

PENRITH CITY COUNCIL

NOTICE OF DETERMINATION

DESCRIPTION OF DEVELOPMENT

Application number:	DA15/0951
Description of development:	Upgrade of Riley Street Dining Precinct including Installation of Building Awnings, Landscaping & Associated Civil Works
Classification of development:	Class 10a

DETAILS OF THE LAND TO BE DEVELOPED

Legal description:	Lot 1 DP 1137699
Property address:	569 - 595 High Street, PENRITH NSW 2750

DETAILS OF THE APPLICANT

Name & Address:	Scentre Group Pty Ltd 85 Castlereagh Street SYDNEY NSW 2000
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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	1 February 2016
Date the consent expires	1 February 2018
Date of this decision	29 January 2016

POINT OF CONTACT

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

Assessing Officer:	Kate Smith
Contact telephone number:	+612 4732 7705

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 and/or installed substantially in accordance with the following plans stamped approved by Council, the application form and any supporting information received with application, except as may be amended in red on the attached plans and by the following conditions.

Drawing	Drawing Ref	Revision	Prepared By	Dated
Location Plan	DA01.02	B	Scentre Design and Construction Pty Ltd	19/08/2015
Scope of Works	DA01.05	B	Scentre Design and Construction Pty Ltd	19/08/2015
Scope of Works	DA01.06	B	Scentre Design and Construction Pty Ltd	19/08/2015
Masterplan	DA01.11	C	Scentre Design and Construction Pty Ltd	12/10/2015
Roof Plan and RCP	DA01.12	B	Scentre Design and Construction Pty Ltd	19/08/2015
Elevation West (South)	DA01.13	C	Scentre Design and Construction Pty Ltd	12/10/2015
Elevation West (North)	DA01.14	C	Scentre Design and Construction Pty Ltd	12/10/2015
Elevation East	DA01.15	C	Scentre Design and Construction Pty Ltd	12/10/2015
North and South Elevation/Sections	DA01.16	B	Scentre Design and Construction Pty Ltd	19/08/2015
Landscape & Seat Detail (South)	DA01.30	D	Scentre Design and Construction Pty Ltd	18/01/2016
Landscape & Seat Detail (North)	DA01.31	C	Scentre Design and Construction Pty Ltd	12/10/2015

- 2 A **Construction Certificate** shall be obtained prior to commencement of any building works.
- 3 **On completion of all works an Occupation Certificate (Final Inspection Report) shall be obtained from the Principal Certifying Authority.**
- 4 The finishes of all structures and buildings are to be maintained at all times and any graffiti or vandalism immediately removed/repaired.
- 5 The licensed seating areas shall not extent beyond the associated awning for the tenancy. The applicant shall re-negotiate the outdoor dining area with the Property Development Department of Penrith City Council if the proposed outdoor seating area differs from the existing allocated outdoor dining area.
- 6 **Prior to final sign-off on the Roads Act approval works**, a deed of agreement between Westfield and Council shall be executed outlining Westfield's maintenance obligations in relation to improvements situated on Council owned land and indemnifying Council against public liability in relation to these improvements.

Demolition

- 7 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**.

- 8 You should read Council's Fact Sheet titled "Handling and Disposal of Fibrous Cement Products" **before any demolition works commence on the site**.

Prior to commencement of demolition works on site, a portaloo with appropriate washing facilities shall be located on the site and the Principal Certifying Authority is to be satisfied that:

- Measures are in place so as to comply with the WorkCover Authority's "Short Guide to Working with Asbestos Cement" and
- The person employed to undertake the works is a licensed asbestos removal contractor and is holder of a current WorkCover Asbestos Licence.

Any demolition works involving the removal of all asbestos shall only be carried out by a licensed asbestos removal contractor who has a current WorkCover Asbestos Licence.

All asbestos laden waste, including asbestos cement flat and corrugated sheeting must be disposed of at a tipping facility licensed by the Environmental Protection Authority to receive asbestos wastes.

- 9 Dust suppression techniques are to be employed during demolition to reduce any potential nuisances to surrounding properties.
- 10 Mud and soil from vehicular movements to and from the site must not be deposited on the road.

