

PENRITH CITY COUNCIL

NOTICE OF DETERMINATION

DESCRIPTION OF DEVELOPMENT

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| Application number: | DA18/1104 |
| Description of development: | Installation of a manufactured dwelling for the temporary use as a sales office with associated ancillary works (car park, signage, landscaping). |
| Classification of development: | Class 5 |

DETAILS OF THE LAND TO BE DEVELOPED

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| Legal description: | Lot 222 DP 1229230 Lot 223 DP 1229230 Lot 224 DP 1229230 Lot 225 DP 1229230 Lot 225 DP 1229230 |
| Property address: | 225 Caddens Road, CADDENS NSW 2747 200 Cadda Ridge Drive, CADDENS NSW 2747 198 Cadda Ridge Drive, CADDENS NSW 2747 196 Cadda Ridge Drive, CADDENS NSW 2747 |

DETAILS OF THE APPLICANT

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| Name & Address: | Legpro Pty Ltd Atf Legpro 54 Unit Trust Level 27 19-29 Martin Place SYDNEY NSW 2000 |
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DECISION OF CONSENT AUTHORITY

Penrith Council has determined to grant “Deferred commencement” consent under Section 4.16(3) of the Environmental Planning and Assessment Act 1979. In accordance with Section 4.17 of the Act, the “Deferred commencement” consent is granted subject to the conditions listed in this Notice.

The conditions listed in Schedule 1 are to be complied with prior to the commencement of the consent. On completion of all conditions in Schedule 1 that need to be satisfied before the consent can be commenced, Council will issue an operational consent for the development. If the conditions in Schedule 1 are approved by an accredited certifier, then a copy of the certification relating to the satisfaction of the Schedule 1 condition(s) are to be submitted to Council. [Note: this is to enable Council to issue the operational consent for the development as the accredited certifier cannot issue the operational consent.]

Please note that this consent will lapse on the expiry date unless the development has commenced in that time.

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| Date from which deferred commencement consent operates | 21 March 2019 |
| Date the deferred commencement consent expires | 21 March 2021 |
| Date of this decision | 21 March 2019 |

POINT OF CONTACT

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

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|---------------------------|----------------|
| Assessing Officer: | Kathryn Sprang |
| Contact telephone number: | +612 4732 7834 |

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 Schedule 1 requiring compliance prior to the development consent becoming operational.

Council will issue an operational development consent on compliance of all conditions listed in Schedule 1 by the given timeframe.

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 twelve 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 twelve 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 56 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 56 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.

SCHEDULE 1: CONDITIONS TO BE COMPLIED WITH PRIOR TO CONSENT BECOMING OPERATIONAL

Schedule 1 (Deferred Commencement)

- 1 A. Prior to the issue of an operational consent, and within 2 years from the date of this consent, evidence that the drainage works within Caddens Road, Caddens have been completed to the written satisfaction of Penrith City Council is to be provided to Council, as well as providing evidence that the temporary drainage easement has been extinguished.

Lots 222 and 223 of DP 1229230 form part of the development site and currently have an existing drainage easement benefiting Penrith City Council.

Should the drainage works not be completed to Council's satisfaction and/or the evidence that the easement has been extinguished within 2 years from the date of this consent, this consent shall lapse.

ATTACHMENT 1: CONDITIONS OF CONSENT

General

- 1 The development must be implemented in accordance with the following stamped approved plans issued by Penrith City Council:

| Plan/ Report Reference | Page No/Reference Number | Issue | Prepared by | Dated |
|--|--------------------------|-------|-------------------|------------|
| Landscape Master Plan (amendments in red) | 3 | - | - | March 2018 |
| Sales Office Signage Master Plan (amendments in red) | 4 | - | - | March 2018 |
| Landscape Planting Plan (amendments in red) | 6 | - | - | March 2018 |
| Plant Schedule/Planting Palette | 7 | - | - | March 2018 |
| Stormwater and Soil & Water Management Plan | 110358/DA401 | 1 | J. Wyndham Prince | 02/10/2018 |
| Office - Ground Floor Plan | A.03 | - | - | 26/06/2016 |
| Left and Right Elevation | A05 | - | - | 31/07/2016 |
| Front and Back Elevation | A06 | - | - | 31/07/2016 |

and other plans, the application form, Waste Management Plan or documents approved by Council, except as may be amended in red on the attached plans and by the following conditions.

- 2 The approved structure (temporary sales and display office) is limited to a period of 2 years after the date of issue of any Occupation Certificate. After this time the use is to cease and the structure is to be removed from the premises and the land returned to its natural state, so as to facilitate future residential development.

If the applicant seeks to continue the use and structure beyond this time they will need to lodge a Section 4.55 application or a new Development Application, prior to the 2 year period lapsing.

