

PENRITH CITY COUNCIL

NOTICE OF DETERMINATION

DESCRIPTION OF DEVELOPMENT

Application number:	DA18/0166
Description of development:	Demolition of Existing Bridge over South Creek (Penrith LGA) and other Existing Structures, Vegetation Removal and Investigation into Contamination and Unexploded Ordinance
Classification of development:	N/A

DETAILS OF THE LAND TO BE DEVELOPED

Legal description:	Lot 3000 DP 1220974
Property address:	3000 Wianamatta Parkway, LLANDILO NSW 2747

DETAILS OF THE APPLICANT

Name & Address:	St Marys Land Ltd Level 2, 88 Philip Street PARRAMATTA NSW 2150
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DECISION OF CONSENT AUTHORITY

In accordance with Section 81(1) (a) of the Environmental Planning and Assessment Act 1979, consent is granted subject to the conditions listed in attachment 1.

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

Date from which consent operates	7 September 2018
Date the consent expires	7 September 2020
Date of this decision	7 September 2018

POINT OF CONTACT

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

Assessing Officer:	Lucy Goldstein
Contact telephone number:	+61247328136

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.

OTHER APPROVALS

APPROVAL BODIES

APPROVAL BODY NAME	DATE OF GENERAL TERMS OF APPROVAL	REF. NO.	NO. OF PAGES	RELEVANT LEGISLATION
Department of Primary Industries Water	05/04/18	IDAS1105760	3	Water Management Act 2000

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

ATTACHMENT 1: CONDITIONS OF CONSENT

General

- 1 The development must be implemented substantially in accordance with the 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	Drawing Reference	Prepared by	Dated
Demolition, Clearing, Erosion and Sediment Control Plan	89914020-SK740 (Rev 3)	Cardno	19 February 2018
Demolition, Clearing, Erosion and Sediment Control Plan	89914020-SK741 (Rev 3)	Cardno	19 February 2018

- 2 The development shall be carried out in accordance with the General Terms of Approval issued by the Department of Primary Industries Water (Reference IDAS1105760, dated 5 April 2018 2018) under the Water Management Act 2000.

A copy of the Controlled Activity Approval, in accordance with the General Terms of Approval issued by the Department of Primary Industries Water, shall be submitted to the Principal Certifying Authority, prior to the commencement of any works-on-site (including demolition works) or prior to the issue of a Construction Certificate whichever occurs first. A copy of the approval shall be submitted to Penrith City Council, if Council is not the Principal Certifying Authority.

- 3 **Prior to the demolition of the bridge component**, all works subject to, or necessitating reliance upon, the approved haulage route pursuant to DA14/1228 (as amended) must be completed. Alternatively suitable arrangements are to be agreed to in writing by Penrith City Council for the importation of any fill or materials associated with other any other works outside the scope of this consent, that seek to rely on public roads as a new haulage route to access the site.
- 4 The demolition and removal of the subject buildings and structures shall occur prior to the demolition of the bridge component.
- 5 The development shall be carried out in accordance with the following requirements provided by the NSW National Parks and Wildlife Service (NPWS):
 - Clearance of native vegetation shall be kept to a minimum;
 - Areas of vegetation shall be fenced off during construction;
 - Office of Environment and Heritage (OEH) land shall not be used to access the development site, without prior written approval and acceptance of necessary conditions set by NPWS;
 - OEH Land shall not be used to store materials, equipment, worker's vehicles or machinery, or for maintenance access after development.

- Should access be required to management trails within Wianamatta Regional Park as part of the development, the proponent shall liaise with the Range Cumberland Area before any activity commences;
- Adequate fencing shall be installed, where necessary, to ensure that kangaroo and emus from the Regional Park cannot escape; and
- Should access to the Regional Park be required, all gates must be closed immediately after entry/exit.

6 The processing area used for demolishing the dismantled bridge material shall be located on the eastern side of the bridge, furthest from residential land uses.

