car parking spaces to accommodate the new building addition; and
- Associated landscaping and stormwater drainage works.

Refer to Appendices 1-4 for copies of the submitted plans which show details of the proposed works.

The following plans/documents have accompanied the Development Application:

- Architectural Plans prepared by Integrated Design Associates;
- Statement of Environmental Effects prepared by JBA;
- Assessment of Traffic and Parking Implications prepared by Transport and Traffic Planning Associates;
- Landscape Plan prepared by Integrated Design Associates;
- Stormwater Management Strategy prepared by Wood & Grieve Engineers;
- Waste Management Plan prepared by Charles Vella;
- Heritage Impact Statement prepared by Integrated Design Associates; and
- Civil Plans prepared by Wood & Grieve Engineers.

## 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 23G - Sydney West Planning Panel (SWPP)**

Under Section 23G of the Environmental Planning and Assessment Act 1979, a regional panel is taken to be the Council whose functions are conferred on a regional panel.

Development Applications for development by a Crown Authority with a Capital Investment Value (CIV) greater than \$5 million are to be determined by the relevant regional panel. The proposed development is on behalf of Western Sydney University and has a CIV of \$5.79 million. The Sydney West Planning Panel therefore has the function of determining the subject Development Application in accordance with Section 23G of the Environmental Planning and Assessment Act 1979 and Section 18 of the Greater Sydney Commission Act 2015.

### • **Section 79C - Evaluation**

The proposed development has been assessed against Sections 79C of the Environmental Planning and Assessment Act 1979 (the Act) and based on this assessment, the following issues have been identified for consideration.

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

### **State Environmental Planning Policy (Infrastructure) 2007**

#### ***Division 3 Educational Establishments***

Clause 28(1) states that development for the purpose of an educational establishment is permitted with consent in a prescribed zone. In this case, a SP2 Infrastructure Educational Establishment zone is a prescribed zone and as a result the proposed alterations and additions for an educational establishment is a permissible

form of development with consent.

Western Sydney University as a Public Authority will undertake the required demolition as Development Permissible Without Consent under Clause 29.

#### ***Division 17 Roads and Traffic***

Clause 104 states that any development that meets or exceeds the thresholds in Column 1 of the Table to Schedule 3 is required to be referred to Roads and Maritime Services (RMS) for comment. The Table to Schedule 3 states that an educational establishment that has a capacity of 50 or more students constitutes "traffic generating development". As the proposed development will not result in any additional students or staff on the site, no referral was required.

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

State Environmental Planning Policy No 55—Remediation of Land (SEPP 55) aims to provide a framework for the assessment, management and remediation of contaminated land throughout the State. Clause 7 of SEPP 55 specifically prevents consent authorities from consenting to a development unless it has considered whether the land is contaminated and is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which development is proposed to be carried out.

While there is a car park which will be removed and partly modified to a landscaped area and slab, bitumen is not captured as a potentially contaminating activity in Table 1 of the Managing Land Contamination Planning Guidelines. However, to address any unexpected finds that may result from excavation, a recommended condition of consent requires that should any "unexpected finds" occur during site excavation and earthworks including, but not limited to, the identification/finding of contaminated soils, buried building materials, asbestos, odour and/or staining, works on the site are to cease immediately and Council is to be notified.

Any such "unexpected finds" will need to be investigated and addressed by an appropriately qualified environmental consultant, in line with the relevant EPA Guidelines and the National Environment Protection (Assessment of Site Contamination) Measure 2013. All remediation works within the Penrith Local Government Area are considered to be Category 1 works under SEPP 55. Should any contamination be found during development works and should remediation be required, development consent will need to be sought from Council before the remediation works commence and prior to the continuance of any further works as a result of this development.

Given that the proposed development does not alter the existing use of the property and subject to the aforementioned condition, the site is considered to be suitable for the proposed development and as such the provisions of Clause 7 of SEPP 55 are considered to have been satisfied.

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

Sydney Regional Environmental Plan No.20 integrates planning with catchment management to protect the Hawkesbury-Nepean river system, requiring the impact of future land use to be considered in a regional context. The plan covers water quality and quantity, environmentally sensitive areas, riverine scenic quality, agriculture and urban and rural-residential development. It controls development that has the potential to impact on the river environment. The plan applies to all parts of the catchment in the Sydney region (15 local government areas), except for land covered by Sydney Regional Environmental Plan No. 11 - Penrith Lakes Scheme (SREP 11).

The proposal is in accordance with the general planning considerations set out in SREP 20 as well as the relevant specific planning policies and related recommended strategies contained in SREP 20.

