

PENRITH CITY COUNCIL

NOTICE OF DETERMINATION

DESCRIPTION OF DEVELOPMENT

Application number:	DA20/0249
Description of development:	Upgrade Works to Existing Child Care Centre including Internal & External Building Alterations, Car Park Modifications & Signage
Classification of development:	Class 9b

DETAILS OF THE LAND TO BE DEVELOPED

Legal description:	Lot 30 DP 578530
Property address:	John Batman Avenue, WERRINGTON COUNTY NSW 2747

DETAILS OF THE APPLICANT

Name & Address:	Penrith City Council 601 High Street PENRITH NSW 2750
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DECISION OF CONSENT AUTHORITY

In accordance with Section 2.17 and 4.18(1) (a) of the Environmental Planning and Assessment Act 1979 (as amended), consent is granted subject to the conditions implementation in attachment 1.

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

Date from which consent operates	23 July 2020
Date the consent expires	23 July 2025
Date of this decision	22 July 2020

POINT OF CONTACT

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

Assessing Officer:	Donna Clarke
Contact telephone number:	(02) 4732 7991

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 twelve 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 twelve 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 56 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 56 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 plans 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	Drawing No	Rev	Prepared by	Date
Cover Sheet	A01	D	Barbara Tarnawski Architects Pty Ltd	03/07/20
Site Plan 1:200	A02	D	Barbara Tarnawski Architects Pty Ltd	03/07/20
Demolition	A03	C	Barbara Tarnawski Architects Pty Ltd	15/04/20
Ground Floor Plan	A04	C	Barbara Tarnawski Architects Pty Ltd	15/04/20
Ground Floor RCP	A05	C	Barbara Tarnawski Architects Pty Ltd	15/04/20
Roof Plan	A06	C	Barbara Tarnawski Architects Pty Ltd	15/04/20
Elevations & Sections - Sheet 01	A07	D	Barbara Tarnawski Architects Pty Ltd	15/04/20
Elevation & Sections - Sheet 02	A08	C	Barbara Tarnawski Architects Pty Ltd	15/04/20
Details Access WC - Sheet 01	A9	C	Barbara Tarnawski Architects Pty Ltd	15/04/20
Details Access WC - Sheet 02	A10	C	Barbara Tarnawski Architects Pty Ltd	15/04/20
Door Schedule	A11	C	Barbara Tarnawski Architects Pty Ltd	15/04/20
Window Schedule	A12	C	Barbara Tarnawski Architects Pty Ltd	15/04/20
Accessible Parking Detail	A13	C	Barbara Tarnawski Architects Pty Ltd	15/04/20
Details Kitchen Staff	A14			
Details WC1 WC2	A15	C	Barbara Tarnawski Architects Pty Ltd	15/04/20
Details Office	A16	C	Barbara Tarnawski Architects Pty Ltd	15/04/20
Details Entry	A17	C	Barbara Tarnawski Architects Pty Ltd	15/04/20
Survey existing	A18	C	Barbara Tarnawski Architects Pty Ltd	15/04/20
Survey existing overall	A19	C	Barbara Tarnawski Architects Pty Ltd	15/04/20
Colour Schedule		A	Penrith City Council	9 January 2020

2 The proprietor of the food business shall ensure that the requirements of the NSW Food Act 2003, NSW Food Regulation 2010 and the Australian and New Zealand Food Standards Code are met at all times.

3 A satisfactory inspection from an authorised officer of Council's Environmental Health Department is required prior to the occupation of development. The occupier is to contact the Environmental Health Department to organise an appointment at least 72 hours prior to the requested inspection time.

4 **The development shall not be used or occupied until an Occupation Certificate has been issued.**

5 A separate development application for the erection of a sign or advertising structure, other than signage or advertising approved by this consent or listed as exempt development, is to be submitted to Penrith City Council, complying with the requirements of Penrith Development Control Plan 2014.

6 **Prior to the issue of an Occupation Certificate** a lighting system shall be installed for the development to provide uniform lighting across common areas and driveways.

Exterior lighting shall be located and directed in such a manner so as not to create a nuisance to surrounding landuses. The lighting shall be the minimum level of illumination necessary for safe operation. The lighting shall be in accordance with AS 4282 "Control of the obtrusive effects of outdoor lighting" (1997).

7 The finishes of all structures and buildings are to be maintained at all times and any graffiti or vandalism immediately removed/repaired.

8 A **Construction Certificate** shall be obtained prior to commencement of any building works.

9 The maximum number of children placed at the centre is to be limited to 40 at any one time.

The premises is to be licensed by the NSW Department of Education and Communities under the Children (Education and Care Services) National Law (NSW), Education and Care Services National Regulations and National Quality Framework prior to commencing operation.

10 The approved operating hours for the childcare centre are 7am-6pm Monday to Friday.

Delivery, waste collection and service vehicles generated by the development are restricted to these hours of operation.

11 The use of a public address system or amplified music is not permitted to be used in the outdoor play area. The use of amplified music within the building shall not be audible within a habitable room of any residence.

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13 **Prior to the issue of a construction certificate**, it is must be demonstrated that no combustible cladding is to be used in the development.

Demolition

- 14 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**.

- 15 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**.

- 16 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.

- 17 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, 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.

- 18 Dust suppression techniques are to be employed during demolition to reduce any potential nuisances to surrounding properties.

- 19 Mud and soil from vehicular movements to and from the site must not be deposited on the road.

