

PENRITH CITY COUNCIL

NOTICE OF DETERMINATION

DESCRIPTION OF DEVELOPMENT

Application number:	DA15/1213
Description of development:	Landscape Embellishment Works Including Creation of a Local Park (Village 5 and East Lake)
Classification of development:	N/A

DETAILS OF THE LAND TO BE DEVELOPED

Legal description:	Lot 3997 DP 1179646
Property address:	3997 Greenwood Parkway, JORDAN SPRINGS NSW 2747

DETAILS OF THE APPLICANT

Name & Address:	Maryland Development Company Pty Ltd PO Box 4 PARRAMATTA NSW 2124
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DECISION OF CONSENT AUTHORITY

In accordance with Section 81(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	14 March 2016
Date the consent expires	14 March 2018
Date of this decision	8 March 2016

POINT OF CONTACT

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

Assessing Officer:	Belinda Borg
Contact telephone number:	+612 4732 7505

NOTES

Reasons

The conditions in the attached schedule have been imposed in accordance with Section 80A of the Environmental Planning and Assessment Act 1979 as amended.

Conditions/reasons for refusal

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 Section 82A of the Environmental Planning and Assessment Act 1979 within 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 or if the application was decided by a Joint Regional Planning Panel.

Appeals in the Land and Environment Court

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.

An appeal to the Land and Environment Court is made by lodging an application to the Court in accordance with the Rules of the Court.

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. The objector cannot appeal if a Commission of Inquiry was held.

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.

Joint Regional Planning Panels

If the application was decided by a Joint Regional Planning Panel, please refer to Section 23H of the Environmental Planning and Assessment Act, 1979 (as amended) for any further regulations.

OTHER APPROVALS

APPROVAL BODIES

APPROVAL BODY NAME	DATE OF GENERAL TERMS OF APPROVAL	REF. NO.	NO. OF PAGES	RELEVANT LEGISLATION
Department of Primary Industries - Office of Water	20 November 2015	10 ERM 2015/0994	2	Water Management Act 2000

The approval bodies listed above have provided General Terms of Approval for this development in accordance with the relevant legislation. A copy of these General Terms of Approval is provided with this development consent notice. Compliance with the relevant State Government departments' General Terms of Approval are required in conjunction with the following conditions listed in Attachment 1: Conditions of Consent issued by Penrith City Council.

ATTACHMENT 1: CONDITIONS OF CONSENT

General

- 1 The development must be implemented substantially in accordance with the stamped approved plans issued by Penrith City Council and other plans, the application form, the BASIX Certificate, reports or documents approved by Council, except as may be amended in red on the attached plans and by the following conditions:

Drawing Title	Drawing No.	Issue	Prepared by	Dated
Landscape Plans	JRO-0013 DA01 to JRO-0013 DA 27	E	Clouston Associates	16 September 2015
Erosion and Sedimentary Control Plan	IA16600-ECC-DG-0011	A	Jacobs Group	24 September 2015
Statement of Environmental Effects	Reference 14673	-	J B A Urban Planning Consultants	9 October 2015
Bushfire Protection Assessment	09SUTBUS-0001	1	Eco Logical Australia Pty Ltd	19 June 2014
Supplementary Arboricultural Impact Assessment Report	-	-	Fiddlehead Landscape Design Pty Ltd	14 September 2015
Waste Management Plan	-	-	Lend Lease	6 October 2015

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

- 3 The finishes of all structures and buildings are to be maintained at all times and any graffiti or vandalism immediately removed/repaired.

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

- 5 The development is required to comply with the General Terms of Approval (GTA) dated 25 November 2015, issued by the NSW Office of Water as outlined below:

(a) These General Terms of Approval (GTA) only apply to the controlled activities described in the plans and associated documentation relating to DA2015/1216 and provided by Council:

(i) Site plan, map and/ or surveys

Any amendments or modifications to the proposed controlled activities may render these GTA invalid. If the proposed controlled activities are amended or modified DPI Water (formerly the NSW Office of Water) must be notified to determine if any variations to these GTA will be required.

(b) Prior to the commencement of any controlled activity (works) on waterfront land, the consent holder must obtain a Controlled Activity Approval (CAA) under the Water Management Act from the NSW Office of Water. Waterfront land for the purposes of this DA is land and material in or within 40 metres of the top of the bank or shore of the river identified.

