

PENRITH CITY COUNCIL

NOTICE OF DETERMINATION

DESCRIPTION OF DEVELOPMENT

Application number:	DA16/1240.01
Description of development:	Erection of New Awnings for Storage Purposes
Classification of development:	Class 7b

DETAILS OF THE LAND TO BE DEVELOPED

Legal description:	Lot 191 DP 1135763
Property address:	7 Kommer Place, ST MARYS NSW 2760 8 Kommer Place, ST MARYS NSW 2760

DETAILS OF THE APPLICANT

Name & Address:	Cardboard King Pty Ltd 8 Kommer Place ST MARYS NSW 2760
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DECISION OF CONSENT AUTHORITY

In accordance with Sections 81(1) (a) and 96 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	30 May 2017
Date the consent expires	30 May 2019
Date of this decision	29 May 2017 as amended on 21 December 2017 under Section 96 of the Environmental Planning and Assessment Act.

POINT OF CONTACT

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

Assessing Officer:	Gannon Cuneo
Contact telephone number:	+612 4732 7774

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

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 Sydney West 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.

Sydney West Planning Panels

If the application was decided by the Sydney West Planning Panel, please refer to Section 18 of the Greater Sydney Commission Act 2015 and Section 23H 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 stamped approved plans, the application form and any supporting information issued by Penrith City Council, except as may be amended in red on the attached plans and by the following conditions.

Drawing Title	DRG No.	Issue	Prepared By	Date
Site Plan	DA 02	01	Spaces + Places	09/11/2016
Building A Existing & Proposed Additions Floor Plan	DA 03	A	Fedele Design Pty Ltd	09/11/2016
8 Kommer Place, St Marys - Elevation2	DA 04	01	Spaces + Places	03/03/2017
Building B Existing Floor Plan	DA 05	A	Fedele Design Pty Ltd	09/11/2016
Proposed External Awnings Plans & Elevations	DA 06	A	Fedele Design Pty Ltd	09/11/2016
Waste Management Plan, Soil Erosion & Sediment Control Plan, Site Analysis Plan	DA 07	A	Fedele Design Pty Ltd	09/11/2016
General Arrangement Floor Plans - Existing Building B	DA 08	A	Fedele Design Pty Ltd	09/11/2016
Onsite Storage Management Plan	-	A	Cardboard King	n.d.
Landscape Colour Plan	Project No. 12-443	C	Arcadia Landscape Architecture	March 2017
Planting Palette/Schedule	Project No. 12-443	C	Arcadia Landscape Architecture	March 2017
Softworks Plan	-	C	Arcadia Landscape Architecture	March 2017
Details and Specifications	-	C	Arcadia Landscape Architecture	March 2017

As amended by the following plan:

Drawing Title	DRG No.	Issue	Prepared By	Date
Proposed External Awnings Plans & Elevations	DA 06	A	Fedele Design	09.11.16

As amended under Section 96 of the Environmental Planning and Assessment Act 1979 on 21 December 2017.

- 2 Lot 191 in Deposit Plan 1135763 and Lot 20 in Deposit Plan 1012357 are to be consolidated as one lot. Written evidence that the request to consolidate the lots has been lodged with Land and Property Information division of the Department of Lands is to be submitted to the certifying authority before the Construction Certificate for the development can be issued by the certifier.

A copy of the registered plan of consolidation from Land and Property Information division of the Department of Lands is to be submitted to the Principal Certifying Authority (PCA) and Penrith City Council, if Council is not the PCA, **prior to the issue of the Occupation Certificate** for the development.

- 3 **The development shall not be used or occupied until an Occupation Certificate has been issued.**
- 4 A separate development application for the erection of a sign or advertising structure, other than an advertisement listed as exempt development, is to be submitted to Penrith City Council, complying with the requirements of Penrith Development Control Plan-Advertising Signs.
- 5 A **Construction Certificate** shall be obtained prior to commencement of any building works.
- 6 Any works over or adjacent to Sydney Water assets must meet the relevant Sydney Water requirements. **Prior to the issue of a Construction Certificate**, documentation from Sydney Water approving the proposed development must be provided to Council
- 7 Temporary storage of materials is permitted over Council's Easement to Drain Water 3.0 Wide. Any materials temporarily stored over Council's easement are to be removed immediately on the request of Council. Any material or equipment stored under the approved external awnings must be maintained in a neat and orderly manner.

