

# PENRITH CITY COUNCIL

## NOTICE OF DETERMINATION

### DESCRIPTION OF DEVELOPMENT

Application number:	DA17/0479
Description of development:	Construction and Embellishment of Hilltop Park Including Landscaping, Playground Equipment and Infrastructure Works
Classification of development:	N/A

### DETAILS OF THE LAND TO BE DEVELOPED

Legal description:	Lot 1 DP 1225593 Lot 101 DP 564332
Property address:	185 Caddens Road, CADDENS NSW 2747

### DETAILS OF THE APPLICANT

Name & Address:	Legpro Pty Limited Level 27, 19-29 Martin Place SYDNEY NSW 2000
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### DECISION OF CONSENT AUTHORITY

In accordance with Section 23G and 81(1) (a) of the Environmental Planning and Assessment Act 1979 (as amended), consent is granted subject to the conditions implementation in Attachment 1.

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

Date from which consent operates	29 November 2017
Date the consent expires	29 November 2019
Date of this decision	23 November 2017

## POINT OF CONTACT

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

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

## NOTES

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### **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 stamped approved plans issued by Penrith City Council

Drawing Title	Drawing No.	Prepared by	Dated
Statement of Environmental Effects		Stimson and Baker Planning	June 2017
Landscape DA Report - Introduction	Project Reference: 2516063	Place Design Group	April 2017
Landscape DA Report – Staging Plan and Document References	Project Reference: 2516063	Place Design Group	April 2017
Landscape DA Report – Design Principles	Project Reference: 2516063	Place Design Group	April 2017
Landscape DA Report – Precinct Wide Context	Project Reference: 2516063	Place Design Group	April 2017
Landscape DA Report – Site Analysis	Project Reference: 2516063	Place Design Group	April 2017
Landscape DA Report – Hilltop Park Landscape Plan	Project Reference: 2516063	Place Design Group	November 2017
Landscape DA Report – Hilltop Park Plant Schedule	Project Reference: 2516063	Place Design Group	April 2017
Landscape DA Report – Hilltop Park Planting Diagram	Project Reference: 2516063	Place Design Group	April 2017
Landscape DA Report – Hilltop Park Grading Plan	Project Reference: 2516063	Place Design Group	April 2017
Landscape DA Report – Hilltop Park Sections	Project Reference: 2516063	Place Design Group	April 2017
Landscape DA Report – Hilltop Park Diagrams	Project Reference: 2516063	Place Design Group	April 2017

Landscape DA Report – Hilltop Park Play Detail	Project Reference: 2516063	Place Design Group	April 2017
Landscape DA Report – Hilltop Park Heritage and Art	Project Reference: 2516063	Place Design Group	April 2017
Landscape DA Report - Furniture	Project Reference: 2516063	Place Design Group	April 2017
Landscape DA Report – Pergola Structure	Project Reference: 2516063	Place Design Group	April 2017
Landscape DA Report – Circulation Diagram	Project Reference: 2516063	Place Design Group	April 2017
Landscape DA Report – Furniture & Play Equipment	Project Reference: 2516063	Place Design Group	April 2017
Landscape DA Report – Maintenance Program	Project Reference: 2516063	Place Design Group	April 2017

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

**2 The development shall not be used or occupied until a Final Engineering Completion 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 landscape maintenance and handover of the Hilltop Park shall be undertaken in accordance with Maintenance program detailed within the Stamped Landscape DA Report prepared by Place Design Group dated April 2017 - Sheet 25, which includes an on-going maintenance period of no less than **12 months (from the issue of a Final Engineering Completion Certificate).**

**Prior to the handover of the Hilltop Park to Penrith Council**, an inspection of the park is to be undertaken by Council's Development Engineers and City Parks Department to ensure the works and maintenance of the park has been undertaken to Council's satisfaction.

**6 Prior to the commencement of works within the native revegetation area** (as detailed in the Landscape DA Report (Sheet 20) prepared by Place Design Group dated April 2017), a detailed Landscape Strategy is to be prepared for the short and long term management of the native revegetated area and submitted to Penrith Council for approval. If Council is not the certifying authority, a copy of Council's approval

for the Landscape Strategy is to be provided to the Principal Certifying Authority.

The Landscape Strategy is to include the following:

- The species mix, planting densities and maintenance requirements for the native revegetated area.
- A detailed plan that clearly outlines how vegetation should be protected and managed to enable the establishment of the vegetation over the next three years, as well as in the longer term. The focus is to be on best practice bush regeneration methods and habitat improvement.
- Identification of potential future impacts on the vegetation from the development and road, including access, weed encroachment, pest animals, stormwater etc, and is to outline how these impacts will be managed in the long term.
- Project tasks should be defined and described, including a schedule detailing the sequence and duration of works necessary for the implementation of the native revegetated area.
- Processes for monitoring and review, including a method of performance evaluation should be identified.

