

# PENRITH CITY COUNCIL

## NOTICE OF DETERMINATION

### DESCRIPTION OF DEVELOPMENT

Application number:	DA19/0457
Description of development:	Erection of Shade Sails over Existing Carpark
Classification of development:	Class 10a

### DETAILS OF THE LAND TO BE DEVELOPED

Legal description:	Lot 9100 DP 1022720 Lot 9101 DP 1022720
Property address:	9100 Glenmore Parkway, GLENMORE PARK NSW 2745 19 - 31 Town Terrace, GLENMORE PARK NSW 2745 41 Town Terrace, GLENMORE PARK NSW 2745 13 - 17 Town Terrace, GLENMORE PARK NSW 2745

### DETAILS OF THE APPLICANT

Name & Address:	Stimson & Baker Planning PO Box 1912 PENRITH NSW 2751
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### DECISION OF CONSENT AUTHORITY

In accordance with Section 4.18(1) (a) of the Environmental Planning and Assessment Act 1979, consent is granted subject to the conditions listed in attachment 1.

Please note that this consent will lapse on the expiry date unless the development has commenced in that time.

Date from which consent operates	20 January 2020
Date the consent expires	20 January 2025
Date of this decision	17 January 2020

## POINT OF CONTACT

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If you have any questions regarding this determination you should contact:

Assessing Officer:	Gemma Bennett
Contact telephone number:	+612 4732 8285

## NOTES

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### **Reasons**

The conditions in the attached schedule have been imposed in accordance with Section 4.17 of the Environmental Planning and Assessment Act 1979 as amended.

### **Conditions**

Your attention is drawn to the attached conditions of consent in attachment 1.

### **Certification and advisory notes**

You should also check if this type of development requires a construction certificate in addition to this development consent.

It is recommended that you read any Advisory Note enclosed with this notice of determination.

### **Review of determination**

The applicant may request Council to review its determination pursuant to Division 8.2 of the Environmental Planning and Assessment Act 1979 within six months of receiving this Notice of Determination.

These provisions do not apply to designated development, complying development or crown development pursuant to Section 8.2(2) of the Environmental Planning and Assessment Act 1979.

### **Appeals in the Land and Environment Court**

The applicant can appeal against this decision in the Land and Environment Court within six months of receiving this Notice of Determination.

There is no right of appeal to a decision of the Independent Planning Commission or matters relating to a complying development certificate pursuant to clause 8.6(3) of the Environmental Planning and Assessment Act 1979.

### **Designated development**

If the application was for designated development and a written objection was made in respect to the application, the objector can appeal against this decision to the Land and Environment Court within 28 days after the date of this notice.

If the applicant appeals against this decision, objector(s) will be given a notice of the appeal and the objector(s) can apply to the Land and Environment Court within 28 days after the date of this appeal notice to attend the appeal and make submissions at that appeal.

### **Sydney Western City Planning Panels**

If the application was decided by the Sydney Western City Planning Panel, please refer to Section 2.16 of the Environmental Planning and Assessment Act, 1979 (as amended) for any further regulations.

## ATTACHMENT 1: CONDITIONS OF CONSENT

### 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 approved plans and by the following conditions.

Drawing Title	Reference	Prepared By	Dated
Site Plan - General Overview/Location Plan	DA01	Building Visions	14/05/19
Site Plan - Overall Area - Existing	DA02	Building Visions	14/05/19
Site Plan - Overall Area - Proposed	DA03	Building Visions	14/05/19
Car Park Proposed Plan	DA04	Building Visions	14/05/19
Car Park Proposed 3D Views	DA05	Building Visions	14/05/19
Covered Walkway Link between Centres	DA06	Building Visions	14/05/19
Existing Landscape	L1, Revision B	Nicholas Bray Landscapes	20/11/19
New Landscape Plan	L2, Revision B	Nicholas Bray Landscapes	20/11/19
Elevations	L3, Revision B	Nicholas Bray Landscapes	20/11/19
Details	L4, Revision B	Nicholas Bray Landscapes	20/11/19

- *Maintenance Schedule and Procedures for Shade Sail Structures at Glenmore Park Shopping Town*
- *Landscaping Management and Maintenance Manual - Glenmore Park, by Nicholas Bray Landscapes*

- 2 **The development shall not be used or occupied until an Occupation Certificate has been issued.**
- 3 **Prior to the issue of an Occupation Certificate**, a lighting system shall be installed for the development to provide uniform lighting across common areas and driveways. Exterior lighting shall be located and directed in such a manner so as not to create a nuisance to surrounding land uses. 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).
- 4 The finishes of all structures are to be maintained at all times and any graffiti or vandalism immediately removed/repaired.
- 5 A **Construction Certificate** shall be obtained prior to commencement of any building works.

## Demolition

- 6 All demolition works are to be conducted in accordance with the provisions of AS 2601-1991 "The Demolition of Structures". **Prior to demolition**, all services shall be suitably disconnected and capped off or sealed to the satisfaction of the relevant service authority requirements.

All demolition and excavated material shall be disposed of at a Council approved site or waste facility. Details of the proposed disposal location(s) of all excavated material from the development site shall be provided to the Principal Certifying Authority **prior to commencement of demolition**.

