

SWCPP Ref. No.:	2018WCI005
DA No.:	DA18/1114
PROPOSED DEVELOPMENT:	Site Remediation Works, Construction of Warehouse & Distribution Facility & Related Site Works including New Access Road & Bulk Earthworks - Lot 13 DP 217705, Lot 20 DP 1216618,130 - 172 Andrews Road, PENRITH NSW 2750 128 Andrews Road, PENRITH NSW 2750
APPLICANT:	CPG NSW 1 Pty Ltd C/- Cadence Property Group Pty Ltd
REPORT BY:	Jane Hetherington, Senior Development Assessment Planner, Penrith City Council

Assessment Report

Executive Summary

This development application from CPG NSW 1 Pty LTD C/- Cadence Property Group Pty Ltd involves remediation, construction of a warehouse and distribution facility, and ancillary works including a new access road and bulk earthworks.

The land is zoned IN1 General Industrial under the provisions of Penrith Local Environmental Plan 2010. The proposal is defined as a *warehouse or distribution centre* which is a permissible land use in the IN1 zone subject to Council consent.

The application is to be determined by the Sydney Western City Planning Panel as the development has a Capital Investment Value (CIV) over \$30 million.

The proposal is defined as Integrated Development under Section 4.46 of the *Environmental Planning and Assessment Act 1979*, requiring an approval under the *Water Management Act 2000*, Sections 89, 90 & 91. Accordingly, the application was referred to the Natural Resources Access Regulator (NRAR) who has provided their General Terms of Approval for the development.

The development application has been advertised in local newspapers and notified to all adjoining and adjacent property owners. No submissions were received in response.

Key issues identified for the proposed development include:

Visual Impact

The site is located within an area identified as "land with scenic and landscape values", with a maximum building height limit of 12m. While the development proposes a 13.75% variation to the height of building control (with a maximum height of 13.65m being 1.65m over), the development is not considered to have an adverse visual impact or block views. The application was supported by a Visual Impact Assessment (VIA) that found that the only aspect where there will be moderate/minor visual impact is from Hickeys Lane. However, the impact is not considered significant given the frequency Hickeys Lane is used and that there is already a major detractor with view (in the form of the existing glass manufacturing facility at 130-172 Andrews Road). The proposed eastern car park landscaping and an amended external colour schedule will ensure that the development does not have an adverse visual impact to the surrounding locality.

On-Site Parking

Under Penrith Development Control Plan (DCP) 2014, the development requires the provision of 502 on-site car spaces with a rate 1 car space per 100m². The development provides 98 on-site parking spaces, resulting in a short fall of 404 car spaces. To support this variation the application was accompanied by a Traffic Report. This document justifies the variation by specifying that the scale of the proposed warehouse is substantially larger than the scale intended by Council's DCP. Despite this, the parking also does not comply with the warehouse rate within the Roads and Maritime (RMS) document *Guide to Traffic Generating Development* (which requires 172 on-site parking spaces). However, the 2012 Employment Typology Study for the Western Sydney Employment Area (WSEA), prepared for the DP&E have shown that warehouses of the proposed developments (such as those located within the WSEA) provide car parking significantly in excess of the end users. With technological advances in recent times, employee densities within warehouse developments have been reduced, indicating employment densities of less than 20 employees per hectare. Given that the proposal includes a maximum of 30 employees on site at any one time, the provision of 98 spaces is considered adequate. In addition, it is noted that there is a surplus of hardstand area that could be utilised for parking should a future tenant require additional staff parking.

Flooding

The site is affected by mainstream flooding from the Nepean River. To assess the effect of flooding on the proposed development, and also to confirm no affectation on upstream or downstream properties, the application was accompanied by Civil Engineering Report, prepared by Costin Roe Consulting. The flood assessment confirms that the proposed development meets the flood planning requirements of the 1% AEP plus 0.5m and that the floodway paths are available to the west, north and north-west of the building. There is negligible effect on the flood water local to the development and no off-site affectation. It has also been demonstrated that safe egress and evacuation from the facility can be made to areas which are not flood affected and that the evacuation strategy is consistent with the Hawkesbury River Emergency Sub Plan 2015.

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

Site & Surrounds

Properties of the site

The subject site consists of 128 Andrews Road, Penrith (Lot 20, DP 1216618) and 130-172 Andrews Road, Penrith (Lot 13, DP 217705). The site is located on the southern side of Andrews Road, approximately 500m east of Castlereagh Road and 1.2km west of Richmond Road.

The new warehouse component of the development will be located at 128 Andrews Road, Penrith, which has an area of approximately 27.04 hectares and is irregular in shape. The site is currently undeveloped however contains vegetation identified as Cumberland Plain Woodland, Freshwater Wetlands and River-flat Eucalypt Forest. Access to the site will be provided via an existing right of carriageway over 112-124 Andrews Road (Lot 3 DP 747153).

Some alterations are also proposed to the existing manufacturing facility located at 130-172, Andrews Road, Penrith. The site has an area of 19 hectares and currently contains a glass factory and associated car parking. Access is provided via Andrews Road.

The site is bound by Penrith Wastewater Treatment Plant to the south, Nepean Rugby Park to the east and warehouses and industrial uses to the north and west. The Nepean River is approximately 1km west of the subject site. The nearest residential development is located approximately 500m to the east and consists of a variety of detached single dwellings.

Site constraints

- The site is mapped as bushfire prone land.
- The land is identified as "Land with Scenic and Landscape Values" on Penrith LEP 2010 Scenic and Landscape Values Map.
- The site is affected by mainstream flooding from Nepean River.
- The site is burdened by easements for drainage, services, a transmission line and a right of carriageway.
- The site contains Cumberland Plain Woodland, Freshwater Wetlands and River-flat Eucalypt Forest.
- The site contains a Regionally Significant Wetland in the SREP 20 - Wetland 158.

History

The applicant attended a pre-lodgement meeting with Council officers on 6 September 2018 (PL18/0070).

Proposal

The proposed development involves:

128 Andrews Road, Penrith

- Construction of a 50,150m² gross floor area warehouse building, including 50,000m² of warehouse area and 150m² ancillary office area.
- The building will be used as a warehouse and distribution centre, storing up to approximately 250,000m³ of glass products manufactured at 130-172 Andrews Road, Penrith.
- 24 hours, seven days a week operation.
- Up to 30 staff.
- Provision of 98 car parking spaces, including 2 accessible bays.
- Provision of 12 loading docks, including 2 recessed docks.
- Vehicular access from Andrews Road via an existing right of way over Lot 3 DP 747153.
- Bulk earthworks.

130-172 Andrews Road, Penrith

- New crossover and driveway, which will traverse off the western portion of the proposed access road;
- Two new roller shutter door openings along the western-most portion of the newly proposed driveways; and
- A new 6m cantilevered canopy along the north-western corner of the existing glass manufacturing facility.

Plans that apply

- 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
- State Environmental Planning Policy No 64—Advertising and Signage
- Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

Planning Assessment

- **Section 2.12 – Sydney Western City Planning Panel (SWCPP)**

Under Clause 4.5(b) of the *Environmental Planning and Assessment Act 1979*, the consent authority is a regional planning panel for development that is declared by an environmental planning instrument as regionally significant development. Schedule 7 of *State Environmental Planning Policy (State and Regional Development) 2011*, specifies that development that has a capital investment value (CIV) of more than \$30 million is regionally significant development.

In accordance with 4.5(b) of the *Environmental Planning and Assessment Act 1979*, the Sydney Western City Planning Panel (SWCPP) is the determining authority as the proposal has a CIV of \$34,502,279.

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

The site is identified as being bushfire prone land. Clause 4.14 specifies that development consent on bush fire prone land cannot be granted unless the consent authority:

(a) is satisfied that the development conforms to the specifications and requirements of the Planning for Bush Fire Protection prepared by the NSW Rural Fire Service, or

(b) has been provided with a certificate by a person who is recognised by the NSW Rural Fire Service as a qualified consultant in bush fire risk assessment stating that the development conforms to the relevant specifications and requirements.

