

DATE OF DETERMINATION	1 November 2022
DATE OF PANEL DECISION	1 November 2022
DATE OF PANEL MEETING	24 October 2022
PANEL MEMBERS	Justin Doyle (Chair), Nicole Gurran, Louise Camenzuli, Ross Fowler
APOLOGIES	Trcia Hitchen, Carlie Ryan, Glenn McCarthy
DECLARATIONS OF INTEREST	None

Papers circulated electronically on 18 October 2022.

MATTER DETERMINED

PPSSWC-153 – Penrith – DA21/0308 – 2115 – 2131 Castlereagh Road, Penrith

Alterations and Additions to Existing Industrial Buildings (including Demolition) and Construction of Additional Industrial Buildings and Three Multi-Storey Carparks

THE DECISION

The Panel considered: the matters listed at item 6, the material listed at item 7 and the material presented at meetings and briefings listed at item 8 in Schedule 1.

Application to vary a development standard

The Panel has considered the applicant's written request made under cl 4.6 (3) of the Penrith Local Environmental Plan 2015 (LEP) to permit a departure from the development standard recorded by Clause 4.3 Height of Buildings in the determination of the DA.

Specifically, whereas the maximum height mapped for the purposes of clause 4.3 assigns a maximum building height of 12 metres above Height Datum (AHD), the proposed building labelled MF at the front of the site will have a maximum building height of 14.8m AHD, with 2 minor lift overruns that reach a height of 15.2m AHD. Further, the proposed multideck car park structure within the building labelled EW1 towards the middle of the site reaches a height of 15.77 metres AHD, with two minor lift overruns that reach a height of 17.57m AHD and another that reaches 19.87m AHD.

The maximum building height of the existing warehouse (part of the former Crane Enfield building) is 20.91m AHD, with a chimney that reaches to 26.5 metres AHD.

The Panel is satisfied that it is in the public interest to grant the request, and that the request adequately addresses the matters required to be addressed under cl 4.6 (3) of the LEP. There are sufficient environmental planning grounds identified and established in the written request to justify contravening the development standard such that compliance is unreasonable or unnecessary in the circumstances.

The development as proposed will be consistent with the objectives of cl. 4.3 of the LEP and the objectives for development in the IN1 General Industrial zone in which the building is located for the reasons set out in the staff assessment report. Of principal relevance from the zone objectives, the height exceedances will not cause any adverse effect on industry or other land uses. The buildings at the proposed height will still be complementary to the streetscape and character of the area in which the development is to be located. The visual impact of the buildings which exceed the height limit will still be satisfactory, and the additional height will not disrupt views, result in unacceptable loss of privacy or solar access to any existing development.

Taking those matters into account, it is in the public interest to allow the height exceedance.

The concurrence of the Secretary is assumed (see Planning Circular PS 20-002 issued 5 May 2020).

Determination of Development application

The Panel determined to approve the development application pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979*.

The decision was unanimous.

REASONS FOR THE DECISION

The Panel agrees with the reasoning set out in the Council report.

The proposed development will allow for the redevelopment of this industrial property incorporating a number of tenancies so as to add to the quantity and diversity of industrial (and industrial compatible) premises in the area. As such it will be encouraging of economic activity and employment growth in Western Sydney necessary for the realisation of the vision for Western Sydney described in the District Plan.

Impacts on Castlereagh Road have been carefully considered and (with amendments made during the DA process) have been found to be acceptable by both Council and TfNSW noting that a s 138 approval under the Roads Act is required for any work within the classified Road. The requirements of TfNSW, including consolidation of access and deceleration lane configuration have been adequately catered for.

Significant work was undertaken by the Applicant working in conjunction with the Council staff to improve the appearance of the development from Castlereagh Road noting its scenic values. The Panel is satisfied that the final version of the proposed development and its design sufficiently responds to its location to minimise the visual impact of the development in that regard. Notably, a significant setback is proposed which will be landscaped in accordance with a landscape plan including canopy trees and understorey. The Conditions give direction for the finalisation of that plan which is to be endorsed by Council prior to the construction certificate issuing (with a 30 day time limit for Council to respond to the draft plan submitted). A similar condition requires Council's endorsement of signage visible from Castlereagh Road. The Panel is satisfied Clause 7.5(3) of Penrith LEP 2010 is sufficiently addressed 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.

