

DETERMINATION OF DEVELOPMENT APPLICATION

DESCRIPTION OF DEVELOPMENT

DA No.	DA13/0604.02
Description of development	Modification to Front Building Setback of Approved Self-Storage Unit Facility & Minor Floor Space Increase
Classification of development	The classification of the building(s) forming part of this consent is as follows: <ul style="list-style-type: none">▪ Class 7b

DETAILS OF THE APPLICANT

Name & Address	Hitchen's Self Storage C/- MCHP Architects 28 Chandos Street ST LEONARDS NSW 2065
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NOTES

1. Your attention is drawn to the attached conditions of consent in attachment 1.
2. You should also check if the modification of the development requires a Construction Certificate to reflect the modification to the development consent subsequently issued by Council.
3. It is recommended that you read the Advisory Note enclosed with this consent.

DETAILS OF THE LAND TO BE DEVELOPED

Legal Description: Lot 8 DP 1105133
Property Address: 142 Old Bathurst Road EMU PLAINS NSW 2750

DECISION OF CONSENT AUTHORITY

In accordance with Sections 81(1) (a) and 96 of the Environmental Planning and Assessment Act 1979, consent is granted subject to the conditions listed in attachment 1.

Date from which consent operates 27 February 2014
Date the consent expires 27 February 2016
Date of this decision 25 February 2014 as amended on 6 August 2014 under Section 96 of the Environmental Planning and Assessment Act.

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

RIGHT OF APPEAL

1. 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.

2. 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.

REASONS

The conditions in the attached schedule have been imposed for the following reasons:

- To ensure compliance with the terms of the relevant Planning Instrument.
- To ensure that no injury is caused to the existing and likely future amenity of the neighbourhood.
- Due to the circumstances of the case and the public interest.
- To ensure that adequate road and drainage works are provided.
- To ensure that satisfactory arrangements are made to satisfy the increased demand for public recreation facilities.
- To ensure that access, parking and loading arrangements will be made to satisfy the demands created by the development.
- To ensure the structural integrity of the development.
- To ensure the protection of the health and safety of the occupants of the development.

POINT OF CONTACT

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

Assessing officer	Pukar Pradhan Senior Environmental Planner
Contact telephone number	(02) 4732 7726

SIGNATURE

Name	Pukar Pradhan
Signature	

For the Development Services Manager

ATTACHMENT 1: CONDITIONS OF CONSENT

GENERAL

- 1 The development must be implemented substantially in accordance with the plans numbered 13-018 DA01 (Issue D) dated 29/04/2013, 13-018 DA03 (Issue C) dated 24/04/2013, 13-018 DA05 dated 30/04/2013, 13- 018 DA06 (Issue C) dated 01/06/2013 and 13-018 DA07 (Issue C) dated 01/05/2013 and stamped approved by Council, the application form and **the S 96 application** and any supporting information received with the application, except as may be amended in red on the attached plans and by the following conditions.

As amended on 6 August 2014 under S96 of the Environmental Planning and Assessment Act 1979.

- 2 **The development shall not be used or occupied until an Occupation Certificate has been issued.**
- 3 A separate development application for the erection of a sign or advertising structure, other than an advertisement listed as exempt development, is to be submitted to Penrith City Council, complying with the requirements of Penrith Development Control Plan-Advertising Signs.
- 4 All materials and goods associated with the use shall be contained within the building at all times.
- 5 To ensure that the hinged chain mesh screen system provided to the north and south elevations of the buildings substructure is maintained to allow the free flow of flood waters under the building, a 'positive covenant' shall be registered over the land to which the development relates, **prior to the issue of an Occupation Certificate.**

During the construction of the development, documentation and associated legal paperwork shall be forwarded to Penrith City Council for consideration and endorsement which notes Council's interest in the positive covenant before the positive covenant is registered with Land and Property Information division of the Department of Lands.
- 6 The finishes of all structures and buildings are to be maintained at all times and any graffiti or vandalism immediately removed/repaired.
- 7 A **Construction Certificate** shall be obtained prior to commencement of any building works.
- 8 Dust suppression techniques are to be employed during demolition 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 The floodway area as defined in DP1105133 and the 88B instrument shall not be used for the storage of any vehicles, plant, machinery or other items likely to obstruct the free flow of floodwaters.
- 11 The existing surface levels and batters within the drainage easement shall not be altered.