In accordance with the above, the application was accompanied by a bushfire report titled '*Bushfire Hazard Assessment Industrial Development*', prepared by Blackash Bushfire Consulting and dated 31 October 2018. This report concludes that the site could be impacted by embers from adjoining lands to the south and east and includes the following key recommendations:

- The warehouse is to be constructed in accordance with the Bushfire Attack Level (BAL) 12.5 within Australian Standard for the Construction of Buildings in Bushfire Prone Areas (AS 3959) for the eastern façade and south eastern portion;
- An Asset Protection Zone (APZ) of 7m shall be established and maintained from the edge of the wetland toward the warehouse and along the access handle; and
- The capacity of road surfaces and any bridges/causeways is sufficient to carry fully loaded fire fighting vehicles.

The recommendations of this report have formed a condition of consent.

- **Section 4.15 - Evaluation**

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

- **Section 4.46 - Integrated development**

The proposal is defined as Integrated Development under Section 4.46 of the *Environmental Planning and Assessment Act 1979*, requiring an approval under the *Water Management Act 2000*, Sections 89, 90 and 91.

Accordingly, the application was referred to the NSW Natural Resources Access Regulator (NRAR) on 9 November 2018.

NRAR issued their General Terms of Approval on 25 March 2019, raising no objection to the proposal subject to conditions. These conditions will form part of the consent.

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

State Environmental Planning Policy (Infrastructure) 2007

Clause 45 Determination of development applications - other development

The development includes upgrade works to the Andrews Road / access road intersection which is located directly opposite the Endeavour Energy's Cranebrook Zone Substation at 115-125 Andrews Road. As such, in accordance with the requirements of Clause 45, the application was referred to Endeavour Energy on 9 January 2019. A response was received on 29 January 2019 that raised concerns that the proposed intersection works (particularly the raised median) would restrict access to the substation. While their response noted that for substation zones, there is typically not any significant long-term vehicle movements (with majority of maintenance/service vehicles being light commercial vehicles only), it did specify that occasionally there are major deliveries to the site which can require the use of a prime mover with a low loader or drop deck trailer. In this regard, special attention must be paid to swept paths, the interface between the public road and the access entry and driveway to provide an easy access into, inside and exit the substation for low loaders. While the design of the proposed intersection has been amended throughout the assessment process, a condition of consent is recommended to ensure that consultation agreements with Endeavour Energy regarding the proposed Andrews Road/ Access Road intersection be provided prior to the issue of a Construction Certificate.

Clause 104 Traffic-generating development

Clause 104 of *State Environmental Planning Policy (Infrastructure) 2007* states that development for warehouse and distribution centres commercial premises with a floor area over 8,000m² with access to any road is traffic generating development requiring referral to the Roads and Maritime Service (RMS). Given that the proposal includes the construction of a warehouse and distribution centre with a gross floor area of 50,150m², in accordance with Clause 104 the application was referred to the RMS on 21 November 2018. A response from the RMS, dated 29 April 2019, was received which requested that Council consider the following in its assessment of the application:

1. The proposal does not achieve the minimum car parking requirements in accordance with the Roads and Maritime Guidelines, being a rate of one space per 300m², with the provision of 98 car spaces on site whereas the requirement is for 172 spaces.

Comment: The application was supported by a Traffic Report, prepared by Ason Group and dated 1 November 2018. This report concludes that a total of 98 on-site parking spaces readily satisfies the anticipated parking demand of both the future tenant and a reasonable contingency for other future users when referenced to other developments located within the Western Sydney Employment Area. Accordingly, the proposed parking is considered appropriate for a development of this nature.

2. Roads and Maritime has previously resumed and dedicated a strip of land as road along the Andrews Road frontage of the subject property. All buildings and structures, together with any improvements integral to the future use of the site are to be wholly within the freehold property (unlimited in height or depth), along the Andrews Road boundary.

Comment: All proposed buildings and structures, together with any improvements integral to the future use of the site, are located within the freehold property boundary.

As outlined above, Council has considered the RMS comments in its assessment of the proposal. The application was accompanied by a Traffic Impact Assessment. Council's Senior Traffic Officer has reviewed the proposed development and has raised no objections subject to the imposition of conditions.

The development is considered to be satisfactory for the purposes of Clause 104 of the *State Environmental Planning Policy (Infrastructure) 2007*.

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(1) of SEPP 55 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 the development is proposed to be carried out.

The application was accompanied by Stage 1/Stage 2 Environmental Site Assessment and Preliminary Salinity Assessment, prepared by Environmental Investigation Services (EIS) and dated 30 October 2018. The assessment included a desktop review of historical information and the completion of soil, ground water and surface water sampling. The assessment identified various potential sources of contamination including fill, historical agricultural land use, use of pesticides, hazardous building materials (i.e. asbestos containing material), soil stockpiles and off-site commercial/industrial premises. The assessment indicated presence of chromium, copper, nickel, zinc and THR F3 exceeding the ecological site assessment criteria in some soil samples and copper and zinc exceeding the ecological guideline in the surface water sample. The impacted soil material was located in the south-western section and the western end of the site in close proximity to the overland drain. The report concluded that these soils are not suitable to remain within unpaved or grassed areas or to be excavated and reused within grassed, landscaped or unpaved areas of the site. However, the report concluded that the soils are suitable to be reused under the building and any other built or paved areas of the site. The report concluded that the site can be made suitable for the future development, subject to the following recommendations:

- a) The existing stockpiles be characterised via additional sampling/analysis to meet the minimum sampling density outlined in the National Environmental Protection Measure.
- b) The fill in the western and south-western section of the site be excavated and placed beneath the proposed hardstand provided that it is geotechnically suitable.
- c) The fibre cement pipe be removed from the site and disposed of appropriately.

This document was reviewed by Council's Environmental Health Officer, who outlined that as SEPP 55 defines remediation as *'removing, dispersing, destroying, reducing, mitigating or containing the contamination of any land'*, the recommendation to retain the contaminated soil onsite and relocate it to beneath the building footprint is considered a form of remediation. As such, a remediation action plan (RAP) was requested to be submitted to Council for review.

A Remediation Action Plan (RAP), prepared by Environmental Investigation Services (EIS) and dated 4 February 2019 was then submitted by the applicant. The RAP concludes that the remediation goal (of making the site suitable for the future development) can be achieved provided the RAP is implemented. The document has been reviewed by Council's Environmental Management Team, who has advised that they are satisfied with the contents and conclusions of the RAP.

As such, in accordance with Clause 7(b) of the *SEPP No. 55 - Remediation of Land*, Council is satisfied that the land will be suitable, after remediation, for the proposed use. This is subject to compliance with recommended conditions of consent which requires implementation of the RAP and site validation (clearance) prior to the commencement of construction works.

State Environmental Planning Policy No 64—Advertising and Signage

The architectural plans indicate a signage zone (6m long x 2.5m high) located on the eastern elevation of the warehouse. While the specific details of the signage have not been provided, the size of the signage zone is appropriate for the scale of the warehouse. The plans also note that the signage will not be illuminated and given that the site is a battle-axe lot the signage will not be highly visible from the public domain. A condition of consent is recommended, requiring that any signage (except that located within the signage zone or listed as exempt development) be subject to a future development application.

Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

Sydney Regional Environmental Plan No. 20 - Hawkesbury-Nepean River (No. 2 -1997) (SREP 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, including Penrith), except for land covered by *Sydney Regional Environmental Plan No.11 - Penrith Lakes Scheme*. SREP 20 is supported by an Action Plan which includes actions necessary to improve existing conditions.

The development proposal is in accordance with the general planning considerations set out in Clause 5 of SREP 20 and the relevant specific planning policies and related recommended strategies set out in Clause 6. In particular the development incorporates a water quality treatment train that includes: primary treatment to hardstand areas via Enviropod pit inserts; secondary treatment (overflow event only) via trash screens and a sediment sump with the on-site detention (OSD) system; and tertiary treatment of site water via bioretention system within the OSD basins. In addition, to ensure that the post development flows are less than or equal to the pre-development flows from the site, two OSD systems will be located with the site boundaries.