- 20 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

- 21 Erosion and sediment control measures shall be installed **prior to the commencement of works on site**. The erosion and sediment control measures are to be maintained 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).

The sediment and erosion control measures are to be installed **prior to and maintained throughout the construction phase of the development**. 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.

- 22 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.

- 23 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.

- 24 All 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.

- 25 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.
- 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.

BCA Issues

- 27 Access and sanitary facilities for persons with disabilities are to be provided and maintained in accordance with the requirements of the Building Code of Australia and AS 1428 "Design for Access and Mobility". Details of compliance are to be provided in the relevant plans and specifications accompanying the Construction Certificate application.
- 28 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.

Health Matters and OSSM installations

- 29 The construction, fit out and finishes of the food premises must comply with Standard 3.2.3 of the Australian and New Zealand Food Standards Code, and AS4674-2004 *Design, Construction and Fitout of Food Premises*.
- 30 A separate hand basins must be serviced with hot and cold water through a single outlet, able to be mixed at a temperature of at least 40°C and fitted with a hands free operation. Where sensor taps are installed the basin must not be more than 6 metres from the hot water system. Disposable paper hand towels and soap must be provided and serviced from a dispenser adjacent to each hand basin.
- 31 Staff toilets must be provided on the premises. Where a toilet adjoins a food preparation area it must be separated by an air lock and its doors must be fitted with self closing devices. Toilets intended for customer use must not be accessed through areas where open food is handled, displayed or stored.
- 32 A hand basin must be located within the toilet cubicle. Hand basins must be serviced with hot and cold water through a single outlet, able to be mixed at a temperature of at least 40°C and fitted with a hands free operation. Where sensor taps are used the basin must not be more than 6 metres from the hot water system. Disposable paper hand towels and soap must be provided and serviced from a dispenser adjacent to each hand basin.
- 33 The walls at the rear of cooking appliances must be surfaced with an impervious material, such as stainless steel, which extends from the canopy to the floor. Where a cooking appliance is sealed to the wall, the material must be lapped over the top edge of the appliance to provide a grease and vermin proof seal. Cooking appliances must only be sealed to walls made of a non-combustible material.
- 34 Details of the dishwashing/glass washing machines must be submitted to Council and approved prior to

installation. All utensils and equipment must undergo a washing, sanitising and rinsing cycle. The sanitising rinse cycle must achieve a water temperature of 80°C for 2 minutes or 75°C for 10 minutes.

- 35 All wash sinks and food preparation sinks must be serviced with hot and cold water through a single outlet. Wash sinks must be supplied with water at a temperature of not less than 54 °C for washing.
- 36 All fixtures, fittings and equipment must be provided with smooth and impervious surfaces, free from cracks and crevices to enable easy cleaning.

All fittings and fixtures must be built into the wall and floor so as to be free from joint, gaps and cavities to enable easy cleaning or alternatively, supported on one of the following:

- a. Plinths – plinths must be an integral part of the floor, constructed of solid materials similar to the floor at least 75mm in height and coved at the intersection with the floor. All plinths must have a smooth and impervious finish. All fittings and fixtures must be properly sealed to the plinth so to be free from gaps, cracks and cavities.
- b. Wheels or castors – fittings and fixtures can be supported on wheels or castors. The wheels and castors must be capable of supporting and easily moving a full loaded fitting. All wheels and castors must be provided with a restraining device.
- c. Legs – fittings and fixtures can be supported on legs but must be constructed of a non-corrosive, smooth metal or moulded plastic. All legs must be free from cracks and crevices. All legs must have a clearance space between the floor and the underside of the fitting of at least 200 mm.

NOTE: False bottoms under fittings are not permitted (AS4674-2004 – Section 4.2 and 4.3).

- 37 Sufficient lockers must be provided in the food preparation area or store room specifically for the storage of cleaning materials, employees' clothing and personal belongings.
- 38 A hand wash basin must be installed in the 0-2 room and 3-5 room for bottle preparation. The hand wash basin is to be serviced with hot and cold water through a single outlet, able to be mixed at temperature of at least 40oC and fitted with a hands free operations. Where sensor taps are used the basin must not be more than 6 metres from the hot water system. Disposable paper towels and soap must be provided and serviced from a dispenser adjacent to each basin. The hand basin is solely to be used for bottle preparation and separate from the nappy change and craft wash up areas.

Construction

39 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.

40 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.

41 For construction works carried out by an owner-builder on a residential premises but not the contractor or other persons employed by the owner-builder to carry out such works, construction hours for the owner-builder shall be restricted to the following hours so long as complaints regarding the construction are not received by Council:

- Mondays to Saturdays, 7am to 8pm, and
- Sundays and Public Holidays, 8am to 8pm.

In the event that Council receives complaints regarding the manner in which the construction works is being conducted, Council reserves the right to amend the construction hours for the development.

Contractors or other persons employed to carry out works

In the event that a contractor or other persons have been employed by the property owner or owner-builder to carry out all or part of the construction works, then the construction hours shall be restricted to the following:

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 the residential building 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

- 42 Prior to the issue of any Construction Certificate, the Certifying Authority shall ensure that off street access and parking complies with AS2890.1.

Landscaping

- 43 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.
- 44 Existing landscaping is to be retained and maintained at all times.

Certification

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

- 46 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 approved development.

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:	Donna Clarke
Signature:	

For the Development Services Manager