- 7 Demolition works will 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 demolition work is permitted on Sundays and Public Holidays.

In the event that the demolition relates to works inside the building and do not involve external walls or the roof, and do not involve the use of equipment that emits noise then the demolition works are not restricted to the hours stated above.

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

## Environmental Matters

- 8 A Sediment and Erosion Control Plan is to be submitted to the Principal Certifying authority and 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.

The approved sediment and erosion control measures are to be installed **prior to and maintained throughout the construction phase of the development until the landscaping, driveway and on-site parking areas have been completed for the development**. 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.

9 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 Development Control Plan 2014) with consideration of all relevant guidelines (e.g. EPA, ANZECC, NH&MRC), standards, planning instruments and legislation,
- clearly indicate the legal property description of the fill material source site,
- provide details of the volume of fill material to be used in the filling operations,
- provide a classification of the fill material to be imported to the site in accordance with the Environment Protection Authority's "Environmental Guidelines: Assessment, Classification & Management of Non-Liquid Wastes" 1997, and
- (based on the fill classification) determine whether the fill material is suitable for its intended purpose and land use and whether the fill material will or will not pose an unacceptable risk to human health or the environment.

{Note: Penrith Development Control Plan 2014 defines an appropriately qualified person as "a person who, in the opinion of Council, has a demonstrated experience, or access to experience in hydrology, environmental chemistry, 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.

10 All waste materials stored onsite are to be contained within a designated area such as a waste bay or bin to ensure that no waste materials are allowed to enter the stormwater system or neighbouring properties. The designated waste storage areas shall provide at least two waste bays / bins so as to allow for the separation of wastes, and the areas are to be fully enclosed when the site is unattended.

11 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.

12 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.

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

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

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

## **BCA Issues**

14 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).

## **Construction**

15 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.

16 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.

17 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

**18 Prior to the issue of any Construction Certificate**, a Section 138 Roads Act application, including payment of application and inspection fees, shall be lodged and approved by Penrith City Council (being the Roads Authority for any works required in a public road). These works may include but are not limited to the following:

- a) Vehicular crossings (including kerb reinstatement of redundant vehicular crossings)
- b) Concrete footpaths and/or cycleways
- c) Road opening for utilities and stormwater (including stormwater connection to Penrith City Council roads and other Penrith City Council owned drainage)
- d) Road occupancy or road closures
- e) The placement of hoardings, structures, containers, waster skips, signs etc. in the road reserve
- f) Temporary construction access

All works shall be carried out in accordance with the Roads Act approval, the development consent, including the stamped approved plans, and Penrith City Council's specifications, guidelines and best engineering practice.

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

Note:

- a) Where Penrith City Council is the Certifying Authority for the development, the Roads Act approval for the above works may be issued concurrently with the Construction Certificate.
- b) Separate approvals may also be required from the Roads and Maritime Services for classified roads.
- c) All works associated with the Roads Act approval must be completed prior to the issue of any Occupation Certificate or Subdivision Certificate as applicable.
- d) On completion of any awning over the road reserve, a certificate from a practising structural engineer certifying the structural adequacy of the awning is to be submitted to Council before Council will inspect the works and issue its final approval under the Roads Act.

**19 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 Australian Standard 2890.1, Australian Standard 2890.2, Australian Standard 2890.6 and Penrith City Council's Development Control Plan.

**20 Prior to the issue of any Occupation Certificate**, the Principal Certifying Authority shall ensure that all works associated with a S138 Roads Act approval (if applicable) have been inspected and signed off by Penrith City Council.

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

**22 Prior to the issue of any Construction Certificate**, the Certifying Authority shall ensure that the posts for the shade sail structures are located between parking spaces so they do not conflict with parked vehicles.

- 23 All roadworks, stormwater drainage works, structural works, associated civil works and dedications required to effect the consented development shall be undertaken at no cost to Penrith City Council.
- 24 An Infrastructure Restoration Bond is to be lodged with Penrith City Council for development involving works around Council's Public Infrastructure Assets. The bond is to be lodged with 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 Council's website for more information.

## Landscaping

- 25 All landscape works are to be constructed in accordance with the stamped approved plans and Part C6 of Penrith Development Control Plan 2014.

Landscaping shall be maintained:

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

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

- 26 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 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. The report is to be prepared by a suitably qualified landscape professional.

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.

### ii. Maintenance Report

On the first anniversary of the date of the Occupation Certificate issued for the development, a Landscape Maintenance Report is to be submitted to Penrith City Council certifying that the landscape works are still in accordance with the development consent and the plant material is alive and thriving. This report is to be prepared by a suitably qualified landscape professional.

- 27 **Prior to the issue of an Occupation Certificate**, an irrigation system shall be installed for the development. The irrigation system is to provide adequate water supplies to the existing and new landscaped areas and ensure the ongoing health and integrity of the plantings.

