

PENRITH CITY COUNCIL

NOTICE OF DETERMINATION

DESCRIPTION OF DEVELOPMENT

Application number:	DA15/0474
Description of development:	Construction of a Demountable Accommodation Building and Increased Occupant / Inmate Capacity to 380 Persons at the John Morony Correctional Centre
Classification of development:	Class 9b

DETAILS OF THE LAND TO BE DEVELOPED

Legal description:	Lot 1 DP 740367
Property address:	464 - 570 Richmond Road, BERKSHIRE PARK NSW 2765

DETAILS OF THE APPLICANT

Name & Address:	NSW Department of Justice C/- BBC Consulting Planners 160 Marsden Street PARRAMATTA NSW 2150
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DECISION OF CONSENT AUTHORITY

In accordance with Section 81(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	2 September 2015
Date the consent expires	2 September 2017
Date of this decision	31 August 2015

POINT OF CONTACT

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

Assessing Officer:	Belinda Borg
Contact telephone number:	(02) 4732 7505

NOTES

Reasons

The conditions in the attached schedule have been imposed in accordance with Section 80A 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 Section 82A of the Environmental Planning and Assessment Act 1979 within 6 months of receiving this Notice of Determination.

You cannot make this request if the development is Designated Development, Integrated Development or State Significant development or if the application was decided by a Joint Regional Planning Panel.

Appeals in the Land and Environment Court

The applicant can appeal against this decision in the Land and Environment Court within six (6) months of receiving this Notice of Determination.

You cannot appeal if a Commission of Inquiry was held for the subject development application, or if the development is a State Significant Development.

An appeal to the Land and Environment Court is made by lodging an application to the Court in accordance with the Rules of the Court.

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. The objector cannot appeal if a Commission of Inquiry was held.

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.

Joint Regional Planning Panels

If the application was decided by a Joint Regional Planning Panel, please refer to Section 23H 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 stamped approved plans issue by Penrith Council and other plans or documents approved by Council, except as may be amended in red on the attached plans and by the following conditions:

Drawing Title	Drawing Number	Issue	Prepared by	Dated
Overall Site Plan	JM2 ARC DA_00_001	-	Perumal Pedavoli	1.5.2015
Roof Plan	JM2 ARC DA_00_021	-	Perumal Pedavoli	1.5.2015
Elevations and Sections	JM2 ARC DA_00_101	-	Perumal Pedavoli	1.5.2015
Statement of Environmental Effects	Job No. 15-032	-	BBC	May 2015

- 2 An Asset Protection Zone (APZ) of 70m for protection from bushfire shall be provided to the new development and maintained in accordance with the recommendations outlined on page 16 of the Bushfire Management Report prepared by Bushfire Safety Solutions (March 2014) and page 47 of the Flora and Fauna Impact Assessment Report prepared by GIS Environmental Consultants (March 2014). In particular the APZ is to be managed as outlined below:

(a) Prior to any APZ management works, and then once annually, an ecologist is to mark with flagging tape all individual *Micromyrtus minutiflora* plants located within the APZ to ensure these individual are not damaged during APZ maintenance activities. If any *Dillwynia tenuifolia* or *Persoonia nutans* individuals are found, these are also to be marked with flagging tape.

(b) The entire area of vegetation within the APZ is to be managed as an Outer Protection Area with fuel loads not to exceed 8 t/Ha as outlined on page 16 of the Bushfire Management Report prepared by Bushfire Safety Solutions (March 2014):

- Exotic species are always to be removed first to achieve the required fuel loads. Noxious weeds are to be removed as a priority.
- Tree canopy is to be separated by 2-5m and achieve a maximum of 20% canopy cover. Pruning of trees is to be used in preference to their removal (pruning and skirting is to be done in accordance with AS4373-1996 Pruning of Amenity Trees). If trees are required to be removed, older, more mature trees are to be retained where possible, with saplings, and younger trees removed first.
- Skirting (crown lifting) is to be used to separate the tree canopy from the ground or shrub fuels by 1-2m.
- The shrub layer is to be managed to achieve a 20% cover and should not form a continuous layer and should not form a connection with the canopy. In areas where shrubs are to be removed, locally common species should be removed in preference to threatened species that have been marked with flagging tape. If there are dense stands of threatened species, these may be thinned by hand to achieve the a 20% cover.
- Ground cover plants are to be maintained at a maximum height of 10cm.

Environmental Matters

- 3 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).

- 4 All land that has been disturbed by earthworks is to be spray grassed or similarly treated to establish a grass cover.
- 5 No fill material shall be imported to the site until such time as a Validation Certificate (with a copy of any report forming the basis for the validation) for the fill material has been submitted to, considered and approved by Council. The Validation Certificate shall:
- state the legal property description of the fill material source site,
 - be prepared by an appropriately qualified person with consideration of all relevant guidelines (e.g. EPA, ANZECC, NH&MRC), standards, planning instruments and legislation,
 - clearly indicate the legal property description of the fill material source site,
 - provide details of the volume of fill material to be used in the filling operations,
 - provide a classification of the fill material to be imported to the site in accordance with the Environment Protection Authority's "Environmental Guidelines: Assessment, Classification & Management of Non-Liquid Wastes" 1997, and
 - (based on the fill classification) determine whether the fill material is suitable for its intended purpose and land use and whether the fill material will or will not pose an unacceptable risk to human health or the environment.

{Note: An appropriately qualified person is "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 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.

- 6 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.

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.

- 7 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.
- 8 Dust suppression techniques are to be employed during construction to reduce any potential nuisances to surrounding properties.

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

BCA Issues

- 10 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

- 11 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 use of the buildings.

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

In the event that a pad mounted substation is necessary to service the development, Penrith City Council shall be consulted over the proposed location of the substation prior to construction commencing for the development is issued as the location of the substation may impact on other services and building, driveway or parking already located on the site.

Construction

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

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

- the name of the 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 is 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 construction and associated landscaping works have been completed.

14 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.

15 "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

16 All roadworks, stormwater works and dedications, required to effect the consented development shall be undertaken at no cost to Penrith City Council.

- 17 Stormwater drainage from the site shall be discharged to the:
- Street drainage system
 - Common drainage system
 - Penrith Council trunk drainage system within the property
 - Existing site drainage system, or
 - Level spreader system.

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

Landscaping

- 18 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.

19 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.

Operation of OSSM

20 All wastewater generated on the site is to be diverted to the on-site sewage treatment plant and is to be managed in accordance with the existing arrangements in place for the John Morony Correction Centre.

SIGNATURE

Name:	Belinda Borg
Signature:	

For the Development Services Manager