

# PENRITH CITY COUNCIL

## NOTICE OF DETERMINATION

### DESCRIPTION OF DEVELOPMENT

Application number:	DA19/0646
Description of development:	Alterations & Additions to Existing Industrial Building & Car Parking, Landscaping & Hardstand Area Works
Classification of development:	Class 8

### DETAILS OF THE LAND TO BE DEVELOPED

Legal description:	Lot 31 DP 1005063
Property address:	134 - 140 Old Bathurst Road, EMU PLAINS NSW 2750

### DETAILS OF THE APPLICANT

Name & Address:	Cityscape Planning & Projects PO Box 127 GLENBROOK NSW 2773
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### DECISION OF CONSENT AUTHORITY

In accordance with Section 4.18(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	19 March 2020
Date the consent expires	19 March 2025
Date of this decision	18 March 2020

## POINT OF CONTACT

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

Assessing Officer:	Jake Bentley
Contact telephone number:	+612 4732 8087

## NOTES

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### **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 six 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 six 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 28 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 28 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	Drawing No:	Revision	Date
<b>Architectural Drawings</b>				
Proposed New Works Site Plan	Foran Design	SK 110	06	6/2/2020
External Elevations	Foran Design	SK 111	05	6/12/2019
New Carpark Setout	Foran Design	SK 112	05	13/12/2019
Landscape Plan	Foran Design	SK 120	05	13/12/2019
<b>Stormwater Drainage Plans</b>				
Concept Drainage Design Cover Page	Majcon	C000	01	2/9/2019
External Hardstand Area Concept Drainage Plan 1 of 2	Majcon	C001	02	9/9/2019
External Hardstand Area Concept Drainage Plan 2 of 2	Majcon	C002	01	2/9/2019
External Hardstand Area OSD Volume	Majcon	C003	01	2/9/2019
New Bitumen Carpark Concept Drainage Plan 1 of 3 Grading Plan	Majcon	C004	01	2/9/2019
New Bitumen Carpark Concept Drainage Plan 2 of 3	Majcon	C005	01	2/9/2019
New Bitumen Carpark Concept Drainage Plan 3 of 3 New Carpark Catchment Plan	Majcon	C006	02	9/9/2019

New Bitumen Carpark Typical Sections	Majcon	C007	01	2/9/2019
Drainage and WSUD Typical Details 1 of 2	Majcon	C008	01	2/9/2019
Drainage and WSUD Typical Details 2 of 2	Majcon	C009	01	2/9/2019
External Hardstand Area Erosion Control Plan 1 of 2	Majcon	C010	01	2/9/2019
External Hardstand Area Erosion Control Plan 2 of 2	Majcon	C011	01	2/9/2019
New Bitumen Carpark Erosion Control Plan	Majcon	C012	02	9/9/2019
Erosion Control Typical Details	Majcon	C013	01	2/9/2019
External Hardstand Area Catchment Plan	Majcon	C014	01	2/9/2019

- Waste Management Plan, dated September, 2019.

2 **The development shall not be used or occupied until an Occupation Certificate has been issued.**

3 A **Construction Certificate** shall be obtained prior to commencement of any building works.

4 **Prior to the issue of a Construction Certificate**, the stormwater plans shall be amended to be consistent with the approved car park extension layout.

5 The earth mound associated with the approved above ground detention area shall be suitably compacted to minimise run-off onto adjoining properties and to the nearby watercourse.

6 The outdoor storage of goods shall:

- Not interfere with required vehicle access/egress routes,
- Not exceed 6m in height,
- Be conducted in a safe manner to not cause a hazard on-site and to nearby properties, and
- Be provided with suitable lighting if subject to night time activity.

7 **Prior to the issue of an Occupation Certificate**, a lighting system is required to provide uniform lighting across the car park extension. Exterior lighting shall be located and directed in such a manner so as not to create a nuisance to surrounding land uses. The lighting shall be the minimum level of illumination necessary for safe operation. The lighting shall be in accordance with AS 4282 "Control of the obtrusive effects of outdoor

lighting" (1997).

8 In accordance with the requirements of Clause 94 of the Environmental Planning and Assessment Regulation 2000, the following works are to be completed to upgrade the fire safety of the existing building:

(a) Upgrade the premises in accordance with the recommendations of the Building Code of Australia Report by Philip Chun BC NSW Pty Ltd (Report No. 19-213566\_ACO\_R01) dated 16 August, 2019.