- (c) The consent holder must prepare or commission the preparation of:
 - (i) Vegetation Management Plan
 - (ii) Erosion and Sediment Control Plan
 - (ii) Soil and Water Management Plan
- (d) All plans must be prepared by a suitably qualified person and submitted to the NSW Office of Water for approval prior to any controlled activity commencing. The following plans must be prepared in accordance with DPI Water guidelines located at www.water.nsw.gov.au/Water-Licensing/approvals/default.aspx
 - (i) Vegetation Management Plans
 - (ii) Riparian Corridor
- (e) The consent holder must (i) carry out any controlled activity in accordance with approved plans and (ii) construct and/or implement any controlled activity by or under the direct supervision of a suitably qualified professional and (iii) when required, provide a certificate of completion to DPI Water.
- (f) The consent holder must carry out a maintenance period of two (2) years after practical completion of all controlled activities, rehabilitation and vegetation management in accordance with a plan approved by the DPI Water.
- (g) The consent holder must reinstate waterfront land affected by the carrying out of any controlled activity in accordance with a plan or design approved by the DPI Water.
- (h) The consent holder must use a suitably qualified person to monitor the progress, completion, performance of works, rehabilitation and maintenance and report to DPI Water as required.
- (i) The consent holder must provide a security deposit (bank guarantee or cash bond) equal to the sum of the cost of complying with the obligations under any approval - to DPI Water as and when required.
- (j) The consent holder must not locate ramps, stairs, access ways, cycle paths, pedestrian paths or any other non-vehicular form of access way in a riparian corridor other than in accordance with a plan approved by DPI Water.
- (k) The consent holder must ensure that no materials or cleared vegetation that may (i) obstruct flow, (ii) wash into the water body, or (iii) cause damage to river banks, are left on waterfront land other than in accordance with a plan approved by DPI Water.
- (l) The consent holder is to ensure that all drainage works (i) capture and convey runoffs, discharges and flood flows to low flow water level in accordance with a plan approved by DPI Water, and (ii) do not obstruct the flow of water other than in accordance with a plans proved by DPI Water.
- (m) The consent holder must stabilise drain discharge points to prevent erosion in accordance with a plan approved by DPI Water.
- (n) The consent holder must establish all erosion and sediment control works and water diversion structures in accordance with a plan approved by DPI Water. These works and structures must be inspected and maintained throughout the working period and must not be removed until the site has been fully stabilised.
- (o) The consent holder must ensure that no excavation is undertaken on waterfront land other than in accordance with a plan approved by DPI Water.
- (p) The consent holder must establish a riparian corridor along the watercourse in accordance with a plan approved by DPI Water.

- 6 The landscape maintenance and handover of Village 5 Park/ East Lake shall be undertaken in accordance with the St Marys Western Precinct - Landscape Maintenance and Handover Plan (part of the St Marys Western Precinct Plan) which includes an on-going maintenance period of no less than 3 years (from the issue of an Occupation Certificate).
- 7 The development shall be carried out in accordance with the procedures set out in the Western Precinct Contamination Management Plan and the conditions and procedures set out in the Site Audit Statements relating to the Western Precinct.

Heritage/Archaeological relics

- 8 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

- 9 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) 98418600).

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, have 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.

- 10 No fill material shall be imported to the site until such time as a Validation Certificate(with a copy of any report forming the basis for the validation) for the fill material has been submitted to, considered and approved by Council. The Validation Certificate shall:
- state the legal property description of the fill material source site,
 - be prepared by an appropriately qualified person with consideration of all relevant guidelines (e.g. EPA, ANZECC, NH&MRC), standards, planning instruments and legislation,
 - clearly indicate the legal property description of the fill material source site,
 - provide details of the volume of fill material to be used in the filling operations,
 - provide a classification of the fill material to be imported to the site in accordance with the Environment Protection Authority's "Environmental Guidelines: Assessment, Classification & Management of Non-Liquid Wastes" 1997, and
 - (based on the fill classification) determine whether the fill material is suitable for its intended purpose and land use and whether the fill material will or will not pose an unacceptable risk to human health or the environment.

{Note: 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."}.

If the Principal Certifying Authority or Penrith City Council is not satisfied that suitable fill materials have been used on the site, further site investigations or remediation works may be requested. In these circumstances the works shall be carried out prior to any further approved works.

- 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 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.

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

BCA Issues

15 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).

Construction

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.

Engineering

17 All roadwork, stormwater, associated civil works and dedications, required to effect the consented development shall be undertaken at no cost to Penrith City Council.

18 Prior to the issue of any Construction Certificate the Certifying Authority shall ensure that a S138 Roads Act application, including the payment of application and inspection fees, has been lodged with, and approved by Penrith City Council (being the Roads Authority under the Roads Act), for provision of:

- Heavy duty vehicular crossing/s. The location of the crossing/s is to be determined prior to the issue of the construction certificate and reflect the location of the access track for maintenance and Rural Fire Service vehicles to access the lake.
- Widen existing path to 2.5m in Lakeside Parade from the pedestrian refuge to the new shared path connection at the south eastern corner of the lake.

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 or visit Penrith City Council's website for more information.

Note:

1. Where Penrith City Council is the Certifying Authority for the development the Roads Act approval for the above works may be issued concurrently with the Construction Certificate.
2. All works associated with the Roads Act approval must be completed prior to the issue of any Occupation Certificate or Subdivision Certificate as applicable.