The site contains a Regionally Significant Wetland identified under SREP 20 (Kingswood Park Wetland, No.158). The supporting Flora and Fauna Report (prepared by Ecological and dated 31 October 2018) confirms that none of the wetland is required to be removed as a result of the proposal. The application was also supported by a Vegetation Management Plan, prepared by Eco Logical and dated 31 January 2019 to ensure the on-going health of the wetland.

Council's Development Engineers, Environmental Waterways and Environmental Management (Biodiversity) teams have reviewed the application and subject to recommended conditions relating to vegetation management, stormwater management and erosion and sediment controls, have no objection to the proposal.

Local Environmental Plan 2010 (Amendment 4)

Provision	Compliance
Clause 2.3 Permissibility	Complies - See discussion
Clause 2.3 Zone objectives	Complies - See discussion
Clause 4.3 Height of buildings	Does not comply - See discussion
Clause 4.4 Floor Space Ratio	N/A
Clause 4.6 Exceptions to development standards	Complies - See discussion
Clause 7.1 Earthworks	Complies
Clause 7.2 Flood planning	Complies - See discussion
Clause 7.4 Sustainable development	Complies - See discussion
Clause 7.5 Protection of scenic character and landscape values	Complies - See discussion
Clause 7.7 Servicing	Complies

Clause 2.3 Permissibility

The subject site is zoned IN1 General Industrial under the provisions of Penrith Local Environmental Plan 2010. *Warehouse and distribution centres* are a permissible land use in the IN1 zone and are defined as follows:

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

The building will be used to store finished glass products (including bottles, jars, containers and the like) manufactured and packaged at the existing manufacturing facility at 130-172 Andrews Road. The products transported from the manufacturing facility are stored on-site until the products are distributed to stores nationally for sale. The proposal meets the above definition of a warehouse and distribution centre and is therefore a permissible land use in the IN1 zone subject to Council consent.

Clause 2.3 Zone objectives

The proposed development is consistent with the objectives of the IN1 zone specifically:

- To provide a wide range of industrial and warehouse land uses.
- To encourage employment opportunities.
- To minimise any adverse effect of industry on other land uses.

Clause 4.3 Height of buildings

The Height of Buildings Map identifies a maximum height of 12m as applying to the site. The proposal has a maximum building height 13.65m relative to natural ground level which equates to a 13.75% departure to the 12m height limit applying to the site.

Clause 4.6 Exceptions to development standards

Clause 4.6(2) of the LEP specifies that consent may be granted for development even though the development would contravene a development standard imposed by the LEP, or any other environmental planning instrument. However, Clause 4.6(3) states that:

Development consent must not be granted for development that contravenes a development standard unless the consent authority has written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstance of the case, and
- (b) there are sufficient environmental planning grounds to justify contravening the development standard.

Further, Clause 4.6(4) states that:

Development consent must not be granted for development that contravenes a development standard unless:

(a) the consent authority is satisfied that:

(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and

(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and

(b) the concurrence of the Secretary has been obtained.

Clause 4.3(2) Height of Buildings specifies that the height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map. The Height of Buildings Map sets out a maximum building height of 12m applying to the site. The proposed development has a maximum building height of 13.65m relative to natural ground level which equates to a 1.65m non-compliance or 13.75% departure to the 12m maximum height applying to the site.

In accordance with Clause 4.6, the development application was lodged with a written request to vary the maximum building height control of 12m. The Clause 4.6 variation submission has been prepared and responds to the case of *Four2Five Pty v Ashfield Council* [2015] NSWLEC 90 as well as the 'five part test' established in *Wehbe v Pittwater Council* [2007] NSWLEC 827. The applicant's response to the matters listed in Clause 4.6(3) are discussed below:

The applicants request to vary states that the development standard is unreasonable or unnecessary because:

- *"The proposed development, for purposes of a warehouse and distribution facility, would generally maintain the maximum permitted building height under Penrith LEP 2010 with regard to the subject site (exceedance by 1.65m). Accordingly, the density and scale of the built-form proposed, would remain generally consistent with the existing industrial buildings surrounding the site. Additionally, the proposed development would effectively integrate the streetscape and character of the area into the proposed scheme.*
- *By providing a transition between the existing industrial buildings in close proximity to the subject site, the built-form relationship of the site contrasted to the surrounding built-form, would remain consistent with existing situation currently experienced with the IN1 General Industrial zone.*
- *The built-form character of the surrounding industrial developments is generally consistent with the built-form proposed under this application, for which it is considered to respond to the local context. In particular, the existing manufacturing facility to the immediate north is significantly higher than that proposed under this application and depicted in the Visual Impact Assessment prepared by Geoscapes.*
- *The proposed development would respond to the existing industrial developments on the northern and western interfaces, for which the protection of amenity would be ensured accordingly. Furthermore, there are no sensitive receptors in close proximity to the subject site; however, consideration for solar access, privacy, overshadowing and view/outlook would be considered (where possible). In particular, the Visual Impact Assessment has concluded that the proposal will not introduce any adverse visual impacts to the surrounding visual receptors.*
- *The proposed development's building height is considered a key attribute in creating an internal building environment that would ensure the delivery of space and amenity that is required to support*

- the operations of the future tenant involved and thereby enabling the productive use of the site.*
- *It is noted, that O-I produce pallets of glass bottles, which are required to be prepared to a specific height to suit their customers bespoke needs. Accordingly, these pallets are stacked to maximise the operation efficiencies and improve the utilisation of available floor space encountered through the proposed warehouse and distribution facility. Notwithstanding, the number of pallets which can be stored at any given time, is a function of floor space and available stacking height.*
 - *Furthermore, in addition to the maximum height of any stored product, a clearance height must be maintained for operational tolerances to ensure the safety of forklift drivers is achieved, and more importantly, to ensure the required fire suppression clearances are maintained to demonstrate, that compliance can be achieved with the relevant Building Code of Australia (BCA) and Australian Standards.*
 - *If a reduced building height was to apply, the number of pallets of manufactured goods which can be stacked would be reduced below the amount required by the tenant, for which the operational demands would not be able to be met accordingly. If the tenant cannot generate the required storage volume, the operational efficiencies and outcomes would be considered compromised.*
 - *Despite the specific operational requirements for the end user, it is noted, that the building height nominated (13.65m) is considered consistent with (as well as less than) current standard practices, demonstrated by modern, high-quality industrial-related developments (including warehouse and distribution facilities), which frequently offer 10m clear at the eaves, which is considered consistent and satisfactory for industrial-related development, for the purposed of a warehouse and distribution facility."*

The applicant is considered to have adequately addressed Clause 4.6(3)(a) with the matters aforementioned.

In addition, the applicants request to vary has raised the following environmental planning grounds to justify the contravention:

Environmental Planning Grounds

- *"The proposed development is entirely consistent with the underlying objective or purpose of the building height standard.*
- *The proposed development fully achieves the objective of Penrith LEP for the IN1 General Industrial zone.*
- *Compliance with the standard would be unreasonable and unnecessary.*
- *The proposed development generally maintains the height experienced on surrounding industrial developments in close proximity to the subject site, for which the proposed development would provide a smooth transition.*
- *Materials and finishes would activate and provide a visual outcome that seamlessly integrates with the surrounding industrial character. Additionally, colour and material direction would be utilised (where possible) to blend with the varied architectural forms. The proposed ancillary office would integrate various volumetric shapes and materials, conducive to transparency of function and response to sustainable building practices.*
- *The overall scale of the proposed development seeks to provide a transition from the surrounding industrial developments in close proximity of the Subject Site, being compatible in terms of built-form and scale. Additionally, the proposed development would provide an employment-generating land use that is considered adaptable and responds accordingly to shifting economic conditions.*
- *The proposed development, particularly the proposed height would integrate with the local context, specifically the IN1 General Industrial zone that surrounds the Subject Site. The relationship of the proposed development, for purposes of a Warehouse and Distribution Facility with surrounding developments, with respect to height, would remain consistent via the smooth transition offered*

between sites.

