

PENRITH CITY COUNCIL

NOTICE OF DETERMINATION

DESCRIPTION OF DEVELOPMENT

Application number:	DA16/0912
Description of development:	Removal & Replacement of Fuel Tanks and Associated Remediation Works at Existing 7-Eleven Service Station
Classification of development:	N/A

DETAILS OF THE LAND TO BE DEVELOPED

Legal description:	Lot 51 DP 774585
Property address:	2 Christie Street, ST MARYS NSW 2760

DETAILS OF THE APPLICANT

Name & Address:	KDC Pty Ltd 7-Eleven Stores C/- Kdc Pty Ltd PO Box 70 THE JUNCTION NSW 2291
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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	12 December 2016
Date the consent expires	12 December 2018
Date of this decision	12 December 2016

POINT OF CONTACT

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

Assessing Officer:	Donna Clarke
Contact telephone number:	(02) 4732 7991

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 Sydney West 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.

Sydney West Planning Panels

If the application was decided by the Sydney West Planning Panel, please refer to Section 18 of the Greater Sydney Commission Act 2015 and 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 issued by Penrith City Council, the application form and any supporting information received with the application, except as may be amended in red on the attached plans and by the following conditions.
- 2 **The development shall not be used or occupied until an Occupation Certificate has been issued.**
- 3 Compliance is required with the requirements stated in the correspondence from Endeavour Energy dated 26 October 2016, attached to this consent.

Environmental Matters

- 4 Erosion and sediment control measures shall be installed **prior to the commencement of works on site**. 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).

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

- 5 Site remediation works shall be carried out generally in accordance with the approved "Remediation Action Plan (Project no: 2201541D-CLM-REP-007 Rev B)" prepared by WSP Parsons Brinckerhoff and dated April 2016 (Rev B 20 June 2016 Final) as well as applicable NSW Environment Protection Authority Guidelines, and the National Environment Protection (Assessment of Site Contamination) Measure (1999) [2013].

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

- Written notification that the site remediation works have been completed is to be submitted within 30 days that the said works have been completed.
 - A Validation Report, prepared by an appropriately qualified person as defined in Penrith Contaminated Land Development Control Plan, is to be submitted within sixty (60) days of the removal of the underground petroleum storage system. The report shall certify that the remediation works have been carried out in accordance with the approved Remedial Action Plan, relevant NSW Environment Protection Authority requirements, NEPM 2013 and Penrith Contaminated Land Development Control Plan.
- 6 No fill material is to be imported to the site without the prior approval of Penrith City Council in accordance with Sydney Regional Environmental Plan No.20 (Hawkesbury- Nepean River) (No.2-1997). No recycling of material for use as fill material shall be carried out on the site without the prior approval of Council.

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

8 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.

All excavated waste, including contaminated soil, is to be lawfully transported and disposed of at a lawful waste facility. Suitable documentation is to be provided to Council demonstrating the lawful transportation and disposal of the contaminated soil. No contaminated soil is to be retained on site. This information may be included in the Validation Report.

9 The following details are to be submitted to and approved by Penrith City Council before the commencement of works:

- The proposed fuel bowser/s shall be covered with a canopy. All uncontaminated stormwater from the canopy and other roofed areas shall be directed away from the forecourt area under the canopy.
- The covered fuel bowser/s area shall be protected from the entry of external surface waters at the canopy line by either a minimum 2% change in grade, or a combination of a minimum 2% grade changes and a grated drainage system.
- Tanker delivery facilities shall be provided with a spillage collection device, which will collect any spilt fuel.

10 All wastes collected within the canopy of the fuel bowsers shall be directed to the sewer after being treated in accordance with the requirements of Sydney Water.

11 Inlets to underground storage tanks are to be located so as to ensure that vehicles discharging fuel are contained within the boundaries of the site.

12 All works and storage areas where spillages are likely to occur shall be bunded. The size of the area to be bunded shall be calculated as being equal to 10% of the total volume of containers stored, or 110% of the largest container stored, whichever is the greater. All bunded areas shall be graded to a blind sump so as to facilitate emptying and cleaning.

13 Prior to the commencement of works, details of any pre-treatment facilities as required by Sydney Water and, if required a Section 73 Certificate issued by Sydney Water for the said development, are to be submitted to the Certifying Authority.

14 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.

15 The stormwater drainage system shall not be altered or new lines directed into the system without the prior

approval of Penrith City Council.

- 16 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 Council. The Validation Certificate shall:
- state the legal property description of the fill material source site,
 - be prepared by an appropriately qualified person (as defined in Penrith Contaminated Land Development Control Plan) with consideration of all relevant guidelines (e.g. EPA, ANZECC, NH&MRC), standards, planning instruments and legislation,
 - 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.