Recommendations of the EPA including in relation to the Wastewater Treatment Plant (WWTP) and irrigation area and Ongoing Maintenance Order (OMO) No. 20212805 issued under the Contaminated Land Management Act 1997 and associated Long Term Environmental Management Plan (LTEMP) have been accounted for in the Council assessment and recommended conditions. The requirements of the Resilience and Hazards SEPP appear to have been met in relation to management of site contamination. The Council has reviewed a 'Desktop Contamination Assessment' (DCA) prepared by Geosyntex Consultants Pty Ltd, and an addendum report addressing additional matters raised by Council, and found the site now suitable for the proposed use.

The General Terms of Approval issued following referral to NRAR are incorporated into the conditions, covering design of works and structures, erosion and sediment controls, plans, standards and guidelines, rehabilitation and maintenance, and reporting requirements. Issues of bushfire risk arising from the mapping of a corner of the site as bushfire prone are sufficiently addressed.

While the area of removal of vegetation on the site is not identified on the Biodiversity Values Map, the Panel notes that an arborist's report was supplied in relation to tree removal which satisfied Council.

CONDITIONS

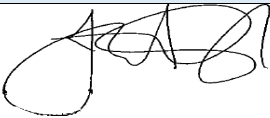



The Development Application was approved generally subject to the conditions in the Council Assessment Report. Conditions were imposed to address various building and fire safety concerns of Council staff to meet the requirements of the EP&A Regulation.

Where there was disagreement between the Applicant and the Council about the final form of those conditions, disagreement was adjudicated as recorded in "Annexure A" to this determination report.

The Conditions are to be updated according to that determination.

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel notes that no written submissions were made during public exhibition and therefore no issues of concern were raised.

PANEL MEMBERS	
 Justin Doyle (Chair)	 Louise Camenzuli
 Nicole Gurran	 Ross Fowler

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSWC-153 – Penrith – DA21/0308
2	PROPOSED DEVELOPMENT	Alterations and Additions to Existing Industrial Buildings (including Demolition) and Construction of Additional Industrial Buildings and Three Multi-Storey Carparks.
3	STREET ADDRESS	2115 – 2131 Castlereagh Road, Penrith
4	APPLICANT/OWNER	Aonari Pt10 Pty Ltd
5	TYPE OF REGIONAL DEVELOPMENT	General development over \$30 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> Environmental planning instruments: <ul style="list-style-type: none"> State Environmental Planning Policy (Biodiversity and Conservation) 2021 State Environmental Planning Policy (Planning Systems) 2021 State Environmental Planning Policy (Resilience and Hazards) 2021 State Environmental Planning Policy (Transport and Infrastructure) 2021 Penrith Local Environmental Plan 2010. Draft environmental planning instruments: Nil Development control plans: <ul style="list-style-type: none"> Penrith Development Control Plan 2014. Planning agreements: Nil Relevant provisions of the <i>Environmental Planning and Assessment Regulation 2021</i> Coastal zone management plan: Nil The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality The suitability of the site for the development Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations The public interest, including the principles of ecologically sustainable development
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> Council Assessment Report: 18 October 2022 4.6 variation request to Height of Buildings Council memo on conditions: 26 October 2022 Written submissions during public exhibition: 0 Total number of unique submissions received by way of objection: 0
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> Briefing: Monday, 1 August 2022, 10am – 11am <ul style="list-style-type: none"> <u>Panel members</u> Justin Doyle (Chair), Louise Camenzuli, Nicole Gurran, Ross Fowler and Carlie Ryan <u>Council assessment staff</u>: Robert Craig and Kathryn Saunders Final briefing to discuss council's recommendation: 24 October 2022 <ul style="list-style-type: none"> <u>Panel members</u>: Justin Doyle (Chair), Louise Camenzuli, Ross Fowler <u>Council assessment staff</u>: Gavin Cherry, Robert Walker, Kathryn Saunders, James Heathcote, Kate Smith
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the Council Assessment Report

ANNEXURE A

TO DETERMINATION OF THE WESTERN SYDNEY CITY PLANNING PANEL OF DA21/0308 FOR 2115 – 2131 CASTLEREAGH ROAD, PENRITH (PPSSWC-153)