The Landscape Strategy for the revegetated area is to be prepared by an Ecological Consultant or Bush Regenerator with theoretical and practical experience in bush land restoration and management on the Cumberland Plain. A Certificate IV in Conservation and Land Management is required as a minimum.

All activities on site are to be implemented and carried out in accordance with the plan. Council may request a review and if necessary updating of the plan to reflect current environmental standards and site conditions.

Council must be satisfied with any changes prior to the amendment of the Strategy

## **Heritage/Archaeological relics**

- 7 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

8 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: An appropriately qualified person is "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.

9 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.

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 Dust suppression techniques are to be employed during construction to reduce any potential nuisance to surrounding properties.

12 Mud and Soil from vehicular movements to and from the site must not be deposited on the road.

## BCA Issues

13 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

14 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.



15 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 construction of the Hilltop Park 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 the work involved in the construction of the Hilltop Park 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.

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 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.

- 18 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.

- 19 A Construction Certificate is to be approved by the Certifying Authority for the provision of engineering works (road, drainage, earthworks, subdivision works).

A Construction Certificate shall be issued for any Hilltop Park works.

Prior to the issue of any Construction Certificate, the Certifying Authority shall ensure that engineering plans are consistent with the stamped approved concept plan/s prepared by Place Design Group, reference number 2516063, revision A, dated 07/06/2017, and that all subdivision 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, Austroads Guidelines and best engineering practice.

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

- Storm water management (quantity and quality)
- Private access driveways
- Sediment and erosion control measures
- Flood control measures
- Overland flow paths
- Traffic facilities
- Earthworks
- Bridges, culverts, retaining walls and other structures
- Landscaping and embellishment works

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

**Note:** Council's Development Engineering Department can provide this service. Contact Penrith City Council's Development Engineering Department on telephone (02) 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 Work shall not commence until:

- a Construction Certificate (if required) has been issued,

- a Principal Certifying Authority has been appointed for the project, and
- any other matters prescribed in the development consent for the subdivision and the Environmental Planning and Assessment Act and Regulation have been complied with.
- the site has been remediated and any associated validation certificate has been approved by Council.

A Notice of Commencement of works is to be submitted to Penrith City Council five (5) days prior to commencement of landscaping works.

- 22 At the completion of 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 Prior to the issue of any Occupation Certificate, a Maintenance Bond is to be lodged with Penrith City Council for the retaining walls, pathways and stairs within the Hilltop Park.

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 Engineering Services Department on telephone (02) 4732 7777 for further information relating to bond requirements.

- 24 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) Works 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 WAE drawings shall be prepared in accordance with Penrith City Council's Engineering Construction Specification for Civil Works.
  - b) Structural Engineer's construction certification of all structures
- 25 **Prior to the issue of a Construction Certificate**, the Certifying Authority shall ensure that the landscaping embellishment works for the Hilltop Park do not conflict with the engineering plans prepared by Development Application 16/1166.

## Landscaping

- 26 The approved landscaping for the site must be constructed by an appropriately qualified landscape professional suitable to construct the approved landscape works.
- 27 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.
- 28 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 AS4970 - 2009: Protection of Trees on Development Site.

- 29 **Prior to the release of a Construction Certificate**, the landscape plan is to be amended to include the plating of the following:
- The Landscape Masterplan Report is to be updated to reflect the amendments detailed within the Hilltop Park Landscape Plan (November 2017 - Sheet 8) prepared by Place Design Group;
  - The provision of a concrete edge between the play area and adjoining grassed area
  - Edges of playground spaces is to include 200mm x 200mm concrete beam;
  - The provision of seating at the top and bottom of the play area;
  - The integration of seating as a part of the extensive retaining walls within the park;
  - The inclusion of warning signage and slip hazard signage within close proximity to the curved steps within the park;
  - The placement of trees within the play area to provide additional shading of the play equipment;
  - The deletion of the timber poles adjacent to the shelter area.
  - The use of double and triple bin units are to be replacement with single in units. The provision of multiple single bin units adjacent to each other is acceptable.
  - Playground equipment to be of metal products or composite materials. The use of timber should not be used for durability reasons.
  - Turf batters to be no greater than 1:4.
- 30 The use of exotic species with the remnant vegetation area is not permitted as a part of the Revegetation Strategy.

## Certification

- 31 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:	Belinda Borg
Signature:	

For the Development Services Manager