Demolition

7 All demolition works are to be conducted in accordance with the provisions of AS 2601-1991 "The Demolition of Structures". **Prior to demolition**, all services shall be suitably disconnected and capped off or sealed to the satisfaction of the relevant service authority requirements.

All demolition and excavated material shall be disposed of at a Council approved site or waste facility. Details of the proposed disposal location(s) of all excavated material from the development site shall be provided to the Principal Certifying Authority **prior to commencement of demolition**.

8 You should read Council's Fact Sheet titled "Handling and Disposal of Fibrous Cement Products" **before any demolition works commence on the site**.

Prior to commencement of demolition works on site, a portaloo with appropriate washing facilities shall be located on the site and the Principal Certifying Authority is to be satisfied that:

- Measures are in place so as to comply with the WorkCover Authority's "Short Guide to Working with Asbestos Cement" and
- The person employed to undertake the works is a licensed asbestos removal contractor and is holder of a current WorkCover Asbestos Licence.

Any demolition works involving the removal of all asbestos shall only be carried out by a licensed asbestos removal contractor who has a current WorkCover Asbestos Licence.

All asbestos laden waste, including asbestos cement flat and corrugated sheeting must be disposed of at a tipping facility licensed by the Environmental Protection Authority to receive asbestos wastes.

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.

11 Demolition works will 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 demolition work is permitted on Sundays and Public Holidays.

In the event that the demolition relates to works inside the building and do not involve external walls or the roof, and do not involve the use of equipment that emits noise then the demolition works are not restricted to the hours stated above.

The provisions of the Protection of the Environment Operations Act, 1997 in regulating offensive noise also apply to all construction works.

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.

(Note: To obtain a copy of the publication, you should contact Landcom on (02) 98418600).

The approved sediment and erosion control measures are to be installed **prior to and maintained throughout the construction phase of the development until the land, that was subject to the works, have been stabilised and grass cover established**. These measures shall ensure that mud and soil from vehicular movements to and from the site does not occur during the construction of the development.

13 No fill material is to be imported to the site without the prior approval of, or by written agreement with Penrith City Council in accordance with Sydney Regional Environmental Plan No.20 (Hawkesbury- Nepean River) (No.2-1997). No recycling of material for use as fill material shall be carried out on the site without the prior approval of Council.

14 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.

- 15 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.
- 16 Waste materials are to be disposed of at a lawful waste management facility. 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.
- 17 Prior to the commencement of works, including the removal of any trees, an inspection of all trees scheduled for removal (including inspection of all hollows) for resident fauna is to be undertaken under the supervision of a fauna ecologist. Where possible, these fauna are to be removed and relocated in accordance with relevant guidelines and permits. Following the inspection, trees approved for removal are to be gently agitated and then lowered to the ground slowly when felling to allow any resident fauna time to escape and to ensure they are not crushed by falling trees and branches. A local Wildlife rescue group are to be contacted in the case of any injured fauna.
- 18 Upon completion of all works, a Site Audit Statement is to be submitted to Penrith City Council certifying that the land subject to this development application is suitable for the intended use.

Note: Except as approved by this consent, no works associated with the subject land are to be undertaken until such a time as a NSW Environment Protection Authority Accredited Site Auditor has issued a Site Audit Statement or provided interim advice deeming the land suitable for its intended use.

- 19 Invasive exotic perennial grass species listed in the Final Determination of the NSW Scientific Committee for the key threatening process '*Invasion of native plant communities by exotic perennial grasses*' should not be sown within 20m of vegetation to be retained intact. Sterile cover crops should be sown if necessary to stabilise exposed surfaces, and locally native grasses or non-invasive exotic grasses should be sown to provide the final vegetative cover in these areas.

- 20 The *Vegetation Management Plan (VMP) for Jordan Springs East - East-west connector road bridges* (Cumberland Ecology, April 2018, ECM Document Set ID: 8156074) is to be implemented in its entirety. The VMP is to be implemented for a period of no less than five years after the completion of construction.
- 21 All contamination investigation works are to be reviewed by a NSW EPA Accredited Site Auditor (as accredited under the Contaminated Land Management Act 1997).