## Demolition

9 All demolition works are to be conducted in accordance with the provisions of AS 2601-1991 "The Demolition of Structures". **Prior to demolition**, all services shall be suitably disconnected and capped off or sealed to the satisfaction of the relevant service authority requirements.

All demolition and excavated material shall be disposed of at a Council approved site or waste facility. Details of the proposed disposal location(s) of all excavated material from the development site shall be provided to the Principal Certifying Authority **prior to commencement of demolition**.

10 You should read Council's Fact Sheet titled "Handling and Disposal of Fibrous Cement Products" **before any demolition works commence on the site**.

**Prior to commencement of demolition works on-site**, a portaloos with appropriate washing facilities shall be located on the site and the Principal Certifying Authority is to be satisfied that:

- Measures are in place so as to comply with the WorkCover Authority's "Short Guide to Working with Asbestos Cement" and
- The person employed to undertake the works is a licensed asbestos removal contractor and is holder of a current WorkCover Asbestos Licence.

Any demolition works involving the removal of all asbestos shall only be carried out by a licensed asbestos removal contractor who has a current WorkCover Asbestos Licence.

All asbestos laden waste, including asbestos cement flat and corrugated sheeting must be disposed of at a tipping facility licensed by the Environment Protection Authority to receive asbestos wastes.

11 Dust suppression techniques are to be employed during demolition to reduce any potential nuisances to surrounding properties.

## Environmental Matters

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

- 13 Before any fill material is imported to site, a validation certificate issued by an appropriately qualified person is to be provided to the Principal Certifying Authority. The validation certificate must demonstrate that the fill material is free from contaminants and weeds, that it is suitable for its intended purpose and land use, and that it will not pose an unacceptable risk to human health or the environment.

If Penrith City Council is not the Principal Certifying Authority, a copy of the validation certificate is to be submitted to Council for their reference.

Note: Penrith Development Control Plan 2014 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.”

- 14 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 the areas are to be fully enclosed when the site is unattended.
- 15 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.

- 16 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.

In the event that Council receives noise concerns from the public, an acoustic assessment shall be conducted and the resulting report shall be provided to Council for review. The acoustic assessment is to be carried out in accordance with the Noise Policy for Industry (2017) and provide mitigation measures to suitably attenuate offensive noise.

- 17 All manufacture and assembly associated with the use shall be conducted within the confines of the building at all times.
- 18 Any liquid discharge from the air handling system, resulting from operation, maintenance and/or cleaning operations, are to be disposed of into the sewer system. Discharge into the stormwater disposal system is not permitted.
- 19 All gases, odours, fumes, steam, moisture and particulate matter generated by the use of the premises shall be collected into a one-stack system with a suitable filter system for discharge to the atmosphere. The quality of the discharges from the stack system shall comply with the requirements of the Protection of the Environment Operations Act 1997.

## BCA Issues

20 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

21 **Prior to the issue of a Construction Certificate**, a written clearance is to be obtained from Endeavour 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.

## Construction

22 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 are to be erected:

- at the commencement of, and for the full length of the, construction works on-site, 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.

23 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 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.

24 Construction and demolition 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 that 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

25 **Prior to the issue of any Construction Certificate**, the Certifying Authority shall ensure that an application under Section 68 of the Local Government Act, including payment of application and inspection fees, has been lodged with, and approved by Penrith City Council for provision of the stormwater drainage connection to Council's stormwater drainage channel.

Engineering plans are to be prepared in accordance with the development consent, Penrith City Council's Design Guidelines for Engineering Works for Subdivisions and Developments, Engineering Construction Specification for Civil Works, Austroads Guidelines, and best engineering practice.

Contact Penrith City Council's Development Engineering Department on 4732 7777 to obtain a formal fee proposal prior to lodgement and visit Penrith City Council's website for more information.

### Note:

- All works associated with the Section 68 Local Government Act approval must be completed **prior to the issue of any Occupation Certificate**.

- 26 The stormwater management system shall be consistent with the plans lodged for development approval, prepared by Majcon, reference number C000, C002-C005, C007-C009, revision 01, dated 02/09/2019 and C001 and C006, revision 02, dated 09/09/2019 and Stormwater Management Report, prepared by Majcon, Job reference number 20190047, Revision 3, dated 28/12/2019.

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

**Prior to the issue of any Construction Certificate**, the Certifying Authority shall ensure that the stormwater management system has been designed in accordance with Penrith City Council's Stormwater Drainage for Building Developments and Water Sensitive Urban Design (WSUD) policies.

