

PENRITH CITY COUNCIL

NOTICE OF DETERMINATION

DESCRIPTION OF DEVELOPMENT

Application number:	DA20/0019
Description of development:	Expansion of Erskine Park Children's Centre including Use of Erskine Park Community Centre for Out of School Hours Care & Erection of Outdoor Play Area Fencing
Classification of development:	Class 9b

DETAILS OF THE LAND TO BE DEVELOPED

Legal description:	Lot 375 DP 713863 Lot 374 DP 713863
Property address:	57 Peppertree Drive, ERSKINE PARK NSW 2759 158 - 172 Swallow Drive, ERSKINE PARK NSW 2759

DETAILS OF THE APPLICANT

Name & Address:	Penrith City Council 601 High Street PENRITH NSW 2750
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DECISION OF CONSENT AUTHORITY

In accordance with Section 2.17 and 4.18(1) (a) of the Environmental Planning and Assessment Act 1979 (as amended), consent is granted subject to the conditions implementation 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	23 July 2020
Date the consent expires	23 July 2025
Date of this decision	22 July 2020

POINT OF CONTACT

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

Assessing Officer:	Sufyan Nguyen
Contact telephone number:	+612 4732 8568

NOTES

Reasons

The conditions in the attached schedule have been imposed in accordance with Section 4.17 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 Division 8.2 of the Environmental Planning and Assessment Act 1979 within twelve months of receiving this Notice of Determination.

These provisions do not apply to designated development, complying development or crown development pursuant to Section 8.2(2) of the Environmental Planning and Assessment Act 1979.

Appeals in the Land and Environment Court

The applicant can appeal against this decision in the Land and Environment Court within twelve months of receiving this Notice of Determination.

There is no right of appeal to a decision of the Independent Planning Commission or matters relating to a complying development certificate pursuant to clause 8.6(3) of the Environmental Planning and Assessment Act 1979.

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 56 days after the date of this notice.

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 56 days after the date of this appeal notice to attend the appeal and make submissions at that appeal.

Sydney Western City Planning Panels

If the application was decided by the Sydney Western City Planning Panel, please refer to Section 2.16 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 following plans and documents stamped approved by Council, the application form and any supporting information received with the application, except as may be amended in red on the stamped approved plans and by the following conditions.

Drawing Title	Prepared By	Reference No.	Sheet No.	Issue	Dated
Roof/Site Analysis	Design Corp	2019-0190	C1 - C2	C	06/03/2020
Ground Floor Blocks A & B	Design Corp	2019-0190	C3	C	06/03/2020
Ground Floor Block C	David C. Jackson	2019-0190	C4	C	06/03/2020

Documents:

- Acoustics Noise Management Plan prepared by Far West Consulting Engineers, Reference No. 203510, Amended 2, dated 25 May 2020,
 - Erskine Park Children's Centre Noise Management Plan prepared by Amanda Collins, dated 22 April 2020,
 - Asbestos Building Materials Register prepared by Getex Pty Ltd, Report No. 10509.27.ASSR, Revision 0, dated 6 September 2018, and
 - Waste Management Plan prepared by Penrith City Council, dated 16 January 2020.
- 2 The proprietor of the food business shall ensure that the requirements of the *NSW Food Act 2003*, *NSW Food Regulation 2010* and the Australian and New Zealand Food Standards Code are met at all times.
- 3 The approved operating hours are from 7:00am to 6:00pm, Mondays to Fridays. The centre-based child care facility is not to operate on weekends or public holidays. Delivery, waste collection and other service vehicles generated by the development are restricted to these hours of operation.
- 4 The finishes of all structures and buildings are to be maintained at all times and any graffiti or vandalism immediately removed/repaired.
- 5 An Arborist shall be engaged before and during the fence installation, in particular, to monitor minimum tree protection requirements with hand digging during the installation of the steel fence post.
- 6 Special attention must be given the maintenance of the acoustic fence and any adjacent landscaping.
- 7 The maximum number of children placed at the centre-based child care facility is to be limited to 138 including 8 places available for babies and toddlers aged 0-2 years.
- 8 The scheduled outdoor play times shall be restricted to the Erskine Park Children's Centre Noise Management Plan prepared by Amanda Collins, dated 22 April 2020.

Demolition

- 9 Mud and soil from vehicular movements to and from the site must not be deposited on the road.

Environmental Matters

- 10 Noise levels from the premises shall not exceed the relevant noise criteria detailed in the report titled 'Acoustics Noise Management Plan' prepared by Far West Consulting Engineers, Reference No. 203510, Amended 2, dated 25 May 2020. The recommendations provided in the Acoustics Noise Management Plan shall be implemented and applied to the operation of the development.

The provisions of the *Protection of the Environment Operations Act 1997* apply to the development, in terms of regulating offensive noise.

- 11 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.
- 12 In the event of ongoing noise complaints relating to the development being received by Council, the owner and/or occupier of the development may be required by Council to obtain the services of a suitably qualified acoustic consultant to undertake a noise impact assessment on the development to address the concerns of the community. Should that occur, the noise impact assessment report shall be prepared and provided to Council for approval within 45 days of being requested. Any mitigation works are to be undertaken within thirty (30) days from the date of notice from Council, unless otherwise specified.

BCA Issues

- 13 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 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.
- 14 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.

Health Matters and OSSM installations

- 15 The construction, fit-out and finishes of the food premises must comply with Standard 3.2.3 of the Australian and New Zealand Food Standards Code, and AS 4674-2004 *Design, Construction and Fit-Out of Food Premises*.
- 16 Hand basins must be freestanding, serviced with hot and cold water through a single outlet, able to be mixed at a temperature of at least 40°C and fitted with a hands free operation. Where sensor taps are installed the basin must not be more than 6 metres from the hot water system. Disposable paper hand towels and soap must be provided and serviced from a dispenser adjacent to each hand basin.
- 17 A hand basin must be located within the toilet cubicle. Hand basins must be freestanding, serviced with hot and cold water through a single outlet, able to be mixed at a temperature of at least 40°C and fitted with a hands free operation. Where sensor taps are used the basin must not be more than 6 metres from the hot water system. Disposable paper hand towels and soap must be provided and serviced from a dispenser adjacent to each hand basin.

Utility Services

- 18 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.

Engineering

- 19 All car parking and manoeuvring must be in accordance with AS 2890.1-2004, AS 2890.6-2009 and the *Penrith Development Control Plan 2014*.
- 20 All car spaces are to be sealed/line marked and dedicated for the parking of vehicles only and not be used for storage of materials, products, waste materials, etc.
- 21 The required sight lines around the driveway entrances are not to be compromised by landscaping, fencing or signage.
- 22 All vehicles are to enter/exit the site in a forward direction.
- 23 The scope of works is to include the refurbishment of the parking area including the re-painting of faded pavement markings and renewal of damaged signage.
- 24 Appropriate pavement markings and signage are required to reinforce the direction of vehicle circulation and the location of minibus pick-up/drop-off area.

Landscaping

- 25 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.
- 26 Existing landscaping is to be retained and maintained at all times.

Certification

- 27 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.

- 28 An Occupation Certificate is to be obtained from the Principal Certifying Authority on completion of all fencing works and prior to the use for the additional 28 out of hours school care child placements (total number of 138 child placements).

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:	Sufyan Nguyen
Signature:	

For the Development Services Manager