- *The proposed development would maintain neighbouring amenity as-well-as the amenity of the public domain. It is important to note, that the proposed development is relatively enclosed and shielded by existing industrial developments to the north which directly face the public domain.*
- *The proposed development would support the productive economic use of the Site that is ideally located within an area zoned for such permissible industrial use, as-well-as being located within close proximity to major commercial centres (Penrith City Centre) and nearby transport infrastructure, such as rail and bus networks and the wider regional road network.*
- *As mentioned above, despite the specific operational requirements for the end user, it is noted, that the building height nominated (13.65 m) is considered consistent with (as well as less than) current standard practices, demonstrated by modern, high-quality industrial-related developments (including Warehouse and Distribution Facilities), which frequently offer 10 m clear at the eaves. It is noted, that the proposed development exhibits a 9.5 m clearance of the eaves, which is considered consistent and satisfactory for industrial-related development, for the purposes of a Warehouse and Distribution Facility."*

The consent authority is to have regard to the written request above. It is considered that this written request has satisfied subclause (3) of Clause 4.6 and has adequately addressed those matters.

The consent authority must now be satisfied that the development will be in the public interest because it is consistent with the objectives of the zone and height standard.

Objectives of the IN1 General Industrial Zone

- *To provide a wide range of industrial and warehouse land uses.*
- *To encourage employment opportunities.*
- *To minimise any adverse effect of industry on other land uses.*
- *To support and protect industrial land for industrial uses.*
- *To promote development that makes efficient use of industrial land.*
- *To permit facilities that serve the daily recreation and convenience needs of the people who work in the surrounding industrial area.*

Comment: The proposal is consistent with the above objectives in that it will provide a warehouse of a different scale than those within the surrounding industrial area. The site is currently undeveloped, with the development providing additional employment opportunities within close proximity to Penrith CBD during the construction and operational phases. The supporting documentation has demonstrated that the development will not have an adverse impact on other land uses and recommended conditions will further mitigate any impacts.

Objectives of the Height of Buildings Development Standard

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

- (a) to ensure that buildings are compatible with the height, bulk and scale of the existing and desired future character of the locality,*
- (b) to minimise visual impact, disruption of views, loss of privacy and loss of solar access to existing development and to public areas, including parks, streets and lanes,*
- (c) to minimise the adverse impact of development on heritage items, heritage conservation areas and areas of scenic or visual importance,*
- (d) to nominate heights that will provide a high quality urban form for all buildings and a transition in built form and land use intensity.*

Comment: The proposed building height is compatible with the height, bulk and scale of other industrial buildings in the locality. The site by its configuration and surrounding development, is relatively obscured from view from adjoining main roadways (Andrews Road and Castlereagh Road) and the public domain. Although the site is mapped as "land with scenic and landscape values", the supporting visual impact assessment and architectural plans demonstrate that any loss of views, overshadowing or privacy impacts are negligible. The site is not located within a heritage conservation area and there are no listed heritage items within the surrounding locality.

In response to Clause 4.6(4)(b), the NSW Department of Planning and Environments planning circular, *PS18-003 - Variations to development standards*, outlines Secretary's concurrence may be assumed for applications being considered by a regional planning panel.

In accordance with sub-clause (4), the applicant's objection is well founded and is consistent with the aims of the clause. The objection has adequately addressed the matters prescribed in the LEP, and has demonstrated that full compliance with the maximum building height requirement would be unreasonable and unnecessary in the circumstances of the case. The environmental planning grounds put forward by the applicant are supported in this instance. The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

Clause 7.2 Flood planning

The subject site is identified as "Flood planning land" on the Clause Application Map and is below the flood planning level.

Clause 7.2(4) specifies that development consent must not be granted for development on land that is at or below the flood planning level unless the consent authority is satisfied that the development:

- (a) is compatible with the flood hazard of the land, and*
- (b) if located in a floodway, is compatible with the flow conveyance function of the floodway and the flood hazard within the floodway, and*
- (c) is not likely to adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and*
- (d) is not likely to significantly alter flow distributions and velocities to the detriment of other properties or the environment, and*
- (e) is not likely to adversely affect the safe and effective evacuation of the land and the surrounding area, and*
- (f) is not likely to significantly detrimentally affect the environment or cause avoidable erosion, destruction of riparian vegetation or affect the restoration and establishment of riparian vegetation, or a reduction in the stability of river banks or waterways, and*
- (g) is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding, and*
- (h) incorporates appropriate measures to manage risk to life from flood, and*
- (i) is consistent with any relevant floodplain risk management plan.*

In addition, Clause 7.2(5) specifies that:

Development consent must not be granted for development on land identified as "Flood planning land" on the Clause Application Map, unless the consent authority is satisfied that the development will not adversely affect the safe and effective evacuation of the land and the surrounding area.

Comment: The application was supported by a Flood Egress and Flood Planning Report, prepared by Costin Roe Consulting and dated 20 May 2019. This report included the following commentary:

- The warehouse building has been sited above the 1 in 100 year ARI flood event and allows for greater than 0.5m freeboard to the 1 in 100 year ARI event.
- Areas of the development which would be subject to flood waters (around the perimeter of the development site) are to be constructed of flood compatible materials and consider flood conveyance and function.
- A development impact assessment has been completed which shows the development does not affect upstream, downstream or adjoining properties in the 1 in 100 year ARI and 1 in 200 year ARI events, including maintaining major 1 in 200 year ARI flow paths.
- The flood afflux drawing confirm that there is no detrimental increases in the potential flood affectation to upstream, downstream or adjacent properties.
- The TUFLOW modelling confirms that there is no significant flow or velocity re-distribution associated with the development.
- A robust framework for safe and effective egress from the development site has been formulated based on modelled rate of rise, automatic flood level gauges and the local floodplain management plan (Hawkesbury Nepean Flood Plan 2015) to ensure that the development does not adversely affect the safe evacuation of staff from the land.
- Given the flood modelling shows no affectation to upstream, downstream or adjacent properties and the proposed buildings have appropriate freeboard above the 1% AEP event, this development is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.

The application has been reviewed by Council's Development Engineer who has raised no objection to the proposal subject to conditions. As such, it is considered that the provisions of Clause 7.2 have been satisfied.

Clause 7.4 Sustainable development

In accordance with this clause, the applicant has committed to sustainable design practices consistent with 4-star green star including: rainwater tanks connected to non-potable uses including toilets and irrigation; bicycle racks and end of trip facilities/amenities; sustainable product selection such as low VOC paints and recyclable/recycled products; high-efficiency water devices including toilets, taps and showers; high efficiency lighting including LED fitting throughout warehouse and office; and investigating the potential for solar panels on the roof area. To ensure that these measure are incorporated into the design, a Sustainability Management Plan will be required and details will be certified at the Construction Certificate stage.

Clause 7.5 Protection of scenic character and landscape values

The site is identified as 'land with scenic and landscape values' under the Scenic and Landscape Values Map. Clause 7.5 of Penrith Local Environmental Plan (LEP) 2010 specifies that development consent must not be granted for any development on land to which this clause applies unless the consent authority is satisfied that measures will be taken, including in relation to the location and design of the development, to minimise the visual impact of the development from major roads and other public places.

The warehouse development is situated on a battle-axe lot and therefore will not be highly visible from the public domain. The supporting Visual Impact Assessment (VIA), prepared by Geoscapes Landscape Architecture concludes that there will be moderate/minor visual impact from Hickeys Lane. To reduce the impact from this aspect, tree planting have been provided throughout the eastern car park which will help to visually break up the façade. A condition of consent will also require the submission of an amended external colour schedule to further reduce the visual impact.