Condition Number and Wording	Applicant Request	Council Response	Panel determination
<p><u>Condition 2</u></p> <p>The development is to be carried out generally in accordance with the stamped-approved plans and the staging strategy outlined in Schedule 3 of this development notice, and accompanying documentation submitted in respect to this application.</p> <p>Each stage of the development shall have adequate car parking facilities available in accordance with the rates specified in Chapter C10 of Penrith Development Control Plan 2014 and this shall be reflected in the staging strategy and Construction Management Plan where relevant.</p> <p>For the avoidance of doubt, unless specified, any reference to a Construction Certificate or Occupation Certificate is a reference to the Construction Certificate or Occupation Certificate for the relevant stage of the development and each condition of consent is only required to be satisfied as it relates to that stage of the development shown on the approved staging plan.</p>	<p>Point 1 of letter:</p> <p>We have had a PCA review the conditions and it is requested that the Notice of Determination be made clearer in relation to the proposed works at the front of the site. Whilst plan A02.22-06, Revision 6, dated 25.08.22 is listed in the suite of plans recommended for approval (Condition 1), the PCA has suggested that Condition 2 include an additional line at the end of the first paragraph that could read as follows:</p> <p>“Access arrangements to the site, approved as part of this development application, are to be consistent with those shown as ‘Option 2 – Traffic and Pedestrian Plan – Proposed’ on A02.22-06, Rev 06, dated 25.08.22, and drawn by BN.”</p>	<p>Agree to amendments proposed by the applicant.</p>	<p>Condition amended as per Applicant's request</p>