28 **Prior to the issue of a Construction Certificate**, the design layout for the shade sails shall ensure that no posts are within the Structural Root Zone (SRZ) of any tree to be retained and protected. Prior to a design for the shade sails being finalised, investigations are to be undertaken to ensure the above point can be complied with. Where required posts may need to be relocated and the design of the sails amended accordingly.

29 Approval is granted for the removal of the following trees:

Tree No.	Tree Species	Location
1 - 23	Various species as per as per the Tree Assessment Schedule provided in the Preliminary Tree Assessment, prepared by Monaco Designs, Job No. 5406, author Paul Monaco, dated 13/11/2019	As per Survey Plan provided in the Preliminary Tree Assessment, prepared by Monaco Designs, Job No. 5406, author Paul Monaco, dated 13/11/2019

All tree removal works must comply with the Amenity Tree Industry – Code of Practice, 1998 (Workcover, NSW) and Guide to Managing Risks of Tree Trimming and Removal Work (Safe Work Australia 2016).

All other vegetation not specifically identified above and protected by C2, Vegetation Management of the Penrith Development Control Plan 2014 is to be retained and protected from construction damage and pruning.

30 The following trees are to be retained and protected as per the conditions below. Failure to comply with these conditions is an offence and may incur a fine or lead to prosecution.

Tree No.	Species	Location	Protection Measures
24	<i>Corymbia maculata</i> (Spotted Gum)	Trees adjacent to the eastern edge of the carpark adjacent to the Community Centre and as per Survey Plan provided in the Preliminary Tree Assessment, prepared by Monaco Designs, Job No. 5406, author Paul Monaco, dated 13/11/2019	Trunk protection as per AS 4970 – 2009, Section 4.5.2 is to be installed around the trunk and any branches that may be affected by machinery.
25	<i>Eucalyptus microcorys</i> (Tallowood)		
26	<i>Eucalyptus microcorys</i> (Tallowood)		Care is to be taken to ensure that the canopy of the trees is not damaged during the construction – process.  Padding to be used under the board shall be non-absorbing or free draining to prevent moisture build up around the trunk.
27	<i>Corymbia maculata</i> (Spotted Gum)		
28	<i>Eucalyptus microcorys</i> (Tallowood)		

Tree protection measures shall comply with *Australian Standard 4970-2009 Protection of trees on development site* together with the following conditions:

(a) The tree/s to be retained and protected together with their relevant Tree Protection Zone (TPZ) and Structural Root Zone (SRZ) shall be marked on all demolition and construction drawings.

(b) All contractors and workers on site shall be briefed on the tree protection and management procedures in place as part of their site induction. A written record of the induction process is to be kept on site.

(c) On each trunk protection the applicant will display in a prominent location a durable, weather resistant sign having a minimum dimension of 500mm high x 400mm wide of similar design and layout as per Appendix C, *Australian Standard 4970-2009 Protection of trees on development sites* clearly showing: a) The Development

Consent number, b) The name and contact number of the nominated site manager, and c) Indication that damage to the tree is not permitted. The notice is to be in place prior to commencement of demolition or construction.

(d) Trunk protection shall be inspected on a regular basis to ensure that they are intact, comply with the above standard, installed to the appropriate dimensions and provide effective protection for the tree to be retained and are not causing damage to the tree.

(e) All utility services, pipes, stormwater lines and pits shall be located outside the Tree Protection Zone (TPZ) of all trees to be retained and protected (based on the dimensions provided in the Preliminary Tree Assessment, prepared by Monaco Designs, Job No. 5406, author Paul Monaco, dated 13/11/2019).

(f) Building materials, chemical storage, site sheds, wash out areas, and similar shall not be located within the Tree Protection Zone (TPZ) of all trees to be retained and protected (based on the dimensions provided in the Preliminary Tree Assessment, prepared by Monaco Designs, Job No. 5406, author Paul Monaco, dated 13/11/2019).

(g) Trees marked for retention must not be damaged or used to display signage, or as fence or cable supports for any reason.

(h) If tree roots are exposed during approved works, roots with a diameter less than 25mm are to be pruned cleanly using sharp hand tools and not torn or ripped by machinery. Tree roots greater than 25mm in diameter are to be assessed by a qualified arborist - minimum Australian Qualification Framework (AQF) Level 4 or equivalent – before any pruning work is undertaken. If necessary, changes in design or relocation of works may be required.

- 31 **Prior to the issue of the Occupation Certificate**, the applicant is to plant replacement trees in accordance with the New Landscape Plan, prepared by Nicholas Bray Landscapes, Dwg No. L2, Revision B, dated 20/11/2019.

The trees shall be planted in accordance with the plan Details, prepared by Nicholas Bray Landscapes, Dwg No. L2, Revision B, dated 20/11/2019 using Structural Soil Option 2.

Replacement trees are to be a minimum container size of 75 litres. They shall comply with *NATSPEC Specifying Trees: A guide to assessment of tree quality* (2003) or *Australian Standard 2303 – 2015 Tree stock for landscape use*.

The tree/s shall be maintained for the life of the development.

## Certification

- 32 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 6.6 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 6.6 of the Environmental Planning and Assessment Act 1979.

## SIGNATURE

Name:	Gemma Bennett
Signature:	

For the Development Services Manager