

PENRITH CITY COUNCIL

NOTICE OF DETERMINATION

DESCRIPTION OF DEVELOPMENT

Application number:	DA18/1232.01
Description of development:	Modification to Approved Vehicle Sale/ Hire Premises - Changes to Fencing Building Levels, Gate and Walls Added
Classification of development:	Class 6

DETAILS OF THE LAND TO BE DEVELOPED

Legal description:	Lot 10 DP 286568
Property address:	1 Willett Close, CRANEBROOK NSW 2749

DETAILS OF THE APPLICANT

Name & Address:	Kleyn Creations 14 Miles Franklin Close GLENMORE PARK NSW 2745
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DECISION OF CONSENT AUTHORITY

In accordance with Sections 4.18(1) (a) and 4.55 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	4 April 2019
Date the consent expires	4 April 2024
Date of this decision	2 April 2019 as amended on 28 June 2019 under Section 4.55 of the Environmental Planning and Assessment Act.

POINT OF CONTACT

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

Assessing Officer:	Surreti Bajwa
Contact telephone number:	+612 4732 7934

NOTES

Reasons

The conditions in the attached schedule have been imposed in accordance with Section 4.17 of the Environmental Planning and Assessment Act 1979 as amended.

Conditions

Your attention is drawn to the attached conditions of consent in attachment 1.

Certification and advisory notes

You should also check if this type of development requires a construction certificate in addition to this development consent

It is recommended that you read any Advisory Note enclosed with this notice of determination.

Review of determination

The applicant may request Council to review its determination pursuant to Division 8.2 of the Environmental Planning and Assessment Act 1979 within six months of receiving this Notice of Determination.

These provisions do not apply to designated development, complying development or crown development pursuant to Section 8.2(2) of the Environmental Planning and Assessment Act 1979.

Appeals in the Land and Environment Court

The applicant can appeal against this decision in the Land and Environment Court within six months of receiving this Notice of Determination.

There is no right of appeal to a decision of the Independent Planning Commission or matters relating to a complying development certificate pursuant to clause 8.6(3) of the Environmental Planning and Assessment Act 1979.

Designated development

If the application was for designated development and a written objection was made in respect to the application, the objector can appeal against this decision to the Land and Environment Court within 28 days after the date of this notice.

If the applicant appeals against this decision, objector(s) will be given a notice of the appeal and the objector(s) can apply to the Land and Environment Court within 28 days after the date of this appeal notice to attend the appeal and make submissions at that appeal.

Sydney Western City Planning Panels

If the application was decided by the Sydney Western City Planning Panel, please refer to Section 2.16 of the Environmental Planning and Assessment Act, 1979 (as amended) for any further regulations.

ATTACHMENT 1: CONDITIONS OF CONSENT

General

- 1 The development must be implemented substantially in accordance with the following plans stamped approved by Council, the application form, and any supporting information received with the application, except as may be amended in red on the attached plans and by the following conditions.

Drawing Title	Reference No.	Prepared By	Dated	Issue
Drainage Plan	-	Gerard Balkin	11/12/18	A
Site Plan	A001	Kleyn Creations	13/05/2019	A
Elevations	A200	Kleyn Creations	13/05/2019	A
Schedule of External Finishes	Sheet 10 of 11 habitat	habitat Design Studio	1/11/2018	
Ground & First Floor Plan	A100	Kleyn Creations	13/05/2019	A
Proposed Showroom	A301	Kleyn Creations	13/05/2019	A

Waste Management Plan, dated December 2018 accompanying the application

As amended on 28 June 2019 in accordance with the Section 4.55(1) of the Environmental planning and Assessment Act.

- 2 The development shall not be used or occupied until an Occupation Certificate has been issued.
- 3 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.

No signage or advertising structure(s) are to be displayed along the eastern wall or the wall extensions without Council approval.

As amended on 28 June 2019 in accordance with the Section 4.55(1) of the Environmental planning and Assessment Act.

- 4 The operating hours are from 8:00am to 6:00pm Monday to Sunday.
- 5 Prior to the issue of an Occupation Certificate, a lighting system shall be installed for the development to provide uniform lighting across common areas and driveways and pedestrian entryways and exits. 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).
As amended on 28 June 2019 in accordance with the Section 4.55(1) of the Environmental planning and Assessment Act.

- 6 The finishes of all structures and buildings are to be maintained at all times and any graffiti or vandalism

immediately removed/repaired.

The wall extensions along the eastern boundary shall be finished in the same materials and colours as the approved development. Compliance with this condition is to be demonstrated to the Principal Certifying Authority, prior to the issue of any Occupation Certificate.

As amended on 28 June 2019 in accordance with the Section 4.55(1) of the Environmental planning and Assessment Act.