<p><u>Condition 10</u></p> <p>Prior to the issue of an Occupation Certificate, an internal signage strategy for the development shall be submitted to Council for approval. The strategy shall incorporate all forms of signage to be used on the site (including any LED signs).</p>	<p>Point 6 of letter:</p> <p>This condition requires further approval to be obtained from Council. Our PCA has requested this condition be amended to allow for a PCA to approve.</p>	<p>Disagree.</p> <p>It is recommended that Council remains the authority to approve any signage for the development, as it relates to the visual impact of the development.</p> <p>Further, noting the concerns of the Panel in relation to the design quality, a high quality landscape and architectural outcome is an important element of the development because of the scale of the development and the scenic and landscape qualities of the site.</p> <p>To strengthen Council's requirements, rather than impose a deferred commencement condition, it is recommended that the Condition include additional wording, which requires a specific position within Council to approve the requirements of the Condition.</p> <p>Proposed wording would include:</p> <p><i>"Prior to the issue of an Occupation Certificate, an internal signage strategy for the development shall be submitted to and approved by the Principal Planner of Penrith City Council's Development Services Department. The strategy shall incorporate all forms of signage to be used on the site (including any LED signs)."</i></p> <p>Given the length of time with the development application under assessment, this would allow other aspects of the consent to progress, such as requirements of Transport for NSW.</p> <p>Council is satisfied that this is an appropriate way to resolve the outstanding requirements for the development.</p>	<p>The Panel does not agree to signage presenting to the public way being added without opportunity for assessment by Council. That is not an onerous requirement if subject to a time limit for Council's assessment.</p> <p><u>Reword</u></p> <p>Prior to the issue of an Occupation Certificate, an internal signage strategy for the development shall be submitted to the PCA for approval. The strategy shall incorporate all forms of signage to be used on the site (including any LED signs).</p> <p>To the extent any sign is to be visible from Castlereagh Road, the PCA shall not accept such signage in the strategy unless it has been endorsed as acceptable by Principal Planner of Penrith City Council's Development Services Department (or sufficient evidence is supplied to the PCA that any proposal for such signage has been submitted to Penrith Council and Council has not advised of its Principal Planner's assessment within 30 days).</p>
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<p><u>Condition 11</u></p> <p>The operating hours are from 7:00am to 6:00pm, Monday to Sunday, unless otherwise specified through subsequent applications.</p>	<p>Point 2 of letter:</p> <p>The site currently benefits from 24-hour operation (the current Capral operation) with no restrictions in any of the consents issued that we could identify. The SEE accompanying the application (Section 3.11) sought to retain this, and it was reflected through the various consultant reports. We note that future uses of the proposed new buildings will be subject to individual development applications that will need to demonstrate (at that time) the suitability of their own hours of operation. Accordingly, it is considered that a restriction of hours of operation does not need to be placed on this consent and it is respectfully requested to be deleted.</p>	<p>Agree to delete this condition.</p> <p>Council notes that standard hours are prescribed through complying development and development applications will make assessment of extended operating hours in relation to individual tenancies.</p>	<p>Condition deleted.</p>
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<p><u>Condition 12</u></p> <p>There shall be no external storage of any goods, materials, and the like on the site.</p>	<p>Point 3 of letter:</p> <p>The existing Capral operation currently stores some of its products and materials, albeit not readily viewable from the public domain. This condition risks the current operations of Capral and the future potential to lease space to other. We question the practicalities of enforcing this condition on a site the size of the subject site, with the range of uses proposed. The condition is unreasonable in the circumstances of this case and is requested to be removed.</p>	<p>Disagree.</p> <p>The external storage of goods and materials is not desired and can conflict with areas relating to access, parking and the like.</p> <p>Condition 20 addresses the operation of the Capral tenancy in accordance with its relevant consent(s). The subject application does not grant consent for anything related to the Capral tenancy that is not already covered by previous approvals, including any external storage. External storage areas have not been nominated or shown in the plans.</p>	<p>Add to the end of the condition, except where provided for in the approved plans or any existing development consent.</p>