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	N/A
C8 Public Domain	N/A
C9 Advertising and Signage	Complies
C10 Transport, Access and Parking	Does not comply - see Appendix - Development Control Plan Compliance
C11 Subdivision	N/A
C12 Noise and Vibration	Complies
C13 Infrastructure and Services	Complies
D4.1. Key Precincts	Complies
D4.2. Building Height	Does not comply - see Appendix - Development Control Plan Compliance
D4.3. Building Setbacks and Landscape	Complies
D4.4. Building Design	Complies
D4.5. Storage of Materials and Chemicals	N/A
D4.6. Accessing and Servicing the Site	Complies
D4.7. Fencing	Complies - see Appendix - Development Control Plan Compliance
D4.8 Lighting	Complies

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

In accordance with Section 143 of the *Environmental Planning and Assessment Regulation 2000*, an assessment of the fire protection and structural capacity of the proposed building is necessary. The application was referred to Council's Building Surveyor for assessment with no objections raised, subject to the recommended conditions.

The proposed development complies with the requirements of the Regulations.

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

Visual Impact

The application was accompanied by Visual Impact Assessment (VIA), prepared by Geoscapes Landscape Architecture and dated 11 April 2019. The VIA found that there would be no visual

impacts from Andrews Road or Castlereagh Road; a minor visual impact from Nepean Rugby Park; and a moderate/minor visual impact from Hickeys Lane. However, as there is already a major detractor within view (in the form of the O-I glass manufacturing facility), the impact from Hickeys Lane is not considered to be significant. To assist in filtering and blending the development into its surrounding context, the VIA recommends that a careful selection of building finishes and colours, combined with proposed planting particularly along the eastern façade of the proposed warehouse. The landscape plan indicates that trees will be planted within the eastern car park, which will assist to visually break up the façade. However, the architectural drawings show that the external finishes of the warehouse will consist of orange and grey metal cladding and precast concrete. To blend in with Blue Mountains escarpment, it is recommended that a condition of consent be included requiring an amended external colour schedule be submitted to and approved by Council.

Acoustic Impact

The application was supported by a Noise Impact Assessment, prepared by Acoustic Logic and dated 23 October 2018. The aim of this report was to identify relevant acoustic criteria applicable to the development; identify operational and construction noise sources and predict operational noise emissions and assess them against acoustic criteria; and determine building and/or management controls necessary to ensure ongoing compliance with noise emission goals.

To quantify the existing acoustic environment unattended noise logging was conducted from Monday 8 October to 17 October 2018. One noise monitor was located at the eastern boundary of nearest residential receivers approximately 500m to the east of the proposed warehouse development. The data obtained was analysed against the requirements contained within Penrith Development Control Plan (DCP) 2014 and the NSW Department of Environment and Heritage document Noise Policy for Industry (NPI) 2017. As operation is proposed to be 24 hours per day, assessment was conducted with reference to the night time criteria. The analysis of typical operational noise (vehicle, mechanical plant/equipment) indicates that the proposed use of the warehousing facility will be compliant with noise emission requirements relating to the development, even during the night time period.

The acoustic report was reviewed by Council's Environmental Health Officer, who raises no objection to the development, subject to conditions.

Traffic, Access and Parking

The application was accompanied by Traffic Impact Assessment prepared by Ason Group and dated 1 November 2018. The objective of this report was to assess the impact of the development traffic on the surrounding road network; review the internal design of the development including car parking and on-site loading areas; and review and assess the proposed parking demand.

The development proposes to utilise the existing full movement access crossover on Andrews Road, with significant design improvement to this area. The improvements include a dedicated left hand turning lane for vehicles traveling westbound on Andrews Road and a dedicated right hand turning lane for vehicles traveling eastbound.

To obtain the volumes of traffic currently utilising Andrews Road and existing Right of Carriageway (RoW) off Andrews Road, traffic surveys were undertaken by Ason Group on 6 September 2018. These surveys confirmed that the criterial (one-hour) morning peak on Andrews Road occurs between 7:45am - 8:45am with a total (two-way) traffic flow of approximately 1,100 vehicles per hour (veh/hr). The evening peak was recorded to occur between 4:15pm to 5:15pm with a total (two-way) traffic flow of about 1,220 veh/hr. The surveys also confirmed that at the processed access point off Andrews Road during the morning and evening peak hours a total of 12 and 13 veh/hr during AM and PM peaks hours, respectively. This can be translated into a daily traffic volume of less than 200 veh/day at the ROW easement.

The traffic generation rates for the development have been assessed as follows: 41veh/hr based on the operational details and 125 veh/hr during the peak periods based on the application of RMS Technical Direction and Ason Group's traffic surveys of similar development in Penrith LGA. The conservative hourly rate of 125veh/hr was adopted for the purpose of the site access driveway to future proof the design for potential future users. The SIDRA analysis confirmed that the intersection of Andrews Road and the access road will operate at an acceptable Level of Service (LoS) and that the impacts of the development on the broader road network are acceptable.

The proposed onsite parking (98 spaces) is substantially less than that required by Council's Development Control Plan (DCP) 2014 or the RMS document *Guide to Traffic Generating Developments*. Under Council's DCP, warehouse and distribution centres are required to provide parking at a rate of 1 space per 100m² of GFA (including ancillary office), resulting in a car parking requirement of 502 spaces. The traffic report has justified the non-compliance with Council's DCP, specifying the scale of the warehouse is substantially larger than the scale intended in the DCP (which is more appropriate for small scale or 'boutique' warehouse).

Under the RMS guide the rate is 1 space per 300m² of warehouse GFA and 1 space per 40m² of ancillary office GFA, resulting in a demand of 172 spaces. The report notes that the RMS rate was established through surveys of 10 facilities, which demonstrated the car parking requirements ranged from one space per 80m² and one space per 960m² with a mean and standard deviation of one space per 338m² and one space per 280m² respectively. The adopted RMS rate therefore reflects a "middle range" parking rate. The report references the 2012 Employment Typology Study for the Western Sydney Employment Area (WSEA), prepared for the DP&E which found that with recent significant technological advances employee densities have declined in warehouse developments to less than 20 employees per hectare. As a consequence, many of the industrial developments within the broader WSEA (which are a similar scale to the proposal) provide car parking significantly in excess of the actual parking requirements of the end users. As such, the proposed parking on-site is considered satisfactory considering that a maximum of 30 staff will be on-site at any one time. In addition, it is noted that there is a surplus of hardstand area on-site that could accommodate further staff parking if the tenant of the development changes in the future.

Flora and Fauna

The application was supported by a Flora and Fauna Assessment, prepared by Eco Logical Australia and dated 31 October 2018. The purpose of the report was to assess the flora and fauna impacts associated with the proposed development. A desktop review and site inspection was undertaken to determine the extent of native vegetation on-site and inform an assessment of potential impacts to threatened species, their habitat and ecological communities. It was found that the site contains three threatened ecological communities: Cumberland Plain Woodland, Freshwater Wetlands and River-flat Eucalypt Forest. However, no threaten ecological communities, flora or fauna species listed under the Commonwealth *Environment Protection and Biodiversity Conservation Act* (EPBC Act) were recorded during the field surveys and based on habitat assessments none are unlikely to occur within the site or unlikely to be adversely impacted by the proposal. The report did note that some threatened fauna species may utilise the site intermittently as marginal foraging habitat. However, these species are highly mobile and the amount of habitat to be impacted is negligible in comparison to the availability of similar habitat in the adjacent landscape and locality. The assessment concluded that the proposal is unlikely to result in a significant impact to any threatened ecological communities, threatened flora and fauna listed under the *Biodiversity Conservation Act* (BC Act) or EPBC Act.

The application was also supported by a Vegetation Management Plan (VMP), prepared by Eco Logical Australia and dated 31 January 2019. The objectives of the VMP are to establish native species cover and density throughout the waterfronts lands by revegetation works and to assist in the natural regeneration of the VMP area.

Both the Flora and Fauna Assessment & VMP have been reviewed by Council's Senior Biodiversity Officer, who supports the application subject to conditions.

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

The site is suitable for the following reasons:

- The site has good access to regional significant roads, being Castlereagh Road and Richmond Road;
- Andrews Road, Castlereagh Road and Richmond Road are designated and approved as 26m B-double routes;
- The site is a battle-axe lot and therefore screened from view from Andrews Road;
- Industrial development adjoins the site to the north and east;
- The grade of the site is suitable for the design proposed; and
- The site is able to drain to Council's satisfaction.

