

PENRITH CITY COUNCIL

NOTICE OF DETERMINATION

DESCRIPTION OF DEVELOPMENT

Application number:	DA19/0403
Description of development:	Provision of a Car Wash Facility at the Lennox Village Shopping Centre
Classification of development:	Class 10a

DETAILS OF THE LAND TO BE DEVELOPED

Legal description:	Lot 1 DP 610862
Property address:	2 - 20 Pyramid Street, EMU PLAINS NSW 2750

DETAILS OF THE APPLICANT

Name & Address:	Vicinity Centres Pm Pty Ltd 19, Level 39 Martin Place SYDNEY NSW 2000
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DECISION OF CONSENT AUTHORITY

In accordance with Section 4.18(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	15 November 2019
Date the consent expires	15 November 2024
Date of this decision	14 November 2019

POINT OF CONTACT

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

Assessing Officer:	Jacqueline Klincke
Contact telephone number:	+612 4732 8391

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 stamped approved plans issued 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 Number	Revision	Project Number	Prepared By	Dated
Content Location Plan	DA-01	D	2018-96	Urban Concepts	3/9/2019
Site Plan	DA-02	D	2018-96	Urban Concepts	3/9/2019
Traffic Plan	DA-03	D	2018-96	Urban Concepts	3/9/2019
Roof Plan	DA-04	D	2018-96	Urban Concepts	3/9/2019
Hydraulic Plan	DA-05	D	2018-96	Urban Concepts	3/9/2019
Car Wash Area Plan	DA-06	D	2018-96	Urban Concepts	3/9/2019
Elevations	DA-07	D	2018-96	Urban Concepts	3/9/2019
Sediment Plan	DA-08	D	2018-96	Urban Concepts	3/9/2019

- Construction Management Plan, prepared by Classic Group, dated 4 June 2019
- Waste Management Plan, prepared by Chris Stone, dated 13/6/2019

- 2 The work must be carried out in accordance with the requirements of the Building Code of Australia.
- 3 **The development shall not be used or occupied until an Occupation Certificate has been issued.**
- 4 The operating hours are from 8:00am to 8:00pm seven (7) days per week, Monday to Sunday. Delivery and service vehicles generated by the development are limited to between 8:00am and 5:00pm Monday to Friday.
- 5 No retail sale of goods shall be conducted from the subject premises.
- 6 No motor vehicles are to be displayed for sale on the subject premises.
- 7 All materials and goods associated with the use shall be contained within the building at all times.
- 8 The finishes of all structures and buildings are to be maintained at all times and any graffiti or vandalism immediately removed/repaired.
- 9 A **Construction Certificate** shall be obtained prior to commencement of any building works.
- 10 A separate Development Application is required for all signage that is not considered to be exempt under the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* is to be submitted to Penrith City Council, complying with the requirements of the *Penrith Development Control Plan 2014* - C9 Advertising and Signage.
- 11 Vehicles before and after washing shall be parked within the nominated parking spaces dedicated to the car wash facility.

- 12 **Prior to the issue of an Occupation Certificate**, two (2) street trees must be planted in accordance with Section C6 Landscape Design of the *Penrith Development Control Plan 2014* and as marked in red on the stamped approved plans. The replacement trees shall be of the same species (or similar) to the street trees located along Water Street.
- 13 The premises and its surrounds is to be maintained in a neat and tidy manner at all times. All litter, debris and waste material must be disposed of in the bins identified on the stamped approved 'Car Was Area Plan' plan.
- 14 In the event that Council received a complaint regarding excessive noise from the car wash facility, the person(s) in control of the premise(s) shall at the own cost arrange for an acoustic investigation to be carried out (by a suitably qualified consultant) and provide a report specifying proposed methods for control of noise emanating from the premises.

Demolition

- 15 Dust suppression techniques are to be employed during demolition to reduce any potential nuisances to surrounding properties.
- 16 Mud and soil from vehicular movements during construction to and from the site must not be deposited on the road.
- 17 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.

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

Environmental Matters

- 18 Erosion and sediment control measures shall be installed prior to the commencement of works on site and maintained throughout the construction phase of the development until the land, that was subject to the works, has been stabilised. 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. The erosion and sediment control measures are to be in accordance with 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).

