

PENRITH CITY COUNCIL

NOTICE OF DETERMINATION

DESCRIPTION OF DEVELOPMENT

Application number:	DA19/0001
Description of development:	Occupation and Fitout for a Thai Massage Therapy Clinic
Classification of development:	Class 6

DETAILS OF THE LAND TO BE DEVELOPED

Legal description:	Lot 1 DP 552614
Property address:	71 Great Western Highway, EMU PLAINS NSW 2750

DETAILS OF THE APPLICANT

Name & Address:	Jacarranda Massage 4/2-8 Wayman Place MERRYLANDS NSW 2160
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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	13 March 2019
Date the consent expires	13 March 2024
Date of this decision	12 March 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 plans stamped approved by Council, the application form, and any supporting information received with the application, except as may be amended in red on the attached plans and by the following conditions.

Description	Plan No.	Prepared By	Date
Proposed Fit-out	-	Kritsana Inkham	22/2/2019
Proposed Signage	-	Kritsana Inkham	22/2/2019

- Waste Management Plan, dated 28/12/2018, accompanying the application.

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

- 3 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.**

- 4 The operating hours are from 10:00am to 7:30pm Mondays to Sundays.

- 5 No retail sale of goods shall be conducted from the subject premises.

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

- 7 The premises is not to be used as a sex service premises or for any skin penetration procedure as defined under the *Public Health Act 2010*.

- 8 The sign shall not contain any advertising relating to a person/business who does not carry out business at the premises or place. The sign is limited to:

- (a) The name of the person or business, and
- (b) The nature of the business carried on at the premises or place at which the sign is displayed, and
- (c) May include the address of the premises and a logo or other symbol that identifies the business.

- 9 A maximum of two (2) staff members shall be on site at any one time.

- 10 In the event that Council receives a complain regarding excessive noise, the person(s) in control of the premises shall at their own cost arrange for an acoustic investigation to be carried out (by a suitably qualified person) and provide a report specifying proposed methods for control of noise emanating from the premises.

- 11 Any intruder alarm installed at the premises shall be fitted with a timing device in accordance with the requirements of the *Protection of the Environment Operations Act 1997*.

- 12 The front of the premises is to be maintained in a neat and tidy manner at all times.

- 13 A separate hand wash basin supplied with warm water should be provided so each staff member has access

to wash their hands thoroughly before and after performing a massage between clients.

Environmental Matters

- 14 All waste materials stored onsite 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 the areas are to be fully enclosed when the site is unattended.
- 15 All waste 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.

BCA Issues

- 16 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

- 17 The following services are not permitted/approved as part of the Thai Massage Therapy Clinic business:
- Sex services or similar activities,
 - Skin penetration procedures,
 - Tattooing procedures,
 - Food preparation and/or sale,
 - Offer or sale of products be retail, and
 - Procedures that involve the use of drugs or medications.

18 The following operational aspects of the remedial massage business premises are to comply with:

- Massage booths and tables are to be constructed of durable, smooth and impervious materials that are able to be easily and effectively cleaned,
- Linen and towels are single use items and must be changed between each client,
- Disposable single use face hole covers, head pads and sheets are to be used where towels or linen are not in use, and
- Oils, creams and balms must be dispensed via pumps or single use dispensers so as not to contaminate the products.

Construction

19 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.

20 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.

21 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.

Certification

22 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 6.6 of the Environmental Planning and Assessment Act 1979.

23 An Occupation Certificate is to be obtained from the Principal Certifying Authority on completion of all works and prior to the use of the premise.

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.

24 A satisfactory inspection from an authorised officer of Council's Environmental Health team is required prior to the issue of an Occupation Certificate. the occupier is to contact the Environmental Health team to organise an appointment at least 72 hours prior to the requested inspection time.

SIGNATURE

Name:	Paul Anzellotti Principal Planner
Signature:	

For the Development Services Manager