- 27 **Prior to the issue of any 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, AS 2890.2, AS 2890.6 and Penrith Development Control Plan 2014.

- 28 **Prior to commencement of works**, sediment and erosion control measures shall be installed in accordance with the approved Construction Certificate and to ensure compliance with the Protection of the Environment Operations Act 1997.

The erosion and sediment control measures shall remain in place and be maintained until all disturbed areas have been rehabilitated and stabilised

- 29 **Prior to the issue of any Occupation Certificate**, the Principal Certifying Authority shall ensure that all works associated with the Section 68 Local Government Act approval have been inspected and signed off by Penrith City Council.

- 30 **Prior to the issue of an Occupation Certificate**, Works As Executed drawings, final operation and maintenance management plans and any other compliance documentation shall be submitted to the Principal Certifying Authority in accordance with Penrith City Council's Engineering Construction Specification for Civil Works, WSUD Technical Guidelines and Stormwater Drainage for Building Developments Policy.

An original set of Works As Executed drawings and copies of the final operation and maintenance management plans and compliance documentation shall also be submitted to Penrith City Council with notification of the issue of the Occupation Certificate where Penrith City Council is not the Principal Certifying Authority.

- 31 **Prior to the issue of an Occupation Certificate**, a restriction as to user and positive covenant relating to the stormwater management systems (including water sensitive urban design measures) 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 Stormwater Drainage Specification for Building Developments – Appendix F.

- 32 **Prior to the issue of any Occupation Certificate**, the Principal Certifying Authority shall ensure that the:

a) Stormwater management systems (including on-site detention and water sensitive urban design)

- 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.

- 33 The stormwater management systems shall continue to be operated and maintained in perpetuity for the life of the development in accordance with the final operation and maintenance management plan.

Regular inspection records are required to be maintained and made available to Penrith City Council on request. All necessary improvements are required to be made immediately upon awareness of any deficiencies in the treatment measure/s and stormwater management systems.

- 34 All car spaces are to be sealed, line marked and dedicated for the parking of vehicles only and not used for storage of material, product, waste materials, etc.

- 35 The required sight lines around the driveway entrances are not to be compromised by landscaping, fencing or signage.

- 36 All vehicles are to enter/exit the site in a forward direction.

- 37 All car parking spaces, manoeuvring areas, circulation roadways, and driveways must be kept clear of obstructions and not be used for storage.

- 38 All roadworks, stormwater drainage works, signage, linemarking, associated civil works and dedications, required to effect the consented development shall be undertaken by the applicant at no cost to Penrith City Council.

- 39 An Infrastructure Restoration Bond is to be lodged with Penrith City Council for development involving works around Penrith City Council's Public Infrastructure Assets. The bond is to be lodged with Penrith City Council prior to commencement of any works on-site or prior to the issue of any Construction Certificate, whichever occurs first. The bond and applicable fees are in accordance with Council's adopted Fees and Charges.

An application form together with an information sheet and conditions are available on Council's website.

Contact Penrith City Council's City Works Department on 4732 7777 or visit Penrith City Council's website for more information.

## Landscaping

- 40 All landscape works are to be constructed in accordance with the stamped approved plans and Chapter C6 Landscape Design of Penrith Development Control Plan 2014.

Landscaping shall be maintained:

- in accordance with the approved plans, 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.

- 41 The approved landscaping for the site must be conducted by an appropriately qualified person as defined in Penrith Development Control Plan 2014.

- 42 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. The report is to be prepared by an appropriately qualified landscape professional.

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.

- 43 All plant material associated with the construction of approved landscaping is to be planted in accordance with Penrith Development Control Plan 2014.

- 44 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.

- 45 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 Penrith Development Control Plan 2014.

- 46 No trees are to be removed, ringbarked, cut, topped or lopped or wilfully destroyed (other than the two trees to be removed as indicated on the stamped approved plans) without the prior consent of Penrith City Council and in accordance with State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017.

- 47 The following tree protection methods shall be utilised:

- Locate pipes to minimise damage to trees
- Boring pipe locations in the south-eastern section of the site to minimise damage to trees
- Hand digging when working within the root zone of trees

## Certification

48 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 6.6 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 6.6 of the Environmental Planning and Assessment Act 1979.

49 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.

## SIGNATURE

Name:	Jake Bentley
Signature:	

For the Development Services Manager