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<p><u>Condition 42</u></p> <p>Prior to the issue of a Construction Certificate, the following matters shall be addressed:</p> <p>a) An automatic smoke exhaust system is to be provided to existing warehouse 1 (EW1) and existing warehouse 2 (EW2) in accordance with Table E2.2a of the Building Code of Australia. Alternatively, a performance solution is to be proposed and submitted to the certifier demonstrating compliance with the relevant performance requirements of the Building Code of Australia.</p> <p>b) Travel distances and distances between alternative exits are to be provided to existing warehouse 1 (EW1) and existing warehouse 2 (EW2) in accordance with Clause D1.4 and D1.5 of the Building Code of Australia. Alternatively, a performance solution is to be proposed and submitted to the certifier demonstrating compliance with the relevant performance requirements of the Building Code of Australia.</p> <p>c) A sprinkler system is to be provided throughout existing warehouse 1 (EW1) and existing warehouse 2 (EW2) in accordance with the requirements of Clause C2.3 and Table E1.5 of the Building Code of Australia. Alternatively, a performance solution is to be proposed and submitted to the certifier demonstrating</p>	<p>Point 4 of letter:</p> <p>Condition 42 relates to internal works within existing warehouse EW1, and it is suspected that the drafting of this condition was not based on the final set of plans submitted to Council. As Council would recall, all proposed internal works to EW1 were removed from the development application altogether given the proponent was able to secure CDC approvals for internal tenancies. Given works to EW1 are now not proposed as part of the application, the condition is able to be deleted.</p>	<p>Disagree.</p> <p>This condition relates to Building Code of Australia (BCA) requirements identified through inspections of the existing buildings by Council's Certification team. The wording of the condition requires BCA compliance or otherwise performance solutions to be submitted to the Certifying Authority. It is considered this should be resolvable through the Construction Certificate process; and remain. Proposed building EW1 and EW2 are subject to building works associated with this development application.</p> <p>As per Clause 64 of the Environmental Planning and Assessment Regulation 2021, a consent authority can require buildings to upgraded.</p>	<p>Condition is to remain as imposed by the Council (Reason: The Panel notes that the existing wording of the condition allows for performance solutions in lieu of the measures described, which the Panel is satisfied allows for sufficient flexibility while ensuring fire safety).</p>
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<p>compliance with the relevant performance requirements of the Building Code of Australia.</p> <p>d) Existing warehouse 1 (EW1) and existing warehouse 2 (EW2) are to be provided with perimeter vehicular access in accordance with Clause C2.4 of the Building Code of Australia. Alternatively, a performance solution is to be proposed and submitted to the certifier demonstrating compliance with the relevant performance requirements of the Building Code of Australia.</p>			
<p><u>Condition 79</u></p> <p>Prior to the issue of a Construction Certificate, a 'Green-Wall Maintenance Strategy', relating to the multi-deck car parking structure, shall be prepared and implemented for the development. The strategy shall include (but not be limited to) the following:</p> <ul style="list-style-type: none"> • Pruning measures and frequency of maintenance required. • Soil nourishment for sustainable plant growth. • Consideration of the life cycle/replacement of planting, including strategies for replacement of plantings every 5 years (or sooner, as required). • Access arrangements or other measures in place in order for maintenance access. • Soil volumes and related details provided on the planter pots for the green wall plantings, ensuring these are sufficient in 	<p>Point 5 of letter:</p> <p>Condition 79 relates to a green wall that was proposed on car park structures that have since been removed from the proposal. The condition is unnecessary and can be deleted.</p>	<p>Disagree.</p> <p>The architectural plans show a green wall on the elevations of the multi deck car park, as per drawing reference: DA-0502, revision 9.</p> <p>This condition is to remain; should the green wall be removed through subsequent revisions of the architectural plans, the materials shall be submitted to Council in accordance with Condition 21. A modification application could also be pursued.</p> <p>As discussed in the briefing on 24 October 2022, the success of the green wall structure is heavily reliant on its maintenance strategy in perpetuity.</p>	<p>The following wording should be added to the Condition:</p> <p>“Alternatively, the green walls depicted in the approved plans may be substituted with an architectural treatment which achieves at least an equivalent quality of architectural outcome as shown in a plan endorsed as acceptable in that respect by the Principal Planner prior to the issue of a construction certificate.”</p>

