

PENRITH CITY COUNCIL

NOTICE OF DETERMINATION

DESCRIPTION OF DEVELOPMENT

Application number:	DA15/1532
Description of development:	Penrith Homemaker Centre Car Park Extension & Related Works
Classification of development:	Class 7a

DETAILS OF THE LAND TO BE DEVELOPED

Legal description:	Lot 10 DP 1046110
Property address:	13 - 23 Pattys Place, JAMISONTOWN NSW 2750

DETAILS OF THE APPLICANT

Name & Address:	Leffler Simes Architects Pty Ltd 7 Young Street NEUTRAL BAY NSW 2089
-----------------	--

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 June 2016
Date the consent expires	7 June 2018
Date of this decision	31 May 2016

POINT OF CONTACT

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

Assessing Officer:	Lauren Van Etten
Contact telephone number:	+612 4732 8222

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 a Joint Regional 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.

Joint Regional Planning Panels

If the application was decided by a Joint Regional Planning Panel, please refer to 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 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 approved plans and by the following conditions.

Description	Reference	Date	Drawn By
Site Plan	DA01 A	Dec, 2015	Leffler Simes Architects
Car Park Plan	DA02 A	Dec, 2015	Leffler Simes Architects
Stormwater Plans	15607_SK_C001, C002, C003 Issue 01	13/4/16	Henry & Hymas Consulting Engineers Pty Ltd

- 2 The development shall not be used until a **Certificate of Compliance (or similar)** has been issued.
- 3 A **Construction Certificate** shall be obtained prior to the commencement of any works.
- 4 **Prior to the issue of a Compliance Certificate (or similar)**, the terms and details of the existing covenants, restrictions and easements relating to stormwater drainage infrastructure and rights of access shall be modified through Land & Property Information NSW to be consistent with the stamped approved plans.

Environmental Matters

- 5 All waste materials stored on-site during construction 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.
- 6 The operating noise level of plant and equipment during construction 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.
- 7 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 site to an appropriate waste facility.

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

- 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 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.

An appropriately qualified person/s (as defined in the Penrith City Council Contaminated Land Development Control Plan) shall:

- Supervise the filling works,
- (On completion of filling works) carry out an independent review of all documentation relating to the filling of the site, and shall submit a review findings report to Council and any Principal Certifying Authority,
- Certify by way of a Compliance Certificate or other written documentation that fill materials have been placed on the site in accordance with all conditions of this consent and that the site will not pose an unacceptable risk to human health or the environment. A copy of the Compliance Certificate or other documentation shall be submitted to Council and any Principal Certifying Authority.

The contact details of any appropriately qualified person/s engaged for the works shall be provided with the Notice of Commencement.

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.

{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."}

Construction

- 9 Stamped plans, specifications, a copy of the development consent, the Construction Certificate and any other Certificates to be relied upon shall be available on site at all times during construction.

The following details are to be displayed in a maximum of 2 signs to be erected on the site:

- the name of the Principal Certifying Authority, their address and telephone number,
- the name of the person in charge of the work site and telephone number at which that person may be contacted during work hours,
- that unauthorised entry to the work site is prohibited,
- the designated waste storage area must be covered when the site is unattended, and
- all sediment and erosion control measures shall be fully maintained until completion of the construction phase.

Signage but no more than 2 signs stating the above details is to be erected:

- at the commencement of, and for the full length of the, construction works onsite, and
- in a prominent position on the work site and in a manner that can be easily read by pedestrian traffic.

All construction signage is to be removed when the Certificate of Compliance has been issued for the development.

- 10 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.

(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.

- 11 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

- 12 All roadworks, stormwater works, associated civil works and dedications required to effect the consented development shall be undertaken at no cost to Penrith City Council.
- 13 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 Councils 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 4732 7777 or visit Penrith City Council's website for more information.

- 14 **Prior to the issue of a Construction Certificate**, a Section 138 Roads Act application, including payment of fees shall be lodged with Penrith City Council. Penrith City Council is the Roads Authority for any works required in a public road. These works may include but are not limited to the following:
 1. Vehicular crossings (including kerb reinstatement of redundant vehicular crossings)
 2. Concrete footpath or cycleways
 3. Road opening for utilities and stormwater (including stormwater connection to Penrith City Council roads and other Penrith City Council owned drainage)
 4. Road occupancy or road closures
 5. The placement of hoardings, structures, containers, waster skips, signs, etc on the road reserve

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 4732 7777 or visit Penrith City Council's website for more information.

Note:

1. 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.
 2. Separate approvals may also be required from the Roads and Maritime Services for classified roads.
 3. All works associated with the Roads Act approval must be completed **prior to the issue of a Compliance Certificate (or similar)**.
- 15 **Prior to the issue of a Construction Certificate** the Principal Certifying Authority and/or Certifying Authority shall ensure that an application under Section 68 of the Local Government Act, including the payment of application and inspection fees, has been lodged with, and approved by Penrith City Council for reconstruction of the OSD system in the existing OSD basin at the Penrith Homemaker Centre.

Engineering plans are to be prepared 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.

Contact Penrith City Council's Development Engineering Department on 4732 7777 or visit Penrith City Council's website for more information.

Note:

1. All works associated with the Section 68 Local Government Act approval must be completed **prior to the issue of a Compliance Certificate (or similar)**.

- 16 The stormwater management system shall be provided generally in accordance with the concept plan/s lodged for development approval, prepared by Henry & Hymas Consulting Engineers Pty Ltd, Drawing Number 15607_SK_C001, C002, C003 Issue 01, dated 13/4/16.

