

# PENRITH CITY COUNCIL

## NOTICE OF DETERMINATION

### DESCRIPTION OF DEVELOPMENT

|                                |                                              |
|--------------------------------|----------------------------------------------|
| Application number:            | DA14/1244                                    |
| Description of development:    | Vegetation / Land Clearing and Market Garden |
| Classification of development: | N/A                                          |

### DETAILS OF THE LAND TO BE DEVELOPED

|                    |                                                                                               |
|--------------------|-----------------------------------------------------------------------------------------------|
| Legal description: | Lot 227 DP 752037<br>Lot 226 DP 752037                                                        |
| Property address:  | 96 - 104 Leitch Avenue, LONDONDERRY NSW 2753<br>106 - 116 Leitch Avenue, LONDONDERRY NSW 2753 |

### DETAILS OF THE APPLICANT

|                 |                                                     |
|-----------------|-----------------------------------------------------|
| Name & Address: | C Vella<br>86 Leitch Avenue<br>LONDONDERRY NSW 2753 |
|-----------------|-----------------------------------------------------|

### 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 | 20 April 2015 |
| Date the consent expires         | 20 April 2017 |
| Date of this decision            | 16 April 2015 |

## POINT OF CONTACT

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

|                           |                   |
|---------------------------|-------------------|
| Assessing Officer:        | Jane Hetherington |
| Contact telephone number: | (02) 4732 8078    |

## NOTES

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### **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 'Site Plan' dated 30/09/2014 stamped approved by 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 No retail sale of goods shall be conducted from the subject premises.
- 3 The road base materials being stored in the north-east of the property are to be removed, and are to be disposed of to a licenced waste management facility. Receipts are to be retained in order to verify lawful disposal and are to be made available to Penrith City Council on request.

### Environmental Matters

- 4 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).

- 5 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.
- 6 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.
- 7 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.
- 8 Dust suppression techniques are to be employed during operations 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.
- 10 Offensive odours are not to be emitted from the site. Vapours, fumes, gases, particles or any other substance that are considered to be harmful to human health or the environment or impact unreasonably on a person outside of the premises are not to be emitted from the site.
- 11 The use of machinery or other equipment likely to cause offense to adjoining land owners/occupiers is to be restricted to daylight hours. All reasonable and feasible steps are to be taken to ensure that offensive noise

is not emitted from the site.

- 12 Drainage swales and/or catch drains are to be stabilised and maintained to the satisfaction of Council and in a manner that will not cause erosion, sedimentation or the movement of water over an adjoining property.
- 13 Stormwater and irrigation water is to be collected, drained and recycled to the satisfaction of Council. The irrigation system (including irrigation rates) is to be designed so that water will not seep, discharge or otherwise exit the market garden site. Market garden activities are to be managed so as not to cause the pollution of any watercourse.
- 14 Solid waste (including packaging and plant waste) is to be disposed of at a lawful waste facility, or, if suitable recycled. Solid waste is to be stored in a designated area prior to removal for disposal or recycling. Waste materials that are to be disposed of offsite are not to be stored for a period longer than seven days. Where possible, the waste storage area is to be located so that it is not visible to adjoining land owner/occupiers.

The waste storage area is to be provided with a weatherproof cover when it is unattended or not in use. No waste materials are allowed to enter the stormwater system or neighbouring properties.

- 15 Organic fertilisers are not be stockpiled on the site for more than 48 hours prior to application. Stockpiles are to be located a minimum of 40 metres from a watercourse or dam and the maximum possible distance from adjoining residences.
- 16 Fertilisers are not to be applied at rates in excess of the relevant NSW Department of Primary Industry Guidelines and the manufacturer's instructions.
- 17 Chemicals, including inorganic fertilisers, herbicides, pesticides and fuel, are to be stored in a bunded, weatherproof and lockable area. Chemicals that are not compatible are not to be stored together.

Chemical sprays are not be used in periods of high wind or other weather conditions likely to cause spray drift onto surrounding properties.

Chemicals are not to be applied at rates in excess of the relevant NSW Department of Primary Industry Guidelines and the manufactures instructions.

Empty farm chemical containers are not be rinsed within 40m of any watercourse or dam.

- 18 Market gardening activities, including soil preparation works, are not to be carried out within 5 metres of any native tree trunk or within the root zone or drip line of any existing native tree, whichever is the greater.
- 19 Cultivation plots are to be located a minimum of 3 metres from adjoining property boundaries.
- 20 The development is to be managed so as not to cause the pollution of any waterways, including the dam on the adjacent property.
- 21 Should further development on this property be pursued within the next 5 years through a development application, the Flora and Fauna Survey and Assessment Report (Hawkeswood, 2/9/2014) may be submitted, along with a current letter from a suitably qualified ecological consultant. The letter is to confirm that the assessment remains relevant and the proposal will not result in a significant impact.

## Landscaping

- 22 All trees that are outside of the market garden footprint are required to be retained and are to be protected in accordance with the minimum tree protection standards prescribed in section F4 of Council's Landscape Development Control Plan. No fill, machinery, or materials are to be placed or stored within the drip line of any tree that is to be retained.
- 23 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.

## SIGNATURE

|            |                   |
|------------|-------------------|
| Name:      | Jane Hetherington |
| Signature: |                   |

For the Development Services Manager