

# PENRITH CITY COUNCIL

## NOTICE OF DETERMINATION

### DESCRIPTION OF DEVELOPMENT

Application number:	DA19/0220
Description of development:	Alterations and Additions to an existing community facility
Classification of development:	Class 9b

### DETAILS OF THE LAND TO BE DEVELOPED

Legal description:	Lot 7042 DP 93967 Lot 1 DP 650753
Property address:	4 Lawson Street, EMU PLAINS NSW 2750

### 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	13 May 2019
Date the consent expires	13 May 2024
Date of this decision	13 May 2019

## 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.	Issue	Date
<b>Architectural Plans</b>				
Title Page, General Notes & Schedule of External Finishes	Justin Long Design	A00	TD	14/3/2019
Proposed Ground Floor Plan	Justin Long Design	A02	TD	14/3/2019
Northern & Western Elevations	Justin Long Design	A03	TD	14/3/2019
Southern & Eastern Elevations	Justin Long Design	A04	TD	14/3/2019
Proposed Sections	Justin Long Design	A05	TD	14/3/2019
Proposed Sections	Justin Long Design	A06	TD	14/3/2019
Proposed Site Plan	Justin Long Design	A07	TD	1/3/2019
Demolition Plan	Justin Long Design	A08	TD	1/3/2019
Windows & Doors Schedule	Justin Long Design	A09	TD	14/3/2019
Windows & Doors Schedule	Justin Long Design	A10	TD	14/3/2019
Security Doors Schedule	Justin Long Design	A10A	TD	14/3/2019

- Waste Management Plan dated 5 February 2019, prepared by Penrith City Council,
- Design Specification Accessibility Report, dated 8 January, 2019, prepared by Trevor R Howse, Reference No. J18174(a)/2 Issue 1.

- 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**, the Principal Certifying Authority shall ensure that a lighting system is installed for the development to provide uniform lighting across common areas. The 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).
- 4 The finishes of the building are to be maintained at all times and any graffiti or vandalism immediately removed/repaired.

- 5 A **Construction Certificate** shall be obtained prior to commencement of any building works.
- 6 **Prior to the issue of a Construction Certificate**, the Certifying Authority is to ensure that plans have been submitted to Council for review and approval identifying the air conditioning plant to the east of the building being full screened. In this regard, screening is to be provided with a green finish and surrounded by native shrubs. The approved air conditioning plant screening and shrubs shall be installed **prior to the issue of an Occupation Certificate**.
- 7 **Prior to the issue of an Occupation Certificate**, the Principal Certifying Authority shall ensure that the new picket fence is located wholly within the site.
- 8 The existing building is to operate only in conjunction with the approved existing use(s) provided.
- 9 Details of all new guttering shall be to the written satisfaction of the Council's Heritage Consultant **prior to the issue of a Construction Certificate**.
- 10 Major construction work shall be overseen and certified by a suitably qualified person with heritage expertise (acceptable to the Council), such as demolition, framing, air conditioning, roofing and final works. This process shall be coordinated by the certifying authority including receiving written evidence of the heritage practitioners acceptance of works.
- 11 Food prepared in the kitchenette is to be for staff only. No food is to be prepared in the kitchenette for the sale of food on the premises or for retail purposes.

## Demolition

- 12 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**.

- 13 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 portaloo 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.

- 14 Dust suppression techniques are to be employed during demolition and construction works to reduce any potential nuisances to surrounding properties.
- 15 Mud and soil from vehicular movements to and from the site must not be deposited on the road.

## **Heritage/Archaeological relics**

- 16 If any archaeological relics are uncovered during the course of the work no further work shall be undertaken until further directed by Penrith City Council or the NSW Heritage Office.

The applicant is advised that depending on the possible significance of the relics, an archaeological assessment and an excavation permit under the Heritage Act, 1977 may be required before any further work can be recommenced in that area of the site.

## **Environmental Matters**

- 17 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 in a location to prevent impacts on downstream properties and buildings.

- 18 Cut and fill operations on the property are only permitted in conjunction with the building works as detailed on the approved plans and specifications, and shall not extend more than two (2) metres past the defined building footprint.

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.”

- 19 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.
- 20 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.

- 21 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.
- 22 Where an intruder alarm is installed on the premises, it shall be fitted with a timing device in accordance with the requirements of the *Protection of the Environment Operations Act 1997*.

## BCA Issues

- 23 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.

24 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.

25 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

26 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.

27 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.

(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.

28 Detailed engineering plans and specifications relating to the work shall be submitted for consideration and approval **prior to the issue of a Construction Certificate.**

29 Demolition and construction 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 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.

## Landscaping

### 30 Trees to be removed: On-site

Approval is granted for the removal of the following trees:

- (a) Celtis sp (Hackberry) located at the western end of and directly adjacent to the old school house;  
and
- (b) Melia sp (White Cedar) located at the western end of and directly adjacent to the old school house

All tree removal works must comply with the *Amenity Tree Industry – Code of Practice, 1998* (WorkCover, NSW) and *Guide to Managing Risks of Tree Trimming and Removal Work* (Safe Work Australia 2016).

All other vegetation not specifically identified above, and protected by Chapter C2 Vegetation Management of the Penrith Development Control Plan 2014 is to be retained and protected from construction damage and pruning.

- 31 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 State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017.

## Certification

- 32 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.

- 33 An Occupation Certificate is to be obtained from the Principal Certifying Authority on completion of all works and prior to the occupation of the development.

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