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.

BCA Issues

12 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

13 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.

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, 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.

Engineering

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

- 16 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 the issue of a Construction Certificate**. The bond shall be determined accordance with Council's adopted Fees and Charges.

The bond is refundable once a final inspection has been carried out by Council's City Works Department and the works have been completed to Council's satisfaction. The bond may be used to repair or reinstate any damage that occurs to Council's Public Infrastructure Assets as a result of the development works.

Contact Council's City Works Department on 4732 7777 or visit Council's website to obtain the form and request for final inspection.

- 17 **Prior to the issue of a Construction Certificate** for building works the Certifying Authority shall ensure that a S138 Roads Act application, including the 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 any works including but not limited to the following works within Riley Street for the extent between Henry Street and Jane Street.

- Removal of indented emergency parking bay and replace with footpath, replace kerb and gutter and reinstate road stormwater drainage including the relocation of kerb inlet pits.
- Landscaping works including the implementation of street trees, hedge planting, street furniture and the construction of planter boxes.
- Erection of awnings over or on the road reserve.
- Any associated works within the road reserve.

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

Note: 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. Contact Penrith City Council's **Engineering Services Department** on (02) 4732 7777 to ascertain applicable fees.

- 18 Stormwater drainage for the for the building elements (including awnings and landscaping works) shall be discharged to the:

- a) Existing site drainage system

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

The proposed method of stormwater discharge shall be detailed in the Construction Certificate issued by the Certifying Authority.

- 19 **Prior to the issue of a S138 Roads Act approval**, 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, AS2890.2, AS2890.6 and Penrith City Council's Development Control Plan.

- 20 **Prior to the issue of any Construction Certificate**, a performance bond is to be lodged with Penrith City Council for the works approved under the S138 Roads Act Approval.

The value of the bond shall be determined in accordance with Penrith City Council's Bond Policy. The bond will be administered in accordance with this policy.

Note: Contact Council's **Development Engineering Unit** on 4732 7777 for further information relating to bond requirements.

- 21 **Prior to commencement of works**, a Traffic Control Plan including details for pedestrian management shall be prepared in accordance with AS 1742.3 "Traffic Control Devices for Works on Roads" and the Roads and Traffic Authority's publication "Traffic Control at Worksites" and certified by an appropriately accredited Roads and Traffic Authority Traffic Controller.

Traffic control measures shall be implemented during the construction phase of the development in accordance with the certified plan. A copy of the plan shall be available on site at all times.

Note: A copy of the Traffic Control Plan shall accompany the Notice of Commencement to Penrith City Council.

- 22 **Prior to the issue of an 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.

- 23 **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, and the Penrith CBD Public Domain Technical Manual.

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.

- 24 **Prior to the issue of an Occupation Certificate**, and installation of regulatory / advisory linemarking and signage, plans are to be lodged with Penrith City Council and approved by the Local Traffic Committee.

Notes: Contact Penrith City Council's **Engineering Services Department** on (02) 4732 7777 for further information on this process. Allow eight (8) weeks for approval by the Local Traffic Committee.

- 25 **Prior to the issue of an Occupation Certificate**, a maintenance bond is to be lodged with Penrith City Council for the works approved under the S138 Roads Act Approval.

The value of the bond shall be determined in accordance with Penrith City Council's Bond Policy. The bond will be administered in accordance with this policy.

Note: Contact Council's **Engineering Services Department** on 4732 7777 for further information relating to

bond requirements.