- 12 Prior to the issue of an Occupation Certificate for the development, Development Consent No. DA11/0276 shall be surrendered to Penrith City Council in accordance with the provisions of the Environmental Planning and Assessment Act 1979.
- 13 A total of twenty (20) shipping containers shall be stored on the site at any one time. The storage of the shipping containers shall be stacked and arranged as per the site plan in order to minimise the visual impacts and to facilitate vehicular access.

ENVIRONMENTAL MATTERS

- 14 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 Housing NSW "Managing Urban Stormwater: Soils and Construction" 2004.

(Note: To obtain a copy of the publication, you should contact Urban Growth NSW 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 landscaping, driveway and on-site parking areas have been completed for the development and the land, that was subject to the works, have been stabilised and grass cover established.** 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.

- 15 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.
- 16 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.

- 17 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.

BCA ISSUES

- 18 Access and sanitary facilities for persons with disabilities are to be provided and maintained in accordance with the requirements of the Building Code of Australia, Disability (Access to premises - buildings) Standards 2010 and AS 1428 "Design for Access

and Mobility". Details of compliance are to be provided in the relevant plans and specifications accompanying the Construction Certificate application.

- 19 A fire safety list of essential fire or other safety measures shall be submitted to Penrith City Council **prior to the issue of the Construction Certificate**. The fire safety list shall specify all measures (both current and proposed) that are required for the building so as to ensure the safety of persons in the building in the event of fire.

The fire safety list must distinguish between:

- the measures that are currently implemented in the building premises,
- and the measures that are to be proposed to be implemented in the building premises, and must specify the minimum standard of performance for each measure.

- 20 The owner of a building, to which an essential fire safety measure is applicable, shall provide Penrith City Council with an annual fire safety statement for the building. The annual fire safety statement for a building must:

- (a) deal with each essential fire safety measure in the building premises, and
- (b) be given:
 - within 12 months after the last such statement was given, or
 - if no such statement has previously been given, within 12 months after a final fire safety certificate was first issued for the building.

As soon as practicable after the annual fire safety statement is issued, the owner of the building to which the statement relates:

- must also provide a copy of the statement (together with a copy of the current fire safety schedule) to the Commissioner of New South Wales Fire Brigades, and
- prominently display a copy of the statement (together with a copy of the current fire safety schedule) in the building.

- 21 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

- 22 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 issue of an Occupation Certificate.

- 23 **Prior to the issue of a Construction Certificate**, a written clearance is to be obtained from Integral 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 padmounted substation is necessary to service the development, Penrith City Council shall be consulted over the proposed location of the substation **before the Construction Certificate for the development is issued** as the location of the substation may impact on other services and building, driveway or landscape design already approved by Council.

CONSTRUCTION

- 24 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 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 Occupation Certificate has been issued for the development**.

- 25 **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 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).

26 Detailed engineering plans and specifications relating to the suspended concrete slab and piers shall be submitted for consideration and approval **prior to the issue of a Construction Certificate**. The concrete slab and related substructure shall be suspended above the regional 200yr ARI flood level other than 450mm diameter concrete columns positioned at approximately 7500mm centres. These columns shall be set out in accordance with Plan No. 13-018 DA07 prepared by MCHP Architects and dated 01.05.2013. No other substructure members, including any required beams, shall encroach or obstruct the free flow of flood waters.

27 The building shall be set out by a registered surveyor. A Survey Certificate shall be undertaken and submitted to the Principal Certifying Authority at piers stage and

28 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

29 A total of 24 off-street parking spaces are to be provided, linemarked and maintained for the development, in accordance with the approved site plan. The parking space dimensions and manoeuvring areas are to comply with AS2890.1 and AS2890.2 the Building Code of Australia and the Commonwealth Disability Discrimination Act.

Of the 24 spaces, 1 parking space for persons with disabilities shall be provided in accordance with AS1428.1 and located close to all pedestrian entrances of the building.

- 30 The stormwater drainage system shall be provided generally in accordance with the concept plan/s lodged for development approval, prepared by Kneebone, Beretta & Hall, reference number 89967-1, revision A, dated 3.6.2013.

The proposed development and stormwater drainage system shall be designed to ensure that stormwater runoff from upstream properties is conveyed through the site without adverse impact on the development or adjoining properties.