Section 79C(1)(d) Any Submissions

Community Consultation

In accordance with Clause 4.4 of Appendix F4 of Penrith Development Control Plan 2014, the proposed development was notified to nearby and adjoining residents. Council notified seven (7) properties in the area and the exhibition period was between 16 November 2018 and 17 December 2018. The application was also advertised in a local newspaper on 15 November 2018.

As the development was amended to include remediation works, the application was re-notified (from 14 March to 15 April 2019) and re-advertised in a local newspaper (on the 14 March 2019).

Council received no submissions in response.

Referrals

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

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

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

The proposed development will not generate any significant issues of public interest, subject to conditions.

Section 94 - Developer Contributions Plans

The proposed development is not affected by a Section 7.11 Contributions Plan and as such no contributions are required.

Conclusion

In assessing this application against the relevant environmental planning policies, being Penrith Local Environmental Plan 2010 and Penrith Development Control Plan 2014, the proposal satisfies the aims, objectives and provisions of these policies. The site is suitable for the proposed development, the proposal is in the public interest, and there is unlikely to be negative impacts arising from the proposed development. Therefore, the application is worthy of support, subject to recommended conditions.

Recommendation

1. That the request pursuant to Clause 4.6 of the Penrith LEP 2010 be supported; and
2. That Integrated Development DA18/1114 for site remediation works, construction of warehouse and distribution facility and related site works including access road construction and bulk earthworks at 128 Andrews Road, Penrith be approved subject to the following conditions and General Terms of Approval.

CONDITIONS

General

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

Drawing Title	Drawing Reference	Prepared By	Dated
Locality Plan	18161 TP0.1 (Issue A)	Watson Young Architects	02/11/2018
Master Plan	18161 TP0.3 (Issue A)	Watson Young Architects	02/11/2018
Site Plan	18161 TP1.1 (Issue A)	Watson Young Architects	02/11/2018
Warehouse Plan	18161 TP1.2 (Issue A)	Watson Young Architects	02/11/2018
Roof Plan	18161 TP1.3 (Issue A)	Watson Young Architects	02/11/2018
Office Floor Plans	18161 TP1.4 (Issue A)	Watson Young Architects	02/11/2018
Elevations	18161 TP1.5 (Issue A)	Watson Young Architects	02/11/2018
Elevations – Part 1	18161 TP1.6 (Issue A)	Watson Young Architects	02/11/2018
Elevations – Part 2	18161 TP1.7 (Issue A)	Watson Young Architects	02/11/2018
Elevations – Office	18161 TP1.8 (Issue A)	Watson Young Architects	02/11/2018
Section	18161 TP1.9 (Issue A)	Watson Young Architects	02/11/2018
Site Plan – Site 2	18161 TP2.1 (Issue A)	Watson Young Architects	02/11/2018
Overall Elevations – Site 2	18161 TP2.2 (Issue A)	Watson Young Architects	02/11/2018
Landscape Concept Plans	181003 LDA00-08	Geoscapes Landscape Architects	04/02/2019
Stormwater Management Plan	C013620.00 DA 40-46 (Issue: up to H)	Costin Roe Consulting	31/01/2019
Waste Management Plan	WTJ18-289	Willow Tree Planning	1/11/2018

- 2 A copy of the General Terms of Approval (dated 9 November 2018) issued by the NSW Natural Resource Access Regulator under the *Water Management Act 2000* shall be submitted to the Principal Certifying Authority, before the Construction Certificate can be issued for the same development. A copy of the approval shall be submitted to Penrith City Council with the copy of the Construction Certificate, if Council is not the Principal Certifying Authority.

- 3 **The development shall not be used or occupied until an Occupation Certificate has been issued.**
- 4 A separate development application for the erection of a sign or advertising structure, other than an advertisement listed as exempt development or located within the 'signage zone' located on the eastern elevation, is to be submitted to Penrith City Council, complying with the requirements of Penrith Development Control Plan 2014.
- 5 The approved operating hours are 24 hours a day, seven days a week.
- 6 All materials and goods associated with the use shall be contained within the building at all times.
- 7 Exterior lighting shall be located and directed in such a manner so as not to create a nuisance to surrounding landuses. The lighting shall be the minimum level of illumination necessary for safe operation. The lighting shall be in accordance with AS 4282 "Control of the obtrusive effects of outdoor lighting" (1997).
- 8 The finishes of all structures and buildings are to be maintained at all times and any graffiti or vandalism immediately removed/repaired.
- 9 A **Construction Certificate** shall be obtained prior to commencement of any building works.
- 10 The recommendations of Bushfire Hazard Assessment Industrial Development, prepared by Blackash Bushfire Consulting and dated 31 October 2018 are to be incorporated into the Construction Certificate plans.

Environmental Matters

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

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

Certification that the erosion and sediment control measures have been installed in accordance with the approved erosion and sediment control plan (s) for the development and "Managing Urban Stormwater: Soils and Construction 2004" shall be obtained and issued a minimum 2 days before any other site works are to commence, including earthworks and clearing of the site.

The approved sediment and erosion control measures are to be installed **prior to and maintained throughout the construction phase of the development until the land, that was subject to the works, has been stabilised and grass cover established.** These measures shall ensure that mud and soil from vehicular movements to and from the site does not occur during the construction of the development.

- 12 All land that has been disturbed by earthworks is to be spray grassed or similarly treated to establish a grass cover.
- 13 Dust suppression techniques are to be employed during works to reduce any potential nuisances to surrounding properties.
- 14 Site remediation works shall be carried out generally in accordance with the approved 'Remediation Action Plan' (E31675KRrpt-RAP) prepared by EIS dated 4 February 2019 as well as Penrith Development Control Plan, the applicable NSW Environment Protection Authority Guidelines and the National Environment Protection (Assessment of Site Contamination) Measure (1999) [NEPM 2013].

On completion of the site remediation works, the following documentation is to be submitted to the Principal Certifying Authority and Penrith City Council, if Council is not the Principal Certifying Authority:

- Written notification that the site remediation works have been completed is to be submitted **within 30 days that the said works have been completed**.
 - A validation report, prepared by an appropriately qualified person as defined in Penrith Development Control Plan, is to be submitted **prior to the issue of a Construction Certificate** for approval. The report shall certify that the remediation works have been carried out in accordance with the approved Remediation Action Plan, relevant NSW Environment Protection Authority requirements, NEPM 2013 and Penrith Development Control Plan.
- 15 Mud and soil from vehicular movements to and from the site must not be deposited on the road.
 - 16 No fill material is to be imported to the site without the prior approval of Penrith City Council in accordance with Sydney Regional Environmental Plan No.20 (Hawkesbury- Nepean River) (No.2-1997). No recycling of material for use as fill material shall be carried out on the site without the prior approval of Council.

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

The Validation Certificate shall:

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

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

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

18 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.

19 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.

20 Noise levels from the premises shall not exceed the relevant noise criteria detailed in the Approved Acoustic Report (20181396.1/2310A/R1/AW) prepared by Acoustic Logic dated 23 October 2018. The recommendations provided in the above-mentioned acoustic report must be implemented and incorporated into the design, construction and management of the development, and shall be shown on plans accompanying the Construction Certificate application. A certificate is to be obtained from a qualified acoustic consultant certifying that the building has been constructed to meet the noise criteria in accordance with the approved acoustic report. This certificate is to be submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

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

21 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.

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

- (i) confirm the total greenhouse gas savings achieved in comparison to a base case development (i.e. a development constructed in accordance with the minimum requirements of Section J of the BCA);
- (ii) include a calculation of water requirements and measures incorporated to reduce water use;
- (iii) include a program to monitor and report annually on the efficiency of the measures implemented; and
- (iv) ensure the development will continue to operate at industry best practice over time.