As amended under Section 96 of the Environmental Planning and Assessment Act 1979 on 21 December 2017.

- 8 Any easement and/or right of carriageway made redundant as a result of the required lot consolidation shall be extinguished. Any easements that benefit Penrith City Council shall not be extinguished.
- 9 Activities on the premises must be carried out in accordance with Environment Protection Licence No. 20640, issued by the Environment Protection Authority. Should this licence be revoked, suspended or surrendered, an application is to be submitted to Council for consideration of matters contained in the licence.

Demolition

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

Environmental Matters

- 12 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.
- 13 All waste materials stored on-site are to be contained to ensure that no waste materials are allowed to enter the stormwater system or neighbouring properties.

- 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 Gross pollutant traps/enviropods must be installed and maintained on the premises in accordance with the consent for DA11/0362.
- 16 All unloading, sorting, processing and baling of material shall be conducted within the confines of the site buildings at all times. Baled material only shall be stored outdoors and only under the identified under awning storage areas.
- 17 All loose plastic, paper or cardboard material shall be kept inside the appropriate raw material storage bays as required by the conditions of consent for DA11/0362. All packed/processed products shall be stored in bales.
- 18 **Prior to the issue of the Construction Certificate**, a Litter Management Plan is to be prepared and submitted to Penrith City Council for approval. This plan is to address all potential litter generating activities on the site and is to demonstrate how these activities will be managed to ensure that litter doesn't leave the property or enter the stormwater system.

This plan is to be implemented and adhered to.

BCA Issues

- 19 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.
- 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.

Construction

- 21 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.

22 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.

23 A completed waste management plan shall be submitted to Penrith City Council for consideration and approval. Council must approve the plan prior to the issue of a Construction Certificate.

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, with details of the estimated waste volumes, on-site 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 including demolition, with supporting documentation / receipts retained in order to verify the recycling and disposal of materials in accordance with the approved plan.

24 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

- 25 All roadworks, stormwater drainage works, associated civil works and dedications, required to effect the consented development shall be undertaken at no cost to Penrith City Council.
- 26 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 the issue of any Construction Certificate. 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 (02) 4732 7777 or visit Penrith City Council's website for more information.

- 27 Stormwater drainage from the site shall be discharged to the existing site drainage system.

The proposed development and stormwater drainage system shall be designed to ensure no adverse impact on adjoining properties by the diversion, damming or concentration of stormwater flows.

The proposed method of stormwater discharge shall be detailed in the Construction Certificate issued by the Certifying Authority.

- 28 Prior to the issue of any Construction Certificate, the Certifying Authority shall ensure that the foundations of proposed structures adjoining the drainage and/ or services easement have been designed clear of the zone of influence.
- 29 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, AS2890.2, AS2890.6 and Penrith City Council's Development Control Plan.
- 30 Prior to the issue of any Occupation Certificate, the Principal Certifying Authority shall ensure that all works associated with a S138 Roads Act approval or S68 Local Government Act approval have been inspected and signed off by Penrith City Council.
- 31 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.

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 and / or Subdivision (Strata) Certificate where Penrith City Council is not the Principal Certifying Authority.

- 32 Car parking spaces shall be sealed and line-marked and dedicated for parking vehicles only and not used for storage of materials, products, waste materials or the like.
- 33 The proposed development or any baled material stored outdoors under the storage awnings shall not concentrate or dam overland flows or direct overland flows onto adjoining properties.

Landscaping

- 34 All landscape works are to be constructed in accordance with the stamped approved plan 'Landscape Colour Plan' and 'Softworks Plan' prepared by Arcadia landscape Architecture and dated March 2007, Sections F5 "Planting Techniques", F8 "Quality Assurance Standards" and F9 "Site Management Plan" of Penrith Council's Landscape Development Control Plan.

Landscaping as specified on the 'Landscape Concept Plan' Drawing No. 2897 prepared by Monaco Designs dated 24/06/11 approved as part of DA11/0326 is to be reinstated.

Landscaping shall be maintained:

- in accordance with the approved plan, 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.

- 35 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.
- 36 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.

Certification

- 37 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.

SIGNATURE

Name:	Gannon Cuneo
Signature:	

For the Development Services Manager