The proposed changes to the site drainage system relate to replacing part of a car park catchment with a building roof catchment. The proposed building works will impact on an existing stormwater line as the proposed building foot print is over this line. Realignment works are proposed for the stormwater line as part of the works. This realignment will keep the stormwater line outside of the proposed building footprint whilst still retaining the existing drainage conveyance regime for the site and upstream catchments.

Council's Waterways Officer reviewed the plans and noted that the increase in impervious area does not warrant additional stormwater treatment and is consistent with the requirements of Council's Water Sensitive Urban Design Policy.

In addition, given the earthworks proposed, a recommended condition of consent will ensure that erosion and sediment control measures are installed prior to the commencement of works on site. The erosion and sediment control measures are to be maintained in accordance with the approved erosion and sediment control plan for the development and the Department of Housing's "Managing Urban Stormwater: Soils and Construction" 2004.

### **Local Environmental Plan 2010 (Amendment 4)**

<b>Provision</b>	<b>Compliance</b>
Clause 2.3 Permissibility	Complies - See discussion
Clause 2.3 Zone objectives	Complies - See discussion
Clause 4.3 Height of buildings	Complies - See discussion
Clause 5.9 Preservation of trees or vegetation	Complies - See discussion
Clause 5.10 Heritage conservation	Complies - See discussion
Clause 7.1 Earthworks	Complies - See discussion
Clause 7.4 Sustainable development	Complies - See discussion

### **Clause 2.3 Permissibility**

The subject portion of the site is zoned SP2 Infrastructure Educational Establishment. Any purpose that is ordinarily incidental or ancillary to that purpose, such as the proposed building alterations and additions, is permissible with consent. Therefore, the proposal is permissible with consent in the zone.

### **Clause 2.3 Zone objectives**

The proposed building alterations and additions achieve the objectives for the SP2 zone as the proposal is of a scale and nature that is compatible with the environmental capabilities of the land and maintains the landscape character of the land. In addition, the development will not unreasonably increase the demand for public services or facilities as evidenced by the provision of adequate parking and stormwater management measures as detailed elsewhere in this report.

### **Clause 4.3 Height of buildings**

The site is subject to a maximum building height standard of 12.5 m. The proposed development is comprised of a two storey building addition with a maximum height of 9.37m which complies with this development standard.

### **Clause 5.9 Preservation of trees or vegetation**

No existing trees are to be removed as part of the application and overall, the proposal will preserve the landscape quality of the site.

### **Clause 5.10 Heritage conservation**

The site is mapped as containing a locally significant heritage item (former teacher's residence). Building Z is located at the southern end of the University site, while this heritage item is approximately 600m north. Hence views to and from the heritage item are not affected by the proposed works. Council's Heritage Officer reviewed the submitted Heritage Impact Statement and was supportive of the proposal.

### **Clause 7.1 Earthworks**

As the proposal only seeks to expand a portion of the building on an existing graded parking area, it does not require extensive excavation as all major structures will be above ground. The proposal will not have any adverse impacts on the existing soil conditions, the drainage system or the surrounding environment.

### **Clause 7.4 Sustainable development**

The proposed design employs sustainable development principles while working in conjunction with the existing built form.

The main visitor entry located along the northern façade will be retained, off the pedestrian concourse, with a new ramped access to the first level proposed from the concourse. Meeting spaces, computer labs and smaller workshops are located primarily along the western façade with an outlook and natural light, while servicing spaces are located along the southern façade.

In addition, as the proposed development will not increase the number of staff or students, it is not expected that waste generation will change substantially as a result of this proposal.

Reduction in vehicle dependence is also encouraged via a recommended condition of consent which requires secure bicycle parking be provided at a convenient location proximate to the building entry, in accordance with *AS2890.3:2015 Bicycle Parking Facilities*.

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

Under the draft State Environmental Planning Policy Educational Establishments and Child Care Facilities 2017, the proposal is consistent with the relevant aims and objectives of the Plan. There are no clauses of the draft EPI which would have significant implications for the permissibility or design of the proposed development.

## 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
C7 Culture and Heritage	Complies
C8 Public Domain	N/A
C9 Advertising and Signage	N/A
C10 Transport, Access and Parking	Complies
C11 Subdivision	N/A
C12 Noise and Vibration	Complies
C13 Infrastructure and Services	Complies

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

### ***Fire Safety***

Under Part 9 of the Environmental Planning and Assessment Regulation 2000 owners of buildings must provide the FRNSW Commissioner with a copy of the Fire Safety Certificate for the building (along with the current Fire Safety Schedule). The Fire Safety Certificate is issued when essential fire safety measures have been assessed by a qualified person as being capable of performing to the standard defined by the Schedule. A recommended condition of consent is proposed to ensure that this occurs on an annual basis.