Engineering plans and supporting calculations for the stormwater management system are to be prepared by a suitably qualified person and shall accompany the application for a Construction Certificate.

Prior to the issue of a Construction Certificate, the Certifying Authority shall ensure that the stormwater management system has been designed in accordance with Council's Stormwater Drainage for Building Developments Policy and Water Sensitive Urban Design Policy.

- 17 **Prior to the issue of a Construction Certificate**, the Certifying Authority shall ensure that any structures can withstand the forces of floodwater including debris and buoyancy up to the 1% Annual Exceedence Probability Event in accordance with the requirements of the Building Code of Australia (BCA).
- 18 **Prior to the issue of a Construction Certificate**, the Certifying Authority shall ensure that vehicular access, circulation, manoeuvring and pedestrian and parking areas associated with the subject development are in accordance with AS 2890.1, AS 2890.2, AS 2890.6 and Penrith City Council's Development Control Plan.
- 19 **Prior to the issue of a Construction Certificate** a performance bond is to be lodged with Penrith City Council for the reconstruction of the OSD system at the Penrith Homemaker Centre.

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 Development Engineering Unit on 4732 7777 for further information relating to bond requirements.

- 20 **Prior to the commencement of works**, 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.

The erosion and sediment control measures shall remain in place and be maintained until all disturbed areas have been rehabilitated and stabilised.

- 21 **Prior to the commencement of any works** associated with the development, a Traffic Control Plan including details for pedestrian management shall be prepared in accordance with AS1742.3 "Traffic Control Devices for Works on Roads" and the Roads and Maritime Service's publication "Traffic Control at Worksites" and certified by an appropriately accredited Roads and Maritime Services Traffic Controller.

Traffic control measures shall be implemented during the construction phase of the development in accordance with the certified plan. A copy of the plan shall be available on site at all times.

Note:

1. A copy of the Traffic Control Plan shall accompany the Notice of Commencement to Penrith City Council.
- 22 All earthworks shall be undertaken in accordance with AS 3798 and Penrith City Council's Design Guidelines for Engineering Works for Subdivisions and Developments and Engineering Construction Specification for Civil Works.

The level of testing shall be determined by the Geotechnical Testing Authority/ Superintendent in consultation with the Principal Certifying Authority.

- 23 **Prior to the issue of a Compliance Certificate (or similar)**, works-as-executed drawings, final operation and maintenance management plans and any other compliance documentation shall be submitted to the Principal Certifying Authority in accordance with Penrith City Council's Engineering Construction Specification for Civil Works, WSUD Technical Guidelines and Stormwater Drainage for Building Developments Policy.

An original set of works-as-executed drawings and copies of the final operation and maintenance management plans and compliance documentation shall also be submitted to Penrith City Council with notification of the issue of the Compliance Certificate (or similar) where Council is not the Principal Certifying Authority.

- 24 **Prior to the issue of a Compliance Certificate (or similar)** the Principal Certifying Authority shall ensure that the:
 - a) Stormwater management systems (including on-site detention and water sensitive urban design)
 - Have been satisfactorily completed in accordance with the approved Construction Certificate and the requirements of this consent.
 - Have met the design intent with regard to any construction variations to the approved design.
 - Any remedial works required to be undertaken have been satisfactorily completed.

Details of the approved and constructed system/s shall be provided as part of the works-as-executed drawings.

- 25 **Prior to the issue of a Compliance Certificate** (or similar) a restriction as to user and positive covenant relating to the:

- a) Stormwater management systems (including on-site detention and water sensitive urban design)

shall be registered on the title of the property. The restriction as to user and positive covenant shall be in Penrith City Council's standard wording as detailed in Penrith City Council's Stormwater Drainage for Building Development Policy.

- 26 The stormwater management system shall continue to be operated and maintained in perpetuity to the satisfaction of Council in accordance with the final operation and maintenance management plan. Regular inspection records are required to be maintained and made available to Council upon request. All necessary

improvements are required to be made immediately upon awareness of any deficiencies in the treatment measure.

- 27 All car spaces are to be sealed, line marked and dedicated for the parking of vehicles only and not to be used for the storage of materials, products, waste, advertising, etc.

Landscaping

- 28 All landscape works are to be constructed in accordance with the stamped approved plans and Sections F5 of Penrith Council's Development Control Plan 2014.

Landscaping shall be maintained:

- in accordance with the approved plan, and
- in a healthy state, and in perpetuity by the existing or future owners and occupiers of the property.

If any of the vegetation comprising that landscaping dies or is removed, it is to be replaced with vegetation of the same species and, to the greatest extent practicable, the same maturity as the vegetation which died or was removed.

- 29 All plant material associated with the construction of approved landscaping is to be planted in accordance with the Tree Planting Specification prescribed in Penrith Council's Development Control Plan.
- 30 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.
- 31 A landscape plan is to be provided by a suitably qualified and experienced landscape architect, in order to embellish the landscape edges alongside the car park. Details in this regard are to be provided to Council **prior to the issue of a Construction Certificate.**

Certification

- 32 A Compliance Certificate (or similar) is to be obtained from the Principal Certifying Authority on completion of all works and **prior to the use of the car park extension.** The Compliance Certificate (or similar) shall not be issued if any conditions of this consent, but not the conditions relating to the operation of the development, are outstanding, or if the development does not comply with the provisions of the Environmental Planning and Assessment Act and Regulation.

A copy of the Compliance Certificate (or similar) and all necessary documentation supporting the issue of that Certificate shall be submitted to Penrith City Council, if Council is not the Principal Certifying Authority.

- 33 **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:	Lauren Van Etten
Signature:	

For the Development Services Manager