

DETERMINATION OF DEVELOPMENT APPLICATION

P E N R I T H C I T Y C O U N C I L

DESCRIPTION OF DEVELOPMENT

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| DA No. | DA12/0578 |
| Description of development | Public Domain Improvement Works surrounding Joan Sutherland Performing Arts Centre |
| Classification of development | <p>The classification of the building(s) forming part of this consent is as follows:</p> <ul style="list-style-type: none">▪ Class N/A |

DETAILS OF THE APPLICANT

| | |
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| Name & Address | Penrith City Council PO Box 60 PENRITH NSW 2751 |
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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 this type of development requires a construction certificate in addition to this development consent.
3. It is recommended that you read the Advisory Note enclosed with this consent.

DETAILS OF THE LAND TO BE DEVELOPED

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|--------------------|---|
| Legal Description: | Lot 1 DP 1137699 Lot 1033 DP 849297 Lot 1033 DP 1102232 |
| Property Address: | Westfield Penrith, 569-595 High Street, PENRITH NSW 2750 |

DECISION OF CONSENT AUTHORITY

In accordance with Section 81(1)(a) of the Environmental Planning and Assessment Act 1979, consent is granted subject to implementation of the conditions in Attachment 1.

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| Date from which consent operates | 8 November 2012 |
| Date consent expires | 8 November 2014 |
| Date of decision | 1 November 2012 |

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

REVIEW OF DETERMINATION & RIGHTS OF APPEAL

1. The applicant may request Council to review its determination pursuant to Section 82A of the Environmental Planning and Assessment Act 1979 within six (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.

2. 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.

3. If a written objection was made in respect to an application for Designated Development, the objector can appeal against Council's 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 Council's decision, the 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 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 | Karl Berzins Consultant Environmental Planner |
| Contact telephone number | (02) 4732 7991 |

SIGNATURE

| | |
|-----------|-----------------------------------|
| Name | Robert Craig Principal Planner |
| 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 0802-LO3 and 0802-LO4 (Rev C), drawn by Knox & Partners, dated 07/07/10, and 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 **The development shall not be used or occupied until an Occupation Certificate has been issued.**
- 3 **Prior to the issue of an Occupation Certificate**, a lighting system shall be installed for the development to provide uniform lighting across the site. Exterior lighting shall be located and directed in such a manner so as not to create a nuisance to surrounding landuses. The lighting shall be the minimum level of illumination necessary for safe operation. The lighting shall be vandal proof. The lighting shall be in accordance with AS 4282 "Control of the obtrusive effects of outdoor lighting" (1997).
- 4 The finishes of all structures and buildings are to be maintained at all times and any graffiti or vandalism immediately removed/repaired.
- 5 Anti-skate board treatments shall be provided for the chessboard area as well as for the grass ottoman area.
- 6 **Prior to the issue of an Occupation Certificate**, the following matters shall be satisfied:
 - a) The wall/edge to the amphitheatre on the eastern edge shall be constructed to height that will allow viewing into the pit for people in wheelchairs.
 - b) All concrete surfaces that are trafficable by wheelchairs shall be textured R12.
 - c) The construction of the paving and other features shall ensure that there are no gaps to inhibit wheelchair travel.
- 7 The approved works shall be undertaken in accordance with findings and recommendations of the Access Statement dated November 2008 prepared by Knox & Partners Landscape Architects Pty Ltd.

ENVIRONMENTAL MATTERS

- 8 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) 9841 8600).

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 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.

- 9 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.
- 10 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.
- 11 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.
- 12 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

- 13 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
 - d) a combination of (a) and (b).
- 14 Access for persons with disabilities is to be provided and maintained in accordance with the requirements of the Building Code of Australia and AS 1428 "Design for Access and Mobility".

CONSTRUCTION

- 15 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.**

- 16 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.

LANDSCAPING

- 17 All landscape works are to be constructed in accordance with the stamped approved plans and Sections F5 "Planting Techniques", F8 "Quality Assurance Standards" and 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.

- 18 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.

- 19 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.
- 20 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.
- 21 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.
- 22 Existing landscaping is to be retained and maintained at all times.

CERTIFICATION

- 23 **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.

- 24 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.

Robert Craig

Signature

For the Development Services Manager