### ***Prescribed Conditions***

The relevant prescribed conditions of the Regulations, such as the requirement for compliance with the BCA, can be imposed as conditions of consent where applicable.

### ***Advertising and Notification***

Advertising and neighbour notification were carried out in accordance with the requirements of the Regulations.

### ***Clause 92 - Additional Matters***

Any demolition can be conditioned to be in accordance with the provisions of AS 2601.

The development is not subject to the NSW Government's Coastal Policy.

The development is not situated on land subject to an Order made under Schedule 5 of the Act (paper subdivisions).

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

### ***Building Design, Context and Setting***

The proposed development has been designed to be compatible with surrounding development in terms of built form and external building materials and finishes.

The built form of the proposal is considered to be compatible with the surrounding and adjacent land uses considering its design and compatible materials and finishes. Accordingly it will not have any adverse impact on the visual amenity of the area. The proposal demonstrates high quality design with appropriate use of external colours, interesting architectural elements and a variety of external finishes.

### ***Solar Access***

The submitted shadow diagrams demonstrate that at the winter solstice, the building expansion will not result in any overshadowing of the University Walk to the west of Building Z. Whilst the building expansion will overshadow the parking area to the south, solar access will be maintained to the walkway and the main pedestrian access. Similarly, the forecourt to the north will achieve solar access throughout the day at the winter solstice.

### ***Access, Parking and Traffic***

Transport and Traffic Planning Associates has undertaken a Traffic and Parking Assessment which concludes that the proposed vehicle access and car parking arrangements are satisfactory.

The Penrith Kingswood campus has a total of 1,650 car parking spaces and 40 motorcycle parking spaces spread across a number of parking areas. Building Z is surrounded by car park P5 to the north, which contains 195 spaces, and car park P7 to the south, which contains 28 spaces.

The parking and traffic assessment notes that the proposed development will result in an increase in teaching area of 1,269m<sup>2</sup> and a loss of 22 car parking spaces (located within Car Park P7). However, there is no increase in student or staff numbers. The parking and traffic assessment concludes that the car spaces lost as a result of the proposed development can be accommodated within the other parking areas on the campus.

A swept path analysis has been provided to demonstrate that the expanded building can be accessed by service vehicles as required.

There are five car spaces proposed to be retained proximate to the new additions, however, two of these are recommended to be accessible spaces given that two existing accessible spaces are being removed as part of the proposal.

Council's Traffic Engineer is satisfied with the proposed access, parking and traffic related aspects of the proposal, subject to recommended conditions.

### ***Accessibility***

The application was not accompanied by an Access Report however the proposed ramp will provide a continuous accessible path of travel to the building. Further, existing accessible toilets are provided on the ground floor. The architectural drawings indicate that compliance with applicable statutory requirements, accessible ramp grades, common area access and sanitary facilities can be readily achieved. Council's Access Committee reviewed the proposal on 12 June 2017 and was supportive of the proposal. Subject to recommended conditions of consent, the proposal is therefore considered satisfactory in terms of providing accessibility for persons with a disability.

### ***Safety, Security and Crime Prevention***

The development has been designed to enable direct surveillance of the University Walk to the west of Building Z. Lines of sight between the building and adjoining spaces will be maintained during the night by a suitable lighting scheme.

The proposed works will assist in improving the presentation of the site, which will improve the amenity, casual surveillance and ultimately public safety and a sense of security within the site and surrounding area.

The application was referred to Council's Community Safety Officer who was supportive of the proposal.

### ***Acoustic Impacts***

A series of mitigation measures will be adopted to ensure that the construction process does not result in any unacceptable amenity impacts on the surrounding area. Council's Environmental Management Officer reviewed the submitted information and was supportive of the proposal subject to conditions of consent.



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

The subject site is deemed suitable for the development for the following reasons:

- The development is permissible with consent and consistent with the zone objectives.
- The size and dimensions of the land are appropriate for accommodating the proposed building expansion envelope;
- Stormwater from the site is able to drain to Council's satisfaction.
- The site is adequately serviced by transport, water and sewer infrastructure which has the capacity to cope with any increase in demand associated with the proposed development.

## **Section 79C(1)(d) Any Submissions**

### **Community Consultation**

The proposed development was advertised in the local newspaper and notified to the owners and occupiers of adjoining and nearby properties pursuant to the requirements of the EP&A Regulations. Potentially affected property owners and occupiers in the surrounding area were invited to make a submission on the proposal during the exhibition period from 28 April to 19 May 2017.