<p>long-term sustainable plant life.</p> <ul style="list-style-type: none"> • Water and Drainage requirements. <p>This strategy is to be kept on the premises and available for Council viewing upon request.</p>			
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<p>Condition 19</p> <p>Prior to the issue of an Occupation Certificate, a 'Way- finding, Signage and Vehicle Management Strategy' shall be prepared and approved by Penrith City Council to ensure that potential conflicts between heavy vehicles and light vehicles are minimised.</p> <p>The strategy shall address (but not be limited to) the following:</p> <ul style="list-style-type: none"> • Signage for when vehicles and pedestrians enter the site detailing the direction to the different parts of the site. Such signage shall delineate between visitors and staff user accessing the site. • Way-finding signage throughout the site that give directional detail for each building access. Such signage should, at a minimum, be included at each building corner where vehicles and pedestrians may pass and shall be placed in practical and safe locations. • Traffic management barrier or otherwise near the entry of the multi-deck car parking structure. This is to ensure delineation of users visiting the front of the site for smaller industrial units and those staff and larger trucks and other vehicles accessing the rear of the site. • General signage to prevent visitors from 	<p>Point 6 of letter:</p> <p>This condition requires further approval to be obtained from Council. Our PCA has requested this condition be amended to allow for a PCA to approve.</p>	<p>Agree to amendments proposed by the applicant.</p>	<p>The Panel is satisfied that this issue will be sufficiently resolved by an independent certifier if the strategy is endorsed as sufficient by a suitably qualified traffic and transport engineer.</p> <p><u>Reword</u></p> <p>Prior to the issue of an Occupation Certificate, a 'Way- finding, Traffic Signage and Vehicle Management Strategy' shall be prepared and endorsed by a CPEng accredited engineer with a minimum of 5 years specialist experience in traffic engineering as sufficient to ensure that risks of potential conflicts between heavy vehicles and light vehicles are adequately minimised. The traffic engineer preparing the plan must state in the report that he or she has sought input from Penrith Council's engineers in the preparation of the Strategy.</p> <p>The strategy shall address (but not be limited to) the following:</p> <ul style="list-style-type: none"> • Signage for when vehicles and pedestrians enter the site detailing the direction to the different parts of the site. Such signage shall delineate between visitors and staff user accessing the site. • Way-finding signage throughout
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<p>accessing restricted areas or unsafe locations for pedestrian access.</p> <p>Once approved, the recommendations of the strategy are to be implemented, maintained and adhered to for the life of the development. Any amendments or alteration to the strategy can only be approved by Penrith City Council. This strategy is to be kept on the premises and available for Council viewing upon request.</p>			<p>the site that give directional detail for each building access. Such signage should, at a minimum, be included at each building corner where vehicles and pedestrians may pass and shall be placed in practical and safe locations.</p> <ul style="list-style-type: none"> • Traffic management barrier or otherwise near the entry of the multi-deck car parking structure. This is to ensure delineation of users visiting the front of the site for smaller industrial units and those staff and larger trucks and other vehicles accessing the rear of the site. • General signage to prevent visitors from accessing restricted areas or unsafe locations for pedestrian access. <p>The recommendations of the strategy are to be implemented, maintained and adhered to for the life of the development. Any amendments or alteration to the strategy can only be made if first approved by Penrith City Council. The strategy is to be kept on the premises and available for Council viewing upon request.</p>
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<p>Condition 21</p> <p>Prior to the issue of a Construction Certificate, a detailed material and colour schedule for the multi deck car park and new buildings shall be provided to Council for approval.</p>	<p>Point 6 of letter:</p> <p>This condition requires further approval to be obtained from Council. Our PCA has requested this condition be amended to allow for a PCA to approve.</p>	<p>Disagree.</p> <p>Proposed wording recommended</p> <p>includes: "Prior to the issue of a Construction Certificate, a detailed material and colour schedule for the multi deck car park and new buildings shall be submitted to and approved by the Principal Planner of Penrith City Council's Development Services Department."</p>	<p>It is reasonable for the Council to review the colour scheme of the development which will present to Castlereagh Street, which is not an onerous requirement if subject to a time limit for Council's assessment.</p> <p><u>Reword:</u></p> <p>Prior to the issue of a Construction Certificate, a detailed material and colour schedule for the multi deck car park and new buildings <u>where they</u></p>
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		<p>The justification for the above wording is the same as referenced for Condition 10; alternatively Council has no objections to this being a deferred commencement, as follows:</p> <p>“Prior to the consent becoming operational, a detailed material and colour schedule for the multi deck car park and new buildings shall be provided to Council for approval.”</p>	<p><u>present to Castlereagh Road shall be provided to Council for approval. Approval may be assumed by the PCA where evidence is provided that the schedule has been presented to Penrith Council and no assessment has been provided within 30 days.</u></p>
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<p><u>Condition 35</u></p> <p>Prior to the issue of the Construction Certificate, further details on the type and location of all proposed mechanical plant and equipment (excluding existing) associated with the proposed development is to be provided to Penrith City Council for consideration and approval. Suitable data and information assessed by a suitably qualified acoustic consultant is to be supplied to demonstrate compliance with the established noise criteria and the approved Acoustic Assessment (revision 6) prepared by Renzo Tonin & Associates and dated 05.04.2022 (Ref: TL889-01F02 r6).</p> <p>Prior to the issue of the Occupation Certificate, a Compliance Certificate, prepared by a suitably qualified acoustic consultant, is to be submitted to the Principal Certifying Authority and be approved by Penrith City Council. The Certificate is to demonstrate that the plant and equipment has been installed to comply with the established noise criteria.</p> <p>{Note: For the purpose of this condition a suitably qualified acoustic consultant means a consultant who possesses the qualifications to render them eligible for membership of the Australian Acoustics Society, Institution of Engineers Australia</p>	<p>Point 6 of letter:</p> <p>This condition requires further approval to be obtained from Council. Our PCA has requested this condition be amended to allow for a PCA to approve.</p>	<p>Agree to amendments proposed by the applicant.</p>	
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or the Association of Australian Acoustic Consultants at the grade of member}.			
<p>Condition 38</p> <p>An Unexpected Finds Protocol (the Protocol) is to be developed by an appropriately qualified environmental consultant. Prior to the issue of the Construction Certificate, the Protocol is to be submitted to Penrith City Council for approval. If Council is not the certifying authority for this development, the report is required to be provided to Council for approval.</p> <p>The Protocol is to address, at minimum, the management of any contamination found on the site during the excavation, demolition and construction phase of the development, including at minimum, contaminated soils, groundwater, buried building materials, asbestos, odour and staining.</p> <p>The Protocol is to clearly detail that all remediation works within the Penrith Local Government Area are considered to be Category 1 works under State Environmental Planning Policy (Resilience and Hazards) Chapter 4 - Remediation of Land, and that should any contamination be found during development works and should remediation works be required, development consent is to be sought from Penrith City Council before the remediation works commence.</p> <p>The Council approved Protocol is to be complied with at all times during the construction phase of the development.</p> <p>{For the purpose of this condition an appropriately qualified person/environmental consultant is defined as "a person who, in the opinion of Council, has a demonstrated experience, or access to experience in</p>	<p>Point 6 of letter:</p> <p>This condition requires further approval to be obtained from Council. Our PCA has requested this condition be amended to allow for a PCA to approve.</p>	<p>Agree to amendments proposed by the applicant.</p>	

