

PENRITH CITY COUNCIL

NOTICE OF DETERMINATION

DESCRIPTION OF DEVELOPMENT

Application number:	DA16/0639
Description of development:	Paint Ball Facility with Associated Playing Fields, Structures and Upgrade of an Existing Car Parking Area
Classification of development:	Class 5 , Class 9b , Class 10a

DETAILS OF THE LAND TO BE DEVELOPED

Legal description:	Lot 1 DP 1084891
Property address:	308 - 332 Londonderry Road, LONDONDERRY NSW 2753

DETAILS OF THE APPLICANT

Name & Address:	Delta Paintball C/- R Zerk 11A / 40 Bowman Street RICHMOND NSW 2753
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DECISION OF CONSENT AUTHORITY

Penrith Council has determined to grant “Deferred commencement” consent under Section 80(3) of the Environmental Planning and Assessment Act 1979. In accordance with Section 81(1) (a) of the Act, the “Deferred commencement” consent is granted subject to the conditions listed in this Notice.

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

The conditions to be satisfied prior to commencement of the consent will need to be completed within 12 months from 21 December 2016.

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

Date from which consent operates	21 December 2016
Date the consent expires	21 December 2018
Date of this decision	16 December 2016

POINT OF CONTACT

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

Assessing Officer:	Mahbub Alam
Contact telephone number:	+612 4732 7693

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.

Your attention is drawn to the conditions of consent listed in Schedule 1 requiring compliance prior to the development consent becoming operational. Council will issue a operational development consent on compliance of all conditions listed in Schedule 1 by the given timeframe.

Certification and advisory notes

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

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

Review of determination

The applicant may request Council to review its determination pursuant to 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	2 August 2016	10ERM2016/0527	4	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.

CONCURRENCE AUTHORITIES

CONCURRENCE AUTHORITY	DATE OF CONCURRENCE	REF. NO.	NO. OF PAGES	RELEVANT LEGISLATION
Roads and Maritime Services	19 September 2016	SYD14/01284/03 (A14502987)	3	Section 87 Roads Act 1993

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

Schedule 1 (Deferred Commencement)

- 1 A Stage 2 Detailed Site Investigation for contamination is required to be carried out by a suitably qualified environmental consultant that addresses all land subject to this development application. This investigation is to consider the requirements of the relevant NSW Environment Protection Authority Guidelines and the National Environment Protection (Assessment of Site Contamination) Measure. The associated report needs to establish whether the site is suitable for its intended use and **is to be submitted to Penrith City Council for approval**. If Penrith City Council is not the certifying authority, the assessment is still required to be submitted to Council for approval.

Should it be identified in the Stage 2 Detailed Site Investigation that remediation works are required to be undertaken on the site, a separate development application is to be submitted to Penrith City Council for approval for the remediation of land. The separate application is to be submitted and approved prior to this consent becoming operational. All remediation works in the Penrith Local Government Area are considered Category 1 remediation works under State Environmental Planning Policy No 55 - Remediation of Land, and therefore require development consent. 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 all NSW Environment Protection Guidelines. All works associated with any remediation are required to be completed and validated to the satisfaction Council.

- 2 No work on the current development is to proceed until such time the stage 2 site investigation is undertaken and any required remediation works completed, and Council has approved the Validation Report associated with the remediation works.

ATTACHMENT 1: CONDITIONS OF CONSENT

General

- 1 The development must be implemented substantially in accordance with the following plans

Drawing Title	Drawing No.	Prepared By	Dated
Site Plan	DA1 (1016a)	Graham Zerk	20 June 2016
Richmond GRC Base Camp Shed Floor Plan	DFAUS16 (Sheet 1 of 1)	-	28/06/16
Richmond GRC Rural BAR Right Turn Treatment Concept	DFAUS16 (Sheet 1 of 1)	-	06/06/16
Car Park Detail	-	-	24/11/2016
Ablution Block Details and Layout	-	-	-

and any supporting information received with the application, except as may be amended in red on the attached plans and by the following conditions.

- 2 The business is to be registered with Penrith City Council by completing the "Registration of Premises" form. This form is to be returned to Council **prior to the commencement of the business**.
- 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.
- 4 The operating hours are from 9:00 am to 4:00 pm Mondays to Sundays.
- 5 The finishes of all structures and buildings are to be maintained at all times and any graffiti or vandalism immediately removed/repaired.
- 6 A **Construction Certificate** shall be obtained prior to commencement of any building works.
- 7 Item 1 within the 88B restriction that applies to the development site is to be amended to remove the extent of land subject to encroachment of the paintball facility.
- Details of the amended 88B restrictions are to be submitted to Penrith City Council for approval and evidence of its registration with the Land and Property is to be submitted **prior to issue of an Occupation Certificate**.
- 8 The applicant shall comply with the conditions contained in the General Terms of Approval issued by the NSW Department of Primary Industries (Water), Reference 10 ERM2016/0527 dated 02 August 2016.
- 9 The applicant shall comply with the conditions contained in the concurrence issued by the NSW Roads and Maritime Services, Reference SYD14/01284/03 (A14502987) dated 19 September 2016.
- 10 Amplified music and public address systems associated with the development are not to be audible at the boundaries of the property.
- 11 There is to be a maximum of 150 persons on site each day.

Demolition

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

Environmental Matters

- 14 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.

- 15 All land that has been disturbed by earthworks is to be spray grassed or similarly treated to establish a grass cover.

- 16 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.

- 17 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.