In response, no submissions were received.

### **Referrals**

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

<b>Referral Body</b>	<b>Comments Received</b>
Building Surveyor	No objections - subject to conditions
Development Engineer	No objections
Heritage	No objections
Environmental - Environmental management	No objections - subject to conditions
Environmental - Waterways	No objections - subject to conditions
Traffic Engineer	No objection subject to conditions
Community Safety Officer	No objections

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

The site is suitable for the proposed development. The proposed development is permissible with consent and the proposal meets the aims and objectives of the relevant environmental planning instruments. The development proposal will provide for a significant public benefit in terms of delivering a state of the art facility catering for the needs of students. For these reasons, the proposal is in the public interest.

## **Section 94 - Developer Contributions Plans**

The following Section 94 contributions plans are applicable to the subject site:

- Penrith City District Open and Local Open Space Facilities
- Penrith City Cultural Facilities
- Werrington Enterprise Living and Learning (WELL) Precinct

While the aforementioned contribution plans apply to the site, they are not applicable to this form of development. Circular D6 provides a summary guidelines matrix on applying contributions for educational services and states that contributions cannot be levied for local roads and only local traffic management associated with the site entrance can be imposed.

The Circular effectively states that "local area traffic management measures required as a direct consequence of development" can be applied for site entrance related works and traffic management facilities "required to ensure safe access for the public".

The WELL precinct traffic management facilities contributions are not considered to satisfy these requirements, as they are designed to improve existing access arrangements and address congestion issues, rather than being in response to risk assessment.

Therefore the payment of Section 94 contributions cannot be levied for this form of development.

## **Conclusion**

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The proposed development is in accordance with the relevant provisions of the Environmental Planning Instruments and Development Control Plan pertaining to the land. The proposed development is unlikely to have a negative impact on the surrounding environment. The proposed development has been assessed against the relevant heads of consideration contained in Sections 23G, 79C and 89 of the Environmental Planning and Assessment Act 1979 and has been found to be satisfactory. The site is suitable for the proposed development and the proposal is in the public interest. The proposal is therefore worthy of support.

## **Recommendation**

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That Development Application No. DA17/0279 for Alterations & Additions to Building "Z" of Western Sydney University's Penrith-Kingswood Campus & Associated Works at 56 Second Avenue, Kingswood be approved subject to the recommended conditions of consent.

## General

### 1 [A001](#)

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

Drawing Title	Plan No.	Prepared By	Date
Photo Montages	DA000	Integrated Design Associates	30/03/17
Existing Site Plan & Location Plan	DA00	Integrated Design Associates	30/03/17
Ground Floor Plan	DA02	Integrated Design Associates	30/03/17
First Floor Plan	DA03	Integrated Design Associates	30/03/17
Elevations	DA05	Integrated Design Associates	30/03/17
Sections	DA06	Integrated Design Associates	30/03/17
Site Landscape and Roof Plan	DA04	Integrated Design Associates	30/03/17
Erosion Plan and Sediment Control Details	C-111 and C-115	Integrated Design Associates	03/04/17
Civil Design Plan	C-101	Integrated Design Associates	03/04/17
Waste Management Plan	-	Charles Vella	06/04/17

### 2 [A038 - LIGHTING LOCATIONS](#)

**Prior to the occupation of the building**, a lighting system shall be installed for the development to provide uniform lighting across common areas and driveways. Exterior lighting shall be located and directed in such a manner so as not to create a nuisance to surrounding landuses. The lighting shall be the minimum level of illumination necessary for safe operation. The lighting shall be in accordance with AS 4282 "Control of the obtrusive effects of outdoor lighting" (1997).

### 3 [A039 - Graffiti](#)

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

### 4 [A Special \(Crown Developments Certification\)](#)

In accordance with Section 109R of the Environmental Planning and Assessment Act 1979, Crown building work cannot commence unless the Crown building work is certified by or on behalf of the Crown to comply with the technical provisions of the State's building laws in force as at:

- (a) the date of the invitation for tenders to carry out the Crown building work, or
- (b) in the absence of tenders, the date on which the Crown building work commences, except as provided by this section.

### 5 [A special BLANK](#)

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

### 6 [A special BLANK](#)

Mud and soil from vehicular movements to and from the site during construction must not be deposited on the roadway.

## Environmental Matters

7 **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 to ensure compliance with the Protection of the Environment Operations Act 1997. 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.

8 **D007 - Cut and fill of land requiring Validation Certificate –limited to footprint**

Cut and fill operations on the property are only permitted in conjunction with the building works as detailed on the approved plans and specifications, and shall not extend more than 2 metres past the defined building footprint.

