

PENRITH CITY COUNCIL

NOTICE OF DETERMINATION

DESCRIPTION OF DEVELOPMENT

Application number:	DA16/1351.01
Description of development:	Extension of a Lapsing Period - Change of Use of an Existing Building (Masters) for a Bulky Goods Premises Including Enclosure of the Existing Garden Centre and Associated Advertising Signage
Classification of development:	Class 6

DETAILS OF THE LAND TO BE DEVELOPED

Legal description:	Lot 12 DP 1192443
Property address:	243 - 261 Forrester Road, NORTH ST MARYS NSW 2760

DETAILS OF THE APPLICANT

Name & Address:	Home Investment Consortium Company Pty Ltd C/-- Urbis Tower 2 Level 23 Darling Park 201 Sussex Street SYDNEY NSW 2000
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DECISION OF CONSENT AUTHORITY

In accordance with Sections 4.18(1) (a) and 4.54 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	22 February 2017
Date the consent expires	22 February 2020
Date of this decision	26 November 2018

POINT OF CONTACT

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

Assessing Officer:	Mahbub Alam
Contact telephone number:	+612 4732 7693

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 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 plans below 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.

Plan	Prepared by	Dated
Site Plan Rev P01	The Buchan Group	21/11/16
Proposed Plan Rev P01	The Buchan Group	21/11/16
Roof Plan Rev P01	The Buchan Group	21/11/16
Elevations Rev P01	The Buchan Group	28/11/16 (amended by email 20/1/17)
Sections Rev P01	The Buchan Group	21/11/16
Pylon Signage Rev P01	The Buchan Group	21/11/16

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

- 3 All signage areas shall not exceed those approved under DA13/0434 and in accordance with the signage zones shown stamped approved plans under this consent. Such signage content shall:

- Not include any additional external lighting beyond that already approved for the site.
- Not have any flashing lights or movable pieces.
- Not consist of neon or fluorescent colours.

A separate development application for the erection of a sign or advertising structure, other than that previously approved by this application, DA13/0434 or an advertisement listed as exempt development, is to be submitted to Penrith City Council, complying with the requirements of Penrith Development Control Plan 2014

- 4 The operating hours are from 6.00am to 10.00pm Monday to Friday, and 6.00am to 8.00pm Saturdays and Sundays. Delivery and service vehicles generated by the development are limited to these operational hours.
- 5 All materials and goods associated with the use shall be contained within the building at all times.
- 6 A lighting system shall be maintained for the development to provide uniform lighting across common areas and driveways. 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 in accordance with AS 4282 "Control of the obtrusive effects of outdoor lighting" (1997).
- 7 A **Construction Certificate** shall be obtained prior to commencement of any building works.
- 8 Separate approvals are required for any uses other than the approved bulky goods and café as shown on the stamped plans.

The Bulky Goods uses must comply with the definition with Penrith LEP 2010.

The use of the ancillary café is approved, with further consent required for the fit out.

- 9 The hours of operation of the café are restricted to that of the centre. All café patrons must access the café via the main doors to the centre only.
- 10 The relevant conditions of consent of DA11/0470 relating to landscaping, car parking and vehicular access are to be adhered to at all times.

Environmental Matters

- 11 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.
- 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.
- 13 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.
- 14 Only clean and unpolluted water is to be discharged into Penrith City Council's stormwater drainage system. Liquid wastes suitable for discharge to the mains sewer are to be discharged in accordance with Sydney Water requirements.

If mains sewer is not available or if Sydney Water will not allow disposal to the sewer then a licensed waste contractor is to remove the liquid waste from the premises to an appropriate waste facility.

The waste contractor and waste facility are to hold the relevant licenses issued by the NSW Environment Protection Authority.

- 15 Offensive odours are not to be emitted from the site. Vapours, fumes, gases, 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.

BCA Issues

16 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.

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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.

17 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.

Construction

18 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 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.

19 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 owner of 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).

(d) If the work involved in the erection or demolition of a building is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or involves the enclosure of a public place, a hoarding or fence must be erected between the work site and the public place:

- if necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place,
- the work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place, and
- any such hoarding, fence or awning is to be removed when the work has been completed.

20 A completed waste management plan shall be submitted to Penrith City Council for consideration and approval. Council must approve the plan before works can commence on site.

The waste management plan shall be prepared in accordance with the Penrith Development Control Plan, and shall address all waste materials likely to result from the proposed development (including all demolition and construction works, and the operations of the development), with details of the estimated waste volumes, onsite storage and management, proposed re-use of materials, designated waste contractors, recycling outlet and / or landfill site.

The approved waste management plan must be implemented on-site and adhered to throughout all stages of the development, with supporting documentation / receipts retained in order to verify the recycling and disposal of materials in accordance with the approved plan.

21 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

- 22 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

Certification

- 23 Prior to the commencement of any earthworks or construction works on site, the proponent is to:
- 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
 - 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.

SIGNATURE

Name:	Mahbub Alam
Signature:	

For the Development Services Manager