19 A Construction Certificate for the provision of landscaping works is to be approved by the certifying authority.

Prior to the issue of any Construction Certificate the Certifying Authority shall ensure that landscape plans are consistent with the stamped approved concept plan/s prepared by Clouston Associates, reference number JOR-0013, revision E, dated 16/09/2015 and that all works have been designed 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, and best engineering practice.

The works may include but are not limited to the following:

- Access track from a public road to the lake to service maintenance and RFS vehicles.
- 4m wide heavy duty concrete access/boat ramp.
- Path paving.
- Earthworks.
- Bridges, culverts, retaining walls and other structures.
- Stormwater outlet structures including rock dissipation devices (rock riprap)
- Landscaping and embellishment works

The Construction Certificate must be supported by landscape plans, calculations, specifications and any certification relied upon.

Note:

1. Council's Development Engineering Department can provide this service. Contact Penrith City Council's Development Engineering Department on 4732 7777 or visit Penrith City Council's website for

more information.

- 20 Prior to commencement of any works associated with the development 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 and Managing Urban Stormwater series from the office of Environment and Heritage.

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

- 21 Works shall not commence until:

- a Construction Certificate has been issued,
- a Principal Certifying Authority has been appointed for the project, and
- any other matters prescribed in the development consent for the works and the Environmental Planning and Assessment Act and Regulation have been complied with.

A Notice of Commencement of works is to be submitted to Penrith City Council five (5) days prior to commencement of landscape works or clearing associated with the works.

- 22 At completion of the works and prior to handover of assets to Penrith City Council, the Principal Certifying Authority shall ensure that all works required by this consent have been satisfactorily completed or that suitable arrangements have been made with Penrith City Council for any outstanding works.

- 23 At completion of the works and prior to handover of assets to Penrith City Council, the following compliance documentation shall be submitted to the Principal Certifying Authority. A copy of the following documentation shall be provided to Penrith City Council where Penrith City Council is not the Principal Certifying Authority:

- a) Work As Executed (WAE) drawings of all civil works. The WAE drawings shall be marked in red on copies of the stamped Construction Certificate drawings signed, certified and dated by a registered surveyor or the design engineer. The Work As Executed drawings shall be prepared in accordance with Penrith City Council's Engineering Construction Specification for Civil Works.
- b) The WAE drawings shall clearly indicate the top water level for the 1% AEP (1 in 100 year) and 5% AEP (1 in 20 year) storm events, and the permanent operational water level.
- c) Structural Engineer's construction certification of all structures

- 24 Prior to the issue of a Construction Certificate the Certifying Authority shall ensure that details of floodway signage along the weir/spillway is shown on the plans. Signage is to be in accordance with Australian Standards.

- 25 Prior to the issue of a Construction Certificate the Certifying Authority shall ensure that grades steeper than 1:5 (vertical:horizontal) are vegetated.

- 26 Prior to the issue of a Construction Certificate, the Certifying Authority shall ensure that the landscaping embellishment works do not conflict with the engineering plans prepared by Jacobs, reference EN04189-ECC-DG, sheets 0001 - 0028, revision B and dated 17/09/2015. The landscape plans shall make particular regard to the conveyance of stormwater and overland flows, and shall not restrict, dam or divert the conveyance of these flows. Final landscape treatments within the overland flow paths shall be flood compatible.
- 27 Prior to the issue of a Construction Certificate, the Certifying Authority shall ensure that appropriate barrier fencing is provided where all footpaths adjoin batter slopes greater 1:3 (vertical:horizontal), adjoin stormwater outlet structures (rock riprap), and crossings over culverts/bridge structures.
- 28 Prior to the issue of a Construction Certificate, the Certifying Authority shall ensure that structural certification is submitted and accepted by Council for all structures including but not limited to, viewing platforms and picnic shelters. The structural certification shall verify that any viewing deck that extends over the lake is constructed to withstand water inundation and flows up to the 1 in 100 year storm event.

Landscaping

- 29 The approved landscaping for the site must be constructed by an appropriately qualified landscape professional.
- 30 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.
- 31 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.
- 32 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.
- 33 Prior to the formal handover of the East Lake and associated park, the applicant shall contact Council's City Parks Department for a final inspection to ensure all the works have been carried out in accordance with the requirements of the St Mary's Penrith Planning Agreement, as amended and to the satisfaction of Penrith City Council.
- 34 **Prior to the issue of an Occupation Certificate**, distance markers are to be provided pedestrian path that surrounds the East Lake. Markers to be provided at 100m increments and detail the total distance of the path.
- 35 **Prior to the release of an Occupation Certificate**, maintenance specifications for the trampoline are to be provided to Penrith Council.

Certification

- 36 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.

- 37 The site is subject to the provisions of the St Mary's Penrith Planning Agreement, as amended. The applicant is reminded of the obligations under the Planning Agreement with regard to the delivery of certain infrastructure and services as part of the development of the Western Precinct. All works shall be carried out in accordance with the requirements of the St Mary's Penrith Planning Agreement, as amended.

SIGNATURE

Name:	Belinda Borg
Signature:	

For the Development Services Manager