- 26 The new emergency/accessible/Australia Post vehicles bay must be in accordance with AS2890.5-1993; AS2890.6-2009 and detailed on the plans associated with the S138 Roads Act approval.
- 27 To assist in preventing unauthorised parking, a painted blister is to be provided between the bay for emergency/accessible/Australia Post vehicles and the existing bus bay on the western side of Riley Street **prior to the issue of an Occupation Certificate**. If unauthorised parking over this space is an ongoing issue, Council reserves the right to request Westfield to construct a concrete blister for physical separation.
- 28 All associated kerb and guttering, pavement adjustments and kerb ramps required as part of the parking bay relocations and footpath widening are to be carried out in accordance with the *AS2890.5 On-Street Parking* and Council's requirements.
- 29 **Prior to the issue of an Occupation Certificate**, secure bicycle parking is to be provided in at convenient location(s) in accordance with *AS2890.3:2015 Bicycle Parking Facilities*.
- 30 **Prior to the issue of an Occupation Certificate**, the applicant is to submit a "Signage and Linemarking" Plan for the subject section of Riley Street, indicating the location and type of proposed regulatory parking signage, painted blister island, edge linemarking, and any other associated linemarking, for the endorsement of Council's Local Traffic Committee.
- 31 A road occupancy license shall be obtained from Roads and Maritime Services for any works which may affect traffic signal operations.
- 32 An application shall be made to Council's Local Traffic Committee for the temporary closure of Riley Street.

Note: Contact Penrith City Council's **Engineering Services Department** on (02) 4732 7777 for further information on this process.

Landscaping

- 33 Should café barriers be proposed, a detailed strategy shall be submitted to and approved by Council **prior to the issue of a Construction Certificate**.
- 34 **Prior to the issue of a Roads Act approval/Construction Certificate**, the plans shall be amended to include street tree planting along the northern end of Riley Street (adjacent the car park ramps leading to Jane Street) to assist with softening the corner of the building in this location. To ensure the ongoing health of these trees the proposed awning shall also be reduced in size to allow for the development of the trees canopy.
- 35 **Prior to the issue of a Roads Act approval/Construction Certificate**, the design and specification of seating and/or other related street furniture within the road reserve shall be submitted to and agreed by both Scentre Group and Council. Street furniture shall be consistent with Council's Technical Manual or of a similar design. A gap shall be provided in the raised planter beds to accommodate any required seating.
- 36 **Prior to the issue of a Roads Act approval/Construction Certificate**, detailed plan and specifications for street trees within raised planter beds shall be submitted to and approved Council.

- 37 **Prior to the issue of a Construction Certificate**, further details shall be submitted to and approved by Council demonstrating a suitable building façade and window treatment at the north-west corner of the Riley Street/Henry Street intersection given the removal of the Jacaranda tree will reduce visual amenity in this location.
- 38 **Prior to the issue of a Construction Certificate**, the two new trees proposed within planter A and B at the south-western corner entry area shall be of a substantial pot size at planting and at maturity.
- 39 **Prior to the issue of a Construction Certificate**, the plans shall be amended to reflect the approved coco-cubano awning detail as per the revised awning and landscape detail - Riley Street South, reference DA01.30, issue D.
- 40 **Prior to the issue of a Construction Certificate**, the proposed roll down blind design and specifications shall be submitted to and agreed by both Secure Group and Council.
- 41 **Prior to the issue of a Roads Act approval/Construction Certificate**, detailed construction landscape plans shall be submitted to and approved by Council. The landscape plans shall be prepared by a suitably qualified and experienced landscape architect. The landscape plans shall include at a minimum detail species selection, pot sizes and height of plants/trees at maturity.
- 42 **Prior to the issue of a Roads Act approval/Construction Certificate**, details of replacement paving shall be submitted to and approved by Council. paving shall be consistent with Council's Technical Manual.
- 43 **Prior to issue of a Construction Certificate**, the proposed building colour scheme and signage details shall be submitted to and approved by Council.

Payment of Fees

- 44 All roadworks, dedications and drainage works are to be carried out at the applicant's cost.
- 45 Prior to the commencement of any works on site, all fees associated with Penrith City Council-owned land and infrastructure shall be paid to Council. These fees include Road Opening fees and Infrastructure Restoration fees.

Certification

- 46 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.

- 47 An Occupation Certificate is to be obtained from the Principal Certifying Authority on completion of all works.

The Certificate shall not be issued if any conditions of this consent, but not the conditions relating to the operation of the development, are outstanding.

A copy of the Occupation Certificate and all necessary documentation supporting the issue of the Certificate is to be submitted to Penrith City Council, if Council is not the Principal Certifying Authority.

SIGNATURE

Name:	Kate Smith
Signature:	

For the Development Services Manager