- 18 Noise levels from the premises shall not exceed the relevant noise criteria detailed in the Environmental Noise Report prepared by Day Design Pty Ltd dated 22 April 2016 (Ref: 5633-1-1R-Rev B). The provisions of the Protection of the Environment Operations Act 1997 apply to the development, in terms of regulating offensive noise.
- 19 Prior to the issue of the Construction Certificate, an amended Environmental Management Plan (EMP) is to be submitted to Council for approval. This is to include:
 1. An Operational Erosion and Sediment Control plan
 2. An Environmental Emergency Plan
- 20 The approved Environmental Management Plan (EMP) prepared by Envirotech, dated 4th January 2016, (including any Council approved amendments) is to be implemented and adhered to.

- 21 Twelve (12 months after the issue of the Occupation Certificate, an Acoustic Compliance Report is to be submitted to and approved by Council. The report is to be prepared by a suitably qualified acoustic consultant and is to address, but is not limited to, all noise generating activities on the site and the level of compliance with the noise criteria set within the Environmental Noise Report prepared by Day Design Pty Ltd, dated 22 April 2016 (Ref: 5633-1-1R Rev B). It is also to consider the requirements of the NSW Environment Protection Authority's Industrial Noise Policy, other relevant guideline documents and the conditions of this development consent.

Should the Compliance Report identify any non-compliance issues, the Report is to provide suitable recommendations for the mitigation of those issues. Any mitigation works are to be undertaken within thirty (30) days from the date of notice from Council, unless otherwise specified.

- 22 **Prior to the Issuing of the Occupation Certificate** suitable chain mesh fencing is to be provided as a barrier along the western boundary of the of the paint ball fields and a minimum of 60 metres along the southern game zone boundary. The fencing should be 3.6 metres in height and be covered from top to ground level in a mesh or shade cloth that prevents paintball markers and other refuse/contaminates from leaving the gaming zones. The fence is also to prevent access to the bushland and creek from patrons of the facility.

23 **Ongoing Site Environmental Management**

The Environmental Management Plan prepared by Envirotech Pty. Ltd. dated 4 January 2016 is to be implemented. Any changes or amendments to the approved Environmental Management Plan are to be approved by Council. Any changes to the management of the vegetation are to be referred to Council's Senior Biodiversity Officer.

BCA Issues

- 24 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.

- 25 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.

Utility Services

- 26 Prior to the issue of a Construction Certificate, a written clearance is to be obtained from Endeavour Energy stating that electrical services have been made available to the development or that arrangements have been entered into for the provision of services to the development.

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

Construction

- 27 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.

28 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.

29 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

30 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.

31 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.

32 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, waste 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

33 Prior to the issue of any Construction Certificate, the Certifying Authority shall ensure that any applicable

application, including the payment of application and inspection fees, has been lodged with the Roads and Maritime Services for any works within the Londonderry Road road reserve.

A copy of the Roads and Maritime Services approval shall be submitted to Penrith City Council prior to Penrith City Council issuing any Roads Act approval.

34 Prior to the issue of any Construction Certificate, the Certifying Authority shall ensure that:

- a) Off street access and parking complies with AS2890.1.
- b) Car parking area has been detailed to be bitumen sealed to allow all weather access and use.
- c) Sight distances at the street frontage have been provided in accordance with AS2890.1.
- d) All cars can enter and exit the site in a forward direction.

35 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.

36 Prior to the issue of any Occupation Certificate, the Principal Certifying Authority shall ensure that all works associated with a S138 Roads Act approval or S68 Local Government Act approval have been inspected and signed off by Penrith City Council.

37 Prior to the issue of any Occupation Certificate, signage which is clearly visible from the public road shall be placed within the development site.

The signage shall indicate that the northern vehicular access is to be used for ingress purposes only and appropriately signposted "Entry Only". The southern vehicular access is to be used for egress purposes only and appropriately signposted "No Entry".

38 Prior to the issue of any Occupation Certificate, directional signage and linemarking shall be installed indicating directional movements and the location of customer parking to the satisfaction of the Principal Certifying Authority.

Landscaping

39 No trees are to be removed, ringbarked, cut, topped or lopped or wilfully destroyed (other than those within the proposed building footprint or as 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

- 40 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.

Operation of OSSM

- 41 All wastewater generated on the site is to be diverted to the existing on-site sewage management system and be disposed of in the approved effluent management area.

- 42 **Prior to the issue of the Occupation Certificate**, an Operational Wastewater Management Plan (OWMP) for the system is to be provided to Penrith City Council for consideration and approval. The OWMP shall be prepared by a suitable qualified consultant in consultation with Council and other relevant agencies, and may need to be amended to include the comments provided by Council and other agencies. The OWMP is to address:

- All environmental aspects of the operation of the on-site sewage management system
- All systems and controls to be implemented to minimise the potential for any adverse environmental impacts
- A program for ongoing monitoring and review to ensure that the OWMP remains contemporary with relevant environmental standards. Council is to be consulted prior to any amendments of the OWMP. Council may request a review of the OWMP or any proposed amendments.

The OWMP should include but is not limited to the following:

- System information (including specifications and site plans)
- Monitoring and testing
- Maintenance and servicing program (treatment system and irrigation system)
- System performance
- System failure contingency
- Odour management
- Landscape and disposal area management
- Health and safety

The on-site sewage management system is to be operated in accordance with the requirements of this Plan.

- 43 Prior to the issue of a Construction Certificate, an amended site plan is to be provided which shows the location of the on-site sewage management system. It is to demonstrate that the buffer distances from the existing effluent disposal area to the proposed paintball facility and associated car park can comply with Council's On-site Sewage Management and Greywater Reuse Policy (2014).

SIGNATURE

Name:	Mahbub Alam
Signature:	

For the Development Services Manager