- 7 A **Construction Certificate** shall be obtained prior to commencement of any building works.
- 8 The operating noise levels inside the buildings involved in the future use will not exceed the noise level criterion shown in the following Table:

Noise descriptor	Time period	Criterion
Sleeping areas 10% of LA1 15min	10:00 pm to 7:00 am	60 dBA

Note: 10% of LA1 15min means the noise level which is exceeded by 10% of all of the valid LA1 15 min noise levels within the specified period.

Demolition

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

Environmental Matters

- 11 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).

- 12 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 (as defined in Penrith Contaminated Land Development Control Plan) 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: Penrith Contaminated Land 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."}.

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.

- 13 All waste materials stored onsite 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.
- 14 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.

- 15 No mechanical work including the painting of vehicles and preparation of vehicles for painting such as rubbing back and washing shall be carried out in open driveways or car Certificate application.
- 16 Spray painting is not permitted on the site.
- 17 No washing of vehicles is to be carried out. The installation of a wash bay will require consent from Penrith City Council.
- 18 No vehicle fuel or oil is to be stored on site.

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 is 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 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

- 24 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.
- 25 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
- 26 The stormwater management system shall be provided generally in accordance with the concept plan/s lodged for development approval, prepared by Gerrard Balkin, reference number 2018-062 Sheet 1, revision A, dated 25/02/2019.
- Engineering plans and supporting calculations for the stormwater management systems 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.
- 27 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.

- 28 All car parking and manoeuvring must be in accordance with AS2890.1-2004; AS2890.2- 2002; AS2890.6-2009 and Council's requirements.
- 29 All car spaces are to be line marked and dedicated for the parking of vehicles only and not be used for storage of materials/products/waste materials etc.
- 30 The required sight lines around the driveway entrance are not to be compromised by landscaping, fencing or signage.

A separate, clearly marked footpath or walkway is to be established from the proposed pedestrian gate to the entrance of the approved office building using lines painted on the ground or different coloured surfacing. Compliance with this condition is to be demonstrated to the Principal Certifying Authority, prior to the issue of any Occupation Certificate.

The pedestrian gate is to be shut to the public during any vehicle maneuvering within the northwestern portion of the site.

As amended on 28 June 2019 in accordance with the Section 4.55(1) of the Environmental planning and Assessment Act.

- 31 All vehicles are to enter/exit the site in a forward direction.
- 32 Prior to the issue of any Construction Certificate, the southern driveway is to be relocated so the edge of the driveway is a minimum 1m clear of the electrical boxes.

Landscaping

33 Prior to the issue of a Construction Certificate the following information must be submitted to the Principal Certifying Authority:

1. Plans demonstrating elevations of the fencing and the fence must be a maximum height of 2.5m (measured from natural ground level). The fence is to be an open style iron palisade coloured dark grey or black. The spacing between each metal infill shall be a minimum of 108.33mm as demonstrated on the originally approved site plan.
2. A landscape plan prepared by a qualified landscape architect or landscape consultant to a scale of 1:100 or 1:200, is to be submitted to the satisfaction of the Principal Certifying Authority with the following details:
 - The plan must demonstrate the planting of at least two (2) canopy trees on site;
 - The plans must demonstrate a landscape verge with a minimum width of 1.35m, consistent with Ground Floor Plan (Revision A) drawn by K Kleyn Creations, dated 13/05/2019). The landscaped area must comprise of deep soil landscaping;
 - Planting should consist of a variety of trees, shrubs and ground covers to contribute to biodiversity;
 - The plants and trees should ideally be comprised of native or indigenous species suitable to the existing site conditions such as soils, aspect, drainage and micro-climate;
 - Species selected should not include those listed in the Noxious Weeds Act 1993 or on the list of environmental weeds (see Appendix F5 Technical Information in Penrith DCP 2014);
 - The location of all proposed landscape features including materials to be used;
 - A detailed plant schedule which includes proposed species listed by botanical (genus and species) and common names, quantities of each species, pot sizes and the estimated size at maturity;
 - Consideration within the design should be given to the scale of planting in proportion to the proposed development, consistency with the existing landscape character of the area, potential views, solar access and privacy for neighbouring development.

The approved landscaping shall be maintained in a healthy state and high standard, 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.

Twelve months after the date of the occupation certificate, the landscape design must be submitted with a Maintenance Report. This is to certify that the landscaping works are still in accordance with the consent and that the plant material has established and is thriving.

As amended on 28 June 2019 in accordance with the Section 4.55(1) of the Environmental planning and Assessment Act.

Certification

34 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 1979, 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 of 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:	Surreti Bajwa
Signature:	

For the Development Services Manager