On completion of the site contamination and ordinance investigation works, the following documentation is to be submitted for approval to the Principal Certifying Authority and Penrith City Council, if Council is not the Principal Certifying Authority:

- Written notification that the site investigation works have been completed is to be submitted **within 30 days of the said works having been completed**.

An investigation findings report, prepared by an appropriately qualified person, is to be submitted to Penrith City Council for approval before any work (other than bridge & other approved structures' demolition/removal and contamination investigation work) can commence on the land subject to this development application. The report shall certify that the investigation works have been carried out in accordance with the National Environment Protection (Assessment of Site Contamination) Measure 1999 [NEPM 2013], relevant NSW Environment Protection Authority requirements, Penrith Contaminated Land Development Control Plan and the conditions and procedures set out in any Site Audit Statements relating to the land.

An appropriately qualified person/s shall:

- Supervise the contamination and ordinance investigation works.
- Supply Council with a copy of any relevant documentation for testing carried out during the investigation works.
- Address off site impacts and proposed management strategies where relevant.
- (After completion of works) certify by way of a Compliance Certificate or other written documentation that investigation works have been carried out in accordance with all conditions of this consent and that the site will not pose an unacceptable risk to human health or the environment. This documentation is to be submitted to the Principal Certifying Authority (PCA) and Penrith City Council if it is not the PCA.

{Note: An appropriately qualified person is defined as "a person who, in the opinion of Council, has a demonstrated experience, or access to experience in hydrology, environmental chemistry, soil science, ecotoxicology, 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."}

- 22 Should investigation works determine that remediation is required to be undertaken on the site, a separate development application is to be submitted to Council for this work. The application for remediation must be accompanied by a Remedial Action Plan and be consistent with the Contaminated Land Planning Guidelines and Policies, including but not limited to SREP No. 20, SEPP 55, the Contaminated Land Management Act and all relevant NSW Environment Protection Authority Guidelines.

All works associated with any remediation are required to be completed and validated to the satisfaction of Council.

- 23 The recommendations contained within the document titled "*Phase 1 Preliminary Site Assessment Eastern Connector Road, Jordan Springs East, NSW*" prepared by JBS&G (dated 13 February 2018, reference No. 54581/113744, revision 2) are to be implemented. The recommended works are to incorporate the regional space zone as identified in the external plans prepared by Cardno titled "*Demolition, clearing, erosion and sediment control plan*" (dated 19/02/2018, reference No. 89914020-SK741).
- 24 All works subject to this application (including demolition works) shall be carried out in accordance with the *Contamination Management Plan* prepared by JBS&G dated 18/12/2017 (reference No. 43352/61064, revision 2).

Engineering

- 25 Prior to the commencement of any works on-site (including demolition works) or prior to the issue of any Construction Certificate, whichever occurs first, a Construction Traffic Management Plan (CTMP) shall be submitted to Council for approval. The CTMP shall be prepared in accordance with Council's Engineering Construction Specification for Civil Works. The CTMP shall be prepared by a suitably qualified consultant with appropriate training and certification from the Roads & Maritime Services (RMS). Approval of the CTMP may require approval of the Local Traffic Committee.

Construction traffic, demolition traffic and heavy vehicles shall be limited to the existing access off Links Road within the Dunheved Industrial Precinct. The CTMP shall reflect this requirement.

- 26 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.

Landscaping

- 27 No fill, machinery, or materials are to be placed or stored within the drip line of any tree that is to be retained. 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 as outlined in Australian Standard AS 4970-2009 'Protection of trees on development sites'.
- 28 No native trees or other vegetation (including shrubs and other understory vegetation) are to be removed, ringbarked, cut, topped, lopped, slashed or wilfully destroyed (other than those 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

- 29 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:	Lucy Goldstein
Signature:	

For the Development Services Manager