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

23 Trees identified for removal are to be lowered to the ground slowly when felling to allow any resident fauna time to escape and to ensure they aren't crushed by falling trees and branches. This replaces the need for pre-clearing hollow survey and inspection. This is to be done under the supervision of a qualified ecologist. Details on reporting of actions undertaken with tallies of fauna removed from the felled trees with details of their relocation destination (or destruction) are to be submitted to Penrith City Councils Senior Biodiversity Officer for approval prior to issue of a Construction Certificate.

24 All recommendations and activities of the approved Vegetation Management Plan (VMP), prepared by Ecological Australia, dated the 31/01/2019 form the conditions of consent for this development with the following modifications:

- Replacement planting is increased to what ever percentage to achieve 85% success rate the end of the maintenance period.

Progress reports are to be provided for on an annual basis for a period of 5 years OR until the completion of the project and are to be submitted to Penrith City Councils Senior Biodiversity Officer.

- 25 Prior to Occupation Certificate, the recommendations for lighting for microbats and wildlife of the approved Architecture Plan, prepared by Watson Young, dated the 29/01/2019 must be implemented. The following is required:
- Lights to be angled downward toward the proposed car parking area;
 - Lighting fixtures to be selected to minimise light spill; and
 - Canopy trees identified on the eastern edge of the car parking area planted to act as a buffer and reduce light penetration, as identified in the landscape plans.
- 26 All native trees with a trunk DBH (diameter at breast height) greater than 30cm that are scheduled for removal are to be stockpiled and transported for reuse in the following manner
- All logs and branches greater than 30cm in diameter are to be trimmed into 2-4m lengths. No foliage material may remain on the logs.
 - These logs are to be transported, delivered and installed under the guidance of a professional bush regenerator, by the applicant and at the applicants cost, to the revegetation zones 1 & 2 as detailed in the Vegetation Management Plan prepared by Ecological Australia, dated 31/01/2019 for fauna habitat
 - Receipts of works are to be retained for council records.

BCA Issues

- 27 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.
- 28 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

- 29 A Section 73 Compliance Certificate under the Sydney Water Act 1994 shall be obtained from Sydney Water. The application must be made through an authorised Water Servicing Coordinator. Please refer to “Your Business” section of Sydney Water’s website at www.sydneywater.com.au then the “e-developer” icon, or telephone 13 20 92.

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

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

In the event that a pad mounted substation is necessary to service the development, Penrith City Council shall be consulted over the proposed location of the substation before the Construction Certificate for the development is issued as the location of the substation may impact on other services and building, driveway or landscape design already approved by Council.

Construction

- 31 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.

32 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.

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

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

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

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

Engineering

- 34 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.
- 35 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.

- 36 **Prior to the issue of any Construction Certificate**, the Certifying Authority shall ensure that a Section 138 Roads Act application, including payment of application and inspection fees, has been lodged with, and approved by Penrith City Council (being the Roads Authority under the Roads Act), for provision of access upgrade works in Andrews Road road reserve.

A copy of the Roads and Maritime Services approval shall be submitted to Penrith City Council prior to issue of this Approval.

Detailed engineering plans are to be provided for works in Andrews Road and the Access Road.

The detailed plans and documents for the intersection of Andrews Road / Access Road are to include the development works to provide the proposed intersection works and traffic instructions at Andrews Road / Access Road intersection that are shown, in principle on the applicant's plan titled Functional Layout Plan Andrews Road Intersection Drawing No. C013620.00-R01 Issue C dated 1 January 2019. These plans and documents shall include:

- Consultation agreements with Endeavour Energy regarding the proposed Andrews Road / Access Road intersection works restricting the Endeavour Energy driveway on the northern side of Andrews Road at the proposed intersection to left in / left out only. This includes written agreement from Endeavour Energy for the left in / left out driveway access restriction, provision of acceptable vehicle turning paths into and out of the Endeavour Energy driveway including access for over size over mass (OSOM) vehicles and consideration of alternative access provision for Endeavour Energy including provision of access to the road network on the northern side of Endeavour Energy's property. provide alternative access to Endeavour Energy Lot 4 DP 595931 from Renshaw Street. Written acceptance and any agreed compensation or works is to be provided to Council for acceptance prior to the issue of any Construction Certificate by the Certifying Authority.
- A right turn in from Andrews Road deceleration/storage lane with for a 26 metre B-Double vehicle and a 19 metre semi-trailer vehicle.
- Andrews Road / Access Road intersection that allows a 26 metre B-Double vehicle swept path from that lane at least 100 mm clear of the through lane in Andrews Road, at least 600 mm clear of the kerb lines and medians.
- Raised concrete centre median in Andrews Road east of the right turn bay that physically prevents vehicles turning right into and out of the Endeavour Energy driveway on the northern side of Andrews Road.
- 3.0 metre wide sealed shoulders (except parallel to the left turn lane into the Access Road), kerb and gutter, verge at least 3.8 metres wide with 1.5 metre wide concrete footpath set 1.8 metres from kerb face and connections to kerb ramps at the Access Road along Andrews Road and the intersection with Access Road.
- Provision of at least a 4 metre corner splay at the corner of Andrews Road site boundary and the side

boundary west of the Access Road.

- A bicycle lane between the Andrews Road left turn lanes into and out of the Access Road and the Andrews Road through lane.
- Street lighting in accord with Australian Standard 1158 and Council's Lighting Policy and Council requirements.
- Traffic signage and line marking plans including left only restrictions from Access Road to Andrews Road and left in / left out only restrictions at the Andrews Road / Endeavour Energy driveway.
- Sight distance requirements at driveways are to be in accordance with AS 2890.2 Figure 3.3 and Figure 3.4.

The plans are to be prepared by a suitably qualified design engineer and submitted to Council for referral to the Local Traffic Committee for approval. These plans are to be in accordance with AUSTROADS, Australian Standards, Roads and Maritime Services (RMS) technical directions, other relevant standards and Council requirements and are to include details of regulatory line marking and signposting.

Prior to the issue of any Construction Certificate, the Certifying Authority shall ensure that the plans are adjusted to include:

- Dimensions of driveways, ramps, aisles, parking spaces, accessible parking, bicycle parking, 1.5 metre wide concrete footpath from Andrews Road along access driveway, access gate, car park to building accesses, other internal footpaths, services vehicle manoeuvring and loading areas complying with AS 2890, AS 1428, Council Development Control Plan (DCP) C10 and other Council guidelines.
- Complying numbers of secure, all weather bicycle parking, end of journey facilities, change rooms, showers, lockers are to be provided at convenient locations in accordance with Council Development Control Plan (DCP) C10 Section 10.7, AS 2890.3 Bicycle Parking Facilities and Planning Guidelines for Walking and Cycling (NSW Government 2004).
- Accessible pedestrian paths of travel from the car park access to the building through the warehouse to all of the offices and staff facilities.

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

Contact Penrith City Council's Development Engineering Department on (02) 4732 7777 or visit Penrith City Council's website for more information.

Note:

- a) Where Penrith City Council is the Certifying Authority for the development the Roads Act approval for the above works may be issued concurrently with the Construction Certificate.
- b) Separate approvals is required from the Roads and Maritime Services for classified roads.
- c) All works associated with the Roads Act approval must be completed prior to the issue of any Occupation Certificate as applicable.

- 37 Prior to the issue of any Construction Certificate, the Certifying Authority shall ensure that any applicable application, including the payment of application and inspection fees, has been lodged with and approved by the Roads and Maritime Services for any works within the Andrews Road road reserve.

A copy of the Roads and Maritime Services approval shall be submitted to Penrith City Council prior to Penrith City Council issuing any Roads Act approval.

- 38 A Stage 3 (detailed design) Road Safety Audit (RSA) shall be undertaken in accordance with Austroads Guide to Road Safety Part 6: Road Safety Audit on the proposed roadworks by an accredited auditor who is independent of the design consultant. A copy of the RSA shall accompany the design plans submitted with the Construction Certificate or Roads Act application.

Prior to the issue of the Construction Certificate or Section 138 Roads Act approval, the Certifying Authority shall ensure that the recommendations of the RSA have been considered in the final design, through review of the Road Safety Audit Checklist, including Findings, Recommendations and Corrective Actions.