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.”}			
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<p><u>Condition 53</u></p> <p>A demolition and construction waste management plan shall be submitted to Council's Environmental Health Department for consideration and approval. Council must approve the plan before works can commence on site.</p> <p>The waste management plan shall be prepared in accordance with applicable waste guidelines and standards with consideration of applicable legislation including the Protection of the Environment Operations Act 1997. The waste management plan shall address all waste materials likely to result from demolition and construction activities associated with the proposed development, with details of the estimated waste volumes, onsite storage and management, proposed re-use of materials, designated waste contractors, recycling outlet and / or landfill site.</p> <p>The approved waste management plan must be implemented on-site and adhered to throughout all stages of the development including demolition, construction and occupation with supporting documentation / receipts retained in order to verify the recycling and disposal of materials in accordance with the approved plan.</p>	<p>Point 6 of letter:</p> <p>This condition requires further approval to be obtained from Council. Our PCA has requested this condition be amended to allow for a PCA to approve.</p>	<p>Agree to amendments proposed by the applicant.</p>	
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<p><u>Condition 80</u></p> <p>Prior to the commencement of works, an amended landscape plan shall be submitted to and approved by Council that incorporates additional landscape planting to the front setback area of the site. The amended landscape plan is to include the following:</p> <ul style="list-style-type: none"> • The 17 x 'Water Gum' trees shall be replaced with a larger mix of gum trees, predominantly native species with some exotic species incorporated. • The use of Illawarra Flame Tree is acceptable but should be incorporated with a mix of species and should be incorporated informally (not in a row of similar species, nor as a dominant vista planting position). • The same number of trees shall be planted to replace those being removed, like-for-like. • Succession planting shall be provided in the front setback area, which shall have a similar scale of plantings and species and provide the same canopy cover as existing landscaping does. • The additional planting shall incorporate a mix a trees and shrubs of similar species, pot size 	<p>Point 6 of letter:</p> <p>This condition requires further approval to be obtained from Council. Our PCA has requested this condition be amended to allow for a PCA to approve.</p>	<p>Disagree.</p> <p>Proposed wording recommended includes:</p> <p>"Prior to the commencement of works, an amended landscape plan shall be submitted to and approved by the Principal Planner of Penrith City Council's Development Services Department that incorporates..." and so on.</p> <p>The justification for the above wording is the same as referenced for Condition 10; alternatively Council has no objections to this being a deferred commencement, as follows:</p> <p>"Prior to the consent becoming operational, an amended landscape plan shall be submitted to and approved by Council that incorporates..." and so on.</p>	<p>The Panel does not agree to landscaping presenting to the public way being added without opportunity for assessment by Council. That is not an onerous requirement if subject to a time limit for Council's assessment.</p> <p><u>Reword</u></p> <p>Prior to the commencement of works, an amended landscape plan shall be submitted to and approved by the PCA that incorporates additional landscape planting to the front setback area of the site.</p> <p>The PCA shall not approve of the amended landscaping plan unless it has been endorsed as acceptable by Principal Planner of Penrith City Council's Development Services Department, or sufficient evidence is supplied to the PCA that the plan was submitted to Penrith Council and Council has not advised of the Principal Planner's assessment of that plan within 30 days.</p> <p>The amended landscape plan is to include the following:</p> <ul style="list-style-type: none"> • The 17 x 'Water Gum' trees shall be replaced with a larger mix of gum trees, predominantly native species with some exotic species incorporated. • The use of Illawarra Flame Tree is acceptable but should be incorporated with a mix of species and should be incorporated informally (not in a row of similar species, nor as a dominant vista planting position). • The same number of trees shall be planted to replace those being removed, like-
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<p>and maturity of existing vegetation in this area.</p> <ul style="list-style-type: none"> • Additional tree retention shall be explored in this area, if viable in consideration of tree health, condition and structure. • Details of any new fencing shall be provided. 			<p>for-like.</p> <ul style="list-style-type: none"> • Succession planting shall be provided in the front setback area, which shall have a similar scale of plantings and species and provide the same canopy cover as existing landscaping does. • The additional planting shall incorporate a mix a trees and shrubs of similar species, pot size and maturity of existing vegetation in this area. • Additional tree retention shall be explored in this area, if viable in consideration of tree health, condition and structure. • Details of any new fencing shall be provided.
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