Before any fill material is imported to site, a validation certificate issued by an appropriately qualified person is to be provided to the Principal Certifying Authority. The validation certificate must demonstrate that the fill material is free from contaminants and weeds, that it is suitable for its intended purpose and land use, and that it will not pose an unacceptable risk to human health or the environment.

If Penrith City Council is not the Principal Certifying Authority, a copy of the validation certificate is to be submitted to Council for their reference.

{Note: Penrith Development Control Plan 2014 defines an appropriately qualified person as "a person who, in the opinion of Council, has a demonstrated experience, or access to experience in hydrology, environmental chemistry, soils science, eco-toxicology, sampling and analytical procedures, risk evaluation and remediation technologies. In addition, the person will be required to have appropriate professional indemnity and public risk insurance."}

9 **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.

10 **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.

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.

11 **D014 - Plant and equipment noise**

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

12 **D026 - Liquid wastes**

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

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

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

13 **D06A – Approval for bulk earthworks/major filling operations (Use for bulk earthworks/ major filling operations)**

No fill material shall be imported to the site until such time as a Validation Certificate (with a copy of any report forming the basis for the validation) for the fill material has been submitted to 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.

An appropriately qualified person/s shall:

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

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

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

{Note: An appropriately qualified person is "a person who has a demonstrated experience, or access to experience in hydrology, environmental chemistry, soilscience, 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."}

14 **D Special (BLANK)**

Should any "unexpected finds" occur during site excavation and earthworks including, but not limited to, the identification/finding of contaminated soils, buried building materials, asbestos, odour and/or staining, works on the site are to cease immediately and Council is to be notified. Any such "unexpected finds" shall be investigated and addressed by an appropriately qualified environmental consultant, in line with the relevant EPA Guidelines and the National Environment Protection (Assessment of Site Contamination) Measure 2013.

All remediation works within the Penrith Local Government Area are considered to be Category 1 works under State Environmental Planning Policy No. 55 - Remediation of Land. Should any contamination be found during development works and should remediation be required, development consent is to be sought from Penrith City Council before the remediation works commence.

## **BCA Issues**

15 **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.

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.

16 **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.

17 **E Special (Accessibility requirements)**

Access and sanitary facilities for persons with disabilities are to be provided and maintained in accordance with the requirements of the Building Code of Australia and AS 1428 "Design for Access and Mobility".

## **Utility Services**

18 **G002 - Section 73 (not for**

A Section 73 Compliance Certificate under the Sydney Water Act 1994 shall be obtained from Sydney Water prior to the commencement of the building's operation. The application must be made through an authorised Water Servicing Coordinator. Please refer to "Your Business" section of Sydney Water's website at [www.sydneywater.com.au](http://www.sydneywater.com.au) then the "e-developer" icon, or telephone 13 20 92.

19 **G004 - Integral Energy**

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

## **Construction**

## 20 H001 - Stamped plans and erection of site notice

Stamped plans, specifications, a copy of the development consent and any other Certificates to be relied upon shall be available on site at all times during construction.

The following details are to be displayed in a maximum of 2 signs to be erected on the site:

- the name of the Project Manager, 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 at the completion of the works.

## 21 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.

(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 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.

## 22 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 that 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

23 **K209 - Stormwater Discharge – Minor Development**

Stormwater drainage from the site shall be discharged to the:

- a) Existing site drainage system

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

24 **K Special (BLANK)**

Prior to the building's operation, at least two accessible parking spaces are to be provided in proximity to the new additions in accordance with AS 2890.1-2004 and AS 2890.6-2009.

25 **K Special (BLANK)**

Prior to the building's occupation, secure bicycle parking is to be provided at a convenient location proximate to the new building entry in accordance with *AS 2890.3:2015 Bicycle Parking Facilities*.

## Landscaping

26 **L001 - General**

All landscape works are to be constructed in accordance with the stamped approved plan and the Landscape Technical Specifications of Appendix F5 of the Penrith Development Control Plan 2014.

Landscaping shall be maintained:

- in accordance with the approved plans, 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.

27 **L005 - Planting of plant**

All plant material associated with the construction of approved landscaping is to be planted in accordance with the Tree Planting Specification prescribed in Penrith Council's Development Control Plan 2014.

28 **L006 - Aust Standard**

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

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

29 **L007 - Tree protection measures—no TMP with DA**

All trees that are required to be retained as part of the development are to be protected in accordance with the minimum tree protection standards prescribed in Section F5 of Council's Development Control Plan 2014.

30 **L008 - Tree Preservation Order**

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

31 **L012 - Existing landscaping (for existing development)**

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