A copy of the Road Safety Audit shall be submitted to Penrith City Council by the applicant or Certifying Authority for information purposes.

- 39 The stormwater management system shall be provided generally in accordance with the concept plan/s lodged for development approval, prepared by Costin Roe Consulting, reference number C013620.00 - DA 40-46, revision (up to H) and dated 31/01/2019.

The bioretention system proposed must have a minimum combined area of 1,250m², minimum filter depth of 500mm and vegetation density of 8 plant per m².

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.

- 40 Prior to the issue of any Construction Certificate, the Certifying Authority shall ensure that the foundations of proposed structures adjoining the drainage and/ or services easement have been designed clear of the zone of influence.
- 41 **Prior to the issue of any Construction Certificate**, the Certifying Authority shall ensure that the proposed development is compatible with the recommendations of the Flood Report prepared by Costin Roe Consulting, reference number CO13620.00 - 07 and dated 20/05/2019.
- 42 **Prior to the issue of any Construction Certificate**, the Certifying Authority shall ensure that vehicular access, circulation, manoeuvring, pedestrian and parking areas associated with the subject development are in accordance with AS 2890.1, AS 2890.2, AS 2890.6 and Penrith City Council's Development Control Plan.

- 43 Prior to the issue of a Roads Act Approval, a Performance Bond is to be lodged with Penrith City Council for road works in Andrews Road road reserve.

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

Note: Contact Penrith City Council's Development Engineering Department on (02) 4732 7777 for further information relating to bond requirements.

- 44 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.

- 45 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.

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

An original set of works-as-executed drawings and copies of the final operation and maintenance management plans and compliance documentation shall also be submitted to Penrith City Council with notification of the issue of the Occupation Certificate where Council is not the Principal Certifying Authority.

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

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

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

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

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

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

49 Prior to the issue of any Occupation Certificate, a Maintenance Bond is to be lodged with Penrith City Council for road works in Andrews Road road reserve.

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

Note:

- a) Contact Penrith City Council's Engineering Services Department on (02) 4732 7777 for further information relating to bond requirements.

50 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.

51 **Prior to issue of a Construction Certificate**, a Construction Traffic Management Plan is to be provided detailing construction vehicle routes, number of trucks, hours of operation, access arrangements, construction vehicle and employee parking arrangements.

52 Prior to the issue of an Occupation Certificate, all required works are to be completed in accordance with the approved plans and Council requirements. All works including regulatory signposting associated with the proposed development are to be undertaken at no cost to Council or Roads and Maritime Services.

53 Prior to the issue of any Construction Certificate the Certifying Authority shall ensure that the plans are adjusted to include:

- Dimensions of driveways, ramps, aisles, parking spaces, accessible parking, bicycle parking, 1.5 metre wide concrete footpath from Andrews Road along access driveway, access gate, car park to building accesses, other internal footpaths, services vehicle manoeuvring and loading areas complying with AS 2890, AS 1428, Council Development Control Plan (DCP) C10 and other Council guidelines.
- Complying numbers of secure, all weather bicycle parking, end of journey facilities, change rooms, showers, lockers are to be provided at convenient locations in accordance with Council Development Control Plan (DCP) C10 Section 10.7, AS 2890.3 Bicycle Parking Facilities and Planning Guidelines for Walking and Cycling (NSW Government 2004).
- Accessible pedestrian paths of travel from the car park access to the building through the warehouse to all of the offices and staff facilities.

- 54 All vehicles are to enter and leave in a forward direction.
- 55 **Prior to the issue of an Occupation Certificate**, appropriate signage, visible from the public road and on-site shall to be installed to reinforce designated vehicle circulation and to direct staff / delivery vehicle drivers / service vehicle drivers / visitors to on-site parking, delivery and service areas to the satisfaction of the Principal Certifying Authority.
- 56 All car spaces and loading areas are to be sealed / line marked and dedicated for the parking of vehicles only and not to be used for storage of materials / products / waste materials etc.
- 57 Accessible parking is to be provided with accessible paths of travel to the facility in accordance with AS 2890.6:2009.
- 58 The required sight lines around the driveway entrances and exits are not to be compromised by street trees, landscaping or fencing.
- 59 Subleasing of car parking spaces is not permitted by this Consent.
- 60 Sight distance requirements at driveways are to be in accordance with AS 2890.2 Figure 3.3 and Figure 3.4.
- 61 Certify Authority shall ensure that a flood safe access shall be provided up to 1% AEP storm event from local catchment (overland flow). Additional stormwater infrastructure may be required.

Landscaping

- 62 All landscape works are to be constructed in accordance with the stamped approved Landscape Plan, 181003 LDA00-08, prepared by Geoscapes Landscape Architects and dated 04 February 2019 and Penrith Development Control Plan 2014.

Landscaping shall be maintained:

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

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

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

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

i. Implementation Report

Upon completion of the landscape works associated with the development and prior to the issue of an Occupation Certificate for the development, an Implementation Report must be submitted to the Principal Certifying Authority attesting to the satisfactory completion of the landscaping works for the development.

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

65 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.

66 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 F4 of Councils Landscape Development Control Plan.

67 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.

68 **Prior to the issue of a Construction Certificate**, details of the fencing are to be submitted to and approved by Council. The fencing is to comply with the requirements of Penrith Development Control Plan 2014, D4 Industrial Development, Section 4.7 Fencing.

Certification

69 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.

Unallocated

70 To ensure that works associated with the Vegetation Management Plan are constructed in accordance with the approved plans, a bank guarantee or insurance bond shall be submitted to Penrith City Council prior to the issue of a Construction Certificate. The bank guarantee or insurance bond shall be:

- To the value of \$100,000;
- Unconditional; and
- From an institution and in a form approved by Council.

5 years after the Occupation Certificate has been issued for the development, a report on the implementation and management of the vegetation management plan shall be submitted to Penrith City Council outlining all plantings that occurred and all maintenance that has occurred. Council shall return the bank guarantee or bond upon receipt of a satisfactory Report and if Council is satisfied that the VMP and associated maintenance has been implemented satisfactorily.

Appendix - Development Control Plan Compliance

Development Control Plan 2014

Part C - City-wide Controls

C10 Transport, Access and Parking

The development does not provide parking that complies with the warehouse rate provided in the DCP. This issue is further discussed under the 'likely impacts' section of this report.

D4 Industrial Development

4.1 Key Precincts

The subject site is located within the Precinct 5 shown in Figure D4.3 of the DCP.

4.2 Building Height

The development does not comply with the height controls contained within Penrith LEP. This issue is further discussed under the 'Clause 4.6 Exceptions to development standards' section of this report.

4.3 Building Setbacks and Landscape

The subject site does not contain a road frontage being a battle-axe lot. As such, the building setback controls contained within section 4.3 are not applicable. The application was accompanied by a landscape plan demonstrating that the proposed planting will enhance the presentation of the warehouse and minimise the visual impact of hard surface areas.

4.4 Building Design

The objectives of this section of the DCP relate to industrial development architectural design, sustainability and visual impact. Discussion against these aspects of the proposal are further discussed under the 'Clause 7.4 Sustainable development' and 'likely impacts' sections of this report.

4.5 Storage of Materials and Chemicals

No external storage of materials or chemicals is proposed.

4.6 Accessing and Servicing the site

The objectives of this section of the DCP aim to ensure industrial development has safe and efficient movement into and out of the site; provides sufficient parking on-site; provides parking that enhances the function and appearance of the industrial development; and ensures cyclists and pedestrian needs are adequately and safely accommodated.

4.7 Fencing

The landscape plan indicates that the fence will be 2.1m high security fence however, no details have been provided in regards to the type or location of the fence. As such, a condition of consent is recommended that details of the fencing be provided prior to the issue of a construction certificate.

4.8 Lighting

It is recommended that a condition of consent be included to ensure that external lighting complies with relevant Australian Standards and is located and directed as not to create a nuisance to surrounding landuses.