Engineering plans and supporting calculations for the stormwater drainage system are to be prepared by a suitably qualified person and shall accompany the application for a Construction Certificate.

Prior to the issue of a Construction Certificate, the Certifying Authority shall ensure that the stormwater drainage system has been designed in accordance with Penrith City Council's Design Guidelines and Construction Specification for Civil Works.

- 31 **Prior to the issue of a Construction Certificate** the Certifying Authority shall ensure that the proposed development is compatible with the recommendations of the Flood Report prepared by Worley Parsons, reference number LR301015-01262-22DMC131114.dox and dated 15.11.2013.

Details prepared by a qualified person, demonstrating compliance with this report, shall form part of any Construction Certificate issued.

- 32 **Prior to the issue of a Construction Certificate** the Certifying Authority shall ensure that the structure can withstand the forces of floodwater including debris and buoyancy up to the 1% Annual Exceedence Probability Event.

- 33 **Prior to the issue of a 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 AS 2890.1, AS2890.2, AS2890.6 and Penrith City Council's Development Control Plan.

- 34 **Prior to the issue of an Occupation Certificate**, the Principal Certifying Authority shall ensure that all works within the road reserve have been inspected and approved by Penrith City Council.

- 35 After completion of all civil works, works-as-executed drawings and compliance documentation shall be submitted to the Principal Certifying Authority in accordance with Penrith City Council's Design Guidelines and Construction Specification for Civil Works.

An original set of works-as-executed drawings and copies of 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.

- 36 **Prior to the issue of select an Occupation Certificate**, the Principal Certifying Authority shall ensure that the:

- a) On-site detention system/s
- b) Stormwater pre-treatment system/s
 - Have been satisfactorily completed in accordance with the approved Construction Certificate and the requirements of this consent.
 - Have met the design intent with regard to any construction variations to the approved design.

- Any remedial works required to be undertaken have been satisfactorily completed.

Details of the approved and constructed system/s shall be provided as part of the works-as-executed drawings.

- 37 **Prior to the issue of an Occupation Certificate**, a restriction as to user and positive covenant relating to the:

- a) On-site detention system/s
- b) Stormwater pre-treatment system/s

Shall be registered on the title of the property. The restriction as to user and positive covenant shall be in Penrith City Council's standard wording as detailed in Penrith City Council's Design and Construction Guidelines and Construction Specification for Civil Works.

- 38 All land required for vehicular access within the site is to be concreted or sealed with a bituminous pavement.
- 39 Finished floor levels of the building shall be a minimum of RL 24.9m AHD (standard flood level + 0.5m).
- 40 All electrical services associated with the proposed building works shall be adequately flood proofed in accordance with Penrith City Council's Development Control Plan relating to flood liable land. Flood sensitive equipment (including electric motors and switches) shall also be located above RL 24.9m AHD (standard flood level + 0.5m).

LANDSCAPING

- 41 All landscape works are to be constructed in accordance with the stamped-approved and Sections F5 "Planting Techniques", F8 "Quality Assurance Standards", F9 "Site Management Plan" of Penrith Council's Landscape Development Control Plan.

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.

- 42 The approved landscaping for the site must be constructed by a landscape professional listed in Council's Approved Landscape Consultants Register as suitable to construct category 2 landscape works.
- 43 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.
- 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.

- 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.
- 44 All plant material associated with the construction of approved landscaping is to be planted in accordance with the Tree Planting Specification prescribed in Penrith Council's Landscape Development Control Plan.
- 45 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
- 46 All trees that are required to be retained as part of the development are to be protected in accordance with the minimum tree protection standards prescribed in section F4 of Council's Landscape Development Control Plan.
- 47 Existing landscaping is to be retained and maintained at all times.
- 48 **Prior to the issue of an Occupation Certificate**, all landscaping, including street trees approved under Development Consent No. 10/0289 shall be re-instated. 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.

PAYMENT OF FEES

- 49 All roadworks, dedications and drainage works are to be carried out at the applicant's cost.
- 50 **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

- 51 **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.

- 52 An Occupation Certificate is to be obtained from the Principal Certifying Authority on completion of all works and **prior to the occupation/use of the Storage Unit.**

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.

Pukar Pradhan

Signature

For the Development Services Manager