- 3 **The development shall not be used or occupied until an Occupation Certificate has been issued.**
- 4 The operating hours are from 9:00am to 5:00pm Mondays to Saturdays, and 10:00am to 4:00pm Sundays.
- 5 A **Construction Certificate** shall be obtained prior to commencement of any building works for the carpark, signage, fencing and landscaping.
- 6 The holder of an approval to operate a manufactured home must give Council written notice of the installation of a manufactured home or associated structure within 7 days after its completion.
The notice:
- Must indicate the site identifier of the dwelling site on which the manufactured home or associated structure has been installed, and
 - Must include the particulars contained on each compliance plate relating to the manufactured home or associated structure.
- The notice must be accompanied by:
- A copy of the engineer's certificate for the manufactured home or associated structure, and

- A fully dimensioned diagram of the dwelling site on which the manufactured home or associated structure is installed, sufficient to indicate whether or not the setback, density, open space and site delineation requirements of this Part have been complied with.
- 7 Signs are not to be illuminated outside of approved operating hours.
- 8 In accordance with Clause 67 of the **Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005**, a compliance plate must be attached to an accessible part of each of the following structures:
- a manufactured home,
 - an associated structure that forms part of a manufactured home,
- A compliance plate must specify the following:
- the name of the manufacturer of the manufactured home or associated structure,
 - the unique identification number for each major section of the manufactured home,
 - the month and year during which the manufactured home or associated structure was constructed,
 - the design gust wind speed for the manufactured home or associated structure,
 - a statement that the manufactured home or associated structure complies with the requirements of this Division,
 - the name of the practising structural engineer by whom the engineer's certificate has been issued in respect of the manufactured home.

A unique identification number must be permanently marked on each major section of the manufactured home.

Environmental Matters

- 9 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 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 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.”}

- 10 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.

- 11 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.
- 12 Amplified music and public address systems associated with the development are not to be audible at the boundaries of the property. No amplified music or public address systems are to be used externally, including in the carpark.

BCA Issues

- 13 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.

Utility Services

- 14 A Section 73 Compliance Certificate under the Sydney Water Act 1994 shall be obtained from Sydney Water. The application must be made through an authorised Water Servicing Coordinator. Please refer to “Your Business” section of Sydney Water’s website at www.sydneywater.com.au then the “e-developer” icon, or telephone 13 20 92.

The Section 73 Compliance Certificate must be submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

- 15 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.

In the event that a pad mounted substation is necessary to service the development, Penrith City Council shall be consulted over the proposed location of the substation before the Construction Certificate for the development is issued as the location of the substation may impact on other services and building, driveway or landscape design already approved by Council.

Construction

- 16 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.

17 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, 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.

18 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 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

- 19 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 (02) 4732 7777 or visit Penrith City Council's website for more information.

- 20 Prior to the issue of any Construction Certificate, a Section 138 Roads Act applications, including payment of application and inspection fees, shall be lodged and approved by Penrith City Council (being the Roads Authority for any works required in a public road). These works may include but are not limited to the following:
- a) Vehicular crossings (including kerb reinstatement of redundant vehicular crossings)
 - b) Concrete footpaths and or cycleways
 - c) Road opening for utilities and stormwater (including stormwater connection to Penrith City Council roads and other Penrith City Council owned drainage)
 - d) Road occupancy or road closures
 - e) The placement of hoardings, structures, containers, waster skips, signs etc. in the road reserve
 - f) Temporary construction access

All works shall be carried out in accordance with the Roads Act approval, the development consent, including the stamped approved plans, and Penrith City Council's specifications, guidelines and best engineering practice.

Contact Penrith City Council's City Works Department on (02) 4732 7777 or visit Penrith City Council's website for more information.

Note:

- a) 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.
- b) Separate approvals may also be required from the Roads and Maritime Services for classified roads.
- c) All works associated with the Roads Act approval must be completed prior to the issue of any Occupation Certificate or Subdivision Certificate as applicable.
- d) On completion of any awning over the road reserve, a certificate from a practising structural engineer certifying the structural adequacy of the awning is to be submitted to Council before Council will inspect the works and issue its final approval under the Roads Act

- 21 Prior to the issue of any Construction Certificate, the Certifying Authority shall ensure that a Section 138 Roads Act application, including 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

stormwater drainage connection to the existing Kerb Inlet Pit in Cadda Ridge Drive, Caddens.

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 (02) 4732 7777 or visit Penrith City Council's website for more information.

Note:

- a) 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.
- b) Separate approvals may also be required from the Roads and Maritime Services for classified roads.
- c) All works associated with the Roads Act approval must be completed prior to the issue of any Occupation Certificate or Subdivision Certificate as applicable.

- 22 The stormwater management system shall be provided generally in accordance with the concept plan/s lodged for development approval, prepared by J. Wyndham Prince, reference number 110358/DA401, revision 1, dated 02/10/2018.

Engineering plans and supporting calculations for the stormwater management systems of the proposed building and car park 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.

- 23 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.

- 24 Prior to the issue of a Roads Act Approval, a Performance Bond is to be lodged with Penrith City Council for stormwater connection into the Kerb Inlet Pit and associated works within the road reserve.

The value of the bond shall be determined in accordance with Penrith City Council's adopted Fees and Charges.

Note:

Contact Penrith City Council's Development Engineering Department on (02) 4732 7777 for further information relating to bond requirements.

- 25 Upon completion of all works in the road reserve, all verge areas fronting and within the development are to be turfed. The turf shall extend from the back of kerb to the property boundary, with the exception of concrete footpaths, service lids or other infrastructure which is not to be turfed over. Turf laid up to concrete footpaths, service lids or other infrastructure shall finish flush with the edge.

- 26 All existing (aerial) and proposed services for the development, including those across the frontage of the

development are to be located or relocated underground in accordance with the relevant authorities regulations and standards.

- 27 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.

Landscaping

- 28 The approved landscaping for the site must be constructed by an appropriately qualified landscape professional.
- 29 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.

Certification

- 30 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: | Kathryn Sprang |
| Signature: | |

For the Development Services Manager