- 19 No fill material is to be imported to the site without the prior approval of 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.

- 20 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,
 - 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.

- 21 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.

- 22 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.

- 23 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.
- 24 Any vehicle washing, engine degreasing and steam cleaning shall be conducted in the approved wash bay which is installed and connected to the sewer in accordance with Sydney Water's requirements.

Details of the vehicle wash bay including the Section 73 Certificate issued by Sydney Water for the discharge of trade waste from the premises shall be submitted to the Principal Certifying Authority before the wash bay can be installed.

- 25 **Prior to the issue of a Construction Certificate**, details of any pre-treatment facilities as required by

Sydney Water are to be submitted to the Certifying Authority.

- 26 Only clean and unpolluted water is to be discharged into Penrith City Council's stormwater drainage system. Liquid wastes suitable for discharge to the mains sewer are to be discharged in accordance with Sydney Water requirements.

If mains sewer is not available or if Sydney Water will not allow disposal to the sewer then a licensed waste contractor is to remove the liquid waste from the premises to an appropriate waste facility.

The waste contractor and waste facility are to hold the relevant licenses issued by the NSW Environment Protection Authority.

- 27 The stormwater drainage system shall not be altered or new lines directed into the system without the prior approval of Penrith City Council.

- 28 **Prior to the issue of a Construction Certificate**, a Water Management Plan (WMP) for the site shall be submitted to Penrith City Council for consideration and approval. Council's approval of the WMP should be provided to the Certifying Authority as part of the Construction Certificate application.

The WMP is required to detail the operational management practices that will be applied to ensure that no litter or other waste materials enter Council's stormwater system.

The Council approved WMP is to be complied with at all times. The provisions of the *Protection of the Environment Operations Act 1997* apply in terms of pollution of waters.

- 29 Should any "unexpected finds" occur during site excavation and earthworks, including, but not limited to, the identification/finding of contaminated soils, buried building materials, asbestos, odour and/or staining, works are to cease immediately and Council notified. Any such "unexpected finds" shall be addressed by an appropriately qualified environmental consultant.

All remediation works within the Penrith Local Government Area are considered to be Category 1 works under *State Environmental Planning Policy 55-Remediation of Land*. Should any contamination be found during development works and should remediation be required, development consent is to be sought from Penrith City Council before the remediation works commence.

- 30 All waste bins within the vacuum and drying bays are to be lidded at all times. The vacuum and drying bays are to be maintained to ensure litter and waste materials do not enter the stormwater pit.

All activities carried out within the vacuum and drying bays are to ensure no entry of litter, debris or waste materials to the stormwater pit.

BCA Issues

31 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).

Utility Services

32 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.**

Construction

33 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.

34 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 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.

35 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

36 Stormwater drainage from the site shall be discharged to the site's drainage system.

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

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

Certification

37 Prior to the commencement of any earthworks or construction works on site, the proponent is to:

- (a) employ a Principal Certifying Authority to oversee that the said works carried out on the site are in accordance with the development consent and related Construction Certificate issued for the approved development, and with the relevant provisions of the Environmental Planning and Assessment Act and accompanying Regulation, and
- (b) submit a Notice of Commencement to Penrith City Council.

The Principal Certifying Authority shall submit to Council an "Appointment of Principal Certifying Authority" in accordance with Section 81A of the Environmental Planning and Assessment Act 1979.

Information to accompany the Notice of Commencement

Two (2) days before any earthworks or construction/demolition works are to commence on site (including the clearing site vegetation), the proponent shall submit a "Notice of Commencement" to Council in accordance with Section 81A of the Environmental Planning and Assessment Act 1979.

38 An Occupation Certificate is to be obtained from the Principal Certifying Authority on completion of all works and prior to the occupation/use of the car wash facility.

The Certificate shall not be issued if any conditions of this consent, but not the conditions relating to the operation of the development, are outstanding.

A copy of the Occupation Certificate and all necessary documentation supporting the issue of the Certificate is to be submitted to Penrith City Council, if Council is not the Principal Certifying Authority.

SIGNATURE

Name:	Kathryn Saunders Acting Principal Planner
Signature:	

For the Development Services Manager