An appropriately qualified person/s (as defined in the Penrith City Council Contaminated Land Development Control Plan) shall:

- Supervise the filling works,
- (On completion of filling works) carry out an independent review of all documentation relating to the filling of the site, and shall submit a review findings report to Council and any Principal Certifying Authority,
- Certify by way of a Compliance Certificate or other written documentation that fill materials have been placed on the site in accordance with all conditions of this consent and that the site will not pose an unacceptable risk to human health or the environment. A copy of the Compliance Certificate or other documentation shall be submitted to Council and any Principal Certifying Authority.

The contact details of any appropriately qualified person/s engaged for the works shall be provided with the Notice of Commencement.

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.

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

- 17 Dust suppression techniques are to be employed during all demolition, remediation and construction works to reduce any potential nuisances to surrounding properties.
- 18 Demolition, remediation and construction 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 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 demolition, remediation and construction works.

- 19 The removal of the underground petroleum storage system is to be undertaken in accordance with the relevant legislation, guideline documents, technical notes and Australian Standards, including the *Protection of the Environment (Underground Petroleum Storage Systems) Regulation 2008*, the *Guidelines for implementing the Protection of the Environment (Underground Petroleum Storage Systems) Regulation 2008* and the *UPSS Technical Note: Decommissioning, Abandonment and Removal of UPSS*.
- 20 The decommissioned underground petroleum storage tanks are to be disposed of at a lawful waste facility. Suitable documentation is to be provided to Council demonstrating the lawful disposal of the tanks with the submission of the Validation Report.
- 21 An appropriately qualified person/s (as defined in the Penrith City Council Contaminated Land Development Control Plan) shall:
 1. Supervise the remediation works.
 2. Supply Council with a copy of any relevant documentation for further testing carried out during the remediation works.
 3. Address groundwater impacts and proposed management strategies where relevant and consider previous groundwater monitoring event findings
 4. Address off site impacts and proposed management strategies where relevant.
 5. (after completion of works) Certify by way of a Compliance Certificate or other written documentation that remediation works have been carried out in accordance with all conditions of this consent and that the site will not pose an unacceptable risk to human health or the environment (this information can be included in the Validation Report). A copy of the Compliance Certificate or other written documentation is to be submitted to the Principal Certifying Authority (PCA) and Penrith City Council if it is not the PCA.

The contact details of any appropriately qualified person/s engaged for the works shall be **provided with the notice of commencement**.

- 22 The groundwater monitoring wells are to be designed and installed by duly qualified persons in accordance with relevant industry standards. The person responsible for the system must ensure that the duly qualified persons provide details of the specifications relevant to the design and installation of the wells to Council. The groundwater monitoring wells must be:

- sealed to exclude surface water
- constructed to prevent cross-contamination with other groundwater monitoring wells
- clearly marked to indicate their presence and properly secured
- tested for hydrocarbon contamination at minimum intervals of six months.

23 The underground petroleum storage system (UPSS) cannot be commissioned until the following requirements have been met:

- The UPSS is to be appropriately designed, installed and commissioned by duly qualified persons in accordance with the UPSS Regulation
- The UPSS is to have minimum mandatory pollution protection equipment installed, consistent with the Regulation, comprising non-corrodible secondary containment tanks and associated pipework and overfill protection devices
- The UPSS is to have groundwater monitoring wells installed and tested in accordance with the Regulation
- The UPSS is to have a certificate showing that an equipment integrity test (EIT) has been carried out in line with the written directions of duly qualified persons.

Documentation to certify that the above requirements have been met is to be submitted to Council accompanying the Validation Report.

24 The premises is to have an Environment Protection Plan (EPP) in place. The Plan is to incorporate procedures for loss monitoring and detection and incident management. The EPP is to comply with the NSW Department of Environment, Climate Change and Water's "Guidelines for Implementing the Protection of the Environment Operations (Underground Petroleum Storage System) Regulation 2008" (2009) and is to be submitted to Council accompanying the Validation Report.

The EPP must be kept up-to-date and amended as necessary. Where responsibility for the system changes, all records of the site must be transferred to the new person responsible within 30 days. Records of activities, incidents and modifications must be kept for at least seven years from their date of creation.

25 All remediation works within the Penrith Local Government Area are considered to be Category 1 works under State Environmental Planning Policy 55-Remediation of Land. Should any groundwater contamination be found during development works (or soil contamination outside the scope of the Council approved Remedial Action Plan) and should remediation be required, development consent is to be sought from Penrith City Council before the remediation works commence.

Landscaping

26 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.

27 Existing landscaping is to be retained and maintained at all times.

SIGNATURE

Name:	Gavin Cherry Development Assessment Coordinator
Signature:	

For the Development Services Manager