

PENRITH CITY COUNCIL

NOTICE OF DETERMINATION

DESCRIPTION OF DEVELOPMENT

Application number:	DA18/0977
Description of development:	Alterations & Additions to Emu Sports Club including New Lift Access, Construction of New Social Terrace, Repositioning of External Gaming Area & Internal Refurbishment Works
Classification of development:	Class 9b

DETAILS OF THE LAND TO BE DEVELOPED

Legal description:	Lot 1100 DP 1217686
Property address:	1 a Leonay Parade, LEONAY NSW 2750

DETAILS OF THE APPLICANT

Name & Address:	Emu Plains Sporting & Recreation Club Golf Course & Club House 1a Leonay Parade LEONAY NSW 2750
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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	21 January 2019
Date the consent expires	21 January 2024
Date of this decision	21 January 2019

POINT OF CONTACT

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

Assessing Officer:	Jake Bentley
Contact telephone number:	+612 4732 8087

NOTES

Reasons

The conditions in the attached schedule have been imposed in accordance with Section 4.17 of the Environmental Planning and Assessment Act 1979 as amended.

Conditions

Your attention is drawn to the attached conditions of consent in attachment 1.

Certification and advisory notes

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

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

Review of determination

The applicant may request Council to review its determination pursuant to Division 8.2 of the Environmental Planning and Assessment Act 1979 within six months of receiving this Notice of Determination.

These provisions do not apply to designated development, complying development or crown development pursuant to Section 8.2(2) of the Environmental Planning and Assessment Act 1979.

Appeals in the Land and Environment Court

The applicant can appeal against this decision in the Land and Environment Court within six months of receiving this Notice of Determination.

There is no right of appeal to a decision of the Independent Planning Commission or matters relating to a complying development certificate pursuant to clause 8.6(3) of the Environmental Planning and Assessment Act 1979.

Designated development

If the application was for designated development and a written objection was made in respect to the application, the objector can appeal against this decision to the Land and Environment Court within 28 days after the date of this notice.

If the applicant appeals against this decision, objector(s) will be given a notice of the appeal and the objector(s) can apply to the Land and Environment Court within 28 days after the date of this appeal notice to attend the appeal and make submissions at that appeal.

Sydney Western City Planning Panels

If the application was decided by the Sydney Western City Planning Panel, please refer to Section 2.16 of the Environmental Planning and Assessment Act, 1979 (as amended) for any further regulations.

ATTACHMENT 1: CONDITIONS OF CONSENT

General

- 1 The development must be implemented substantially in accordance with the following plans and documents stamped approved by Council, the application form and any supporting information received with the application, except as may be amended in red on the stamped approved plans and by the following conditions.

Drawing Title	Prepared By	Reference No.	Issue	Date
Cover Page and Location Plan	GROUPN	00-00	3	9/7/2018
Proposed Site Plan	GROUPN	00-02	4	9/7/2018
Existing/Demolition Site Plan	GROUPN	00-03	2	9/7/2018
Existing/Demolition Ground Floor Plan	GROUPN	02-10	4	9/7/2018
Proposed Ground Floor Plan	GROUPN	01-10	4	9/7/2018
Existing/Demolition First Floor Plan	GROUPN	02-11	4	9/7/2018
Proposed First Floor Plan	GROUPN	01-11	4	9/7/2018
Proposed Elevations	GROUPN	03-01	3	9/7/2018
Proposed Sections	GROUPN	03-02	2	9/7/2018
Engineering Plans, all Project No. 180412				
Ground Floor Drainage Plan	Greenview Consulting	C02	2	27/6/2018
Notes & Legend	Greenview Consulting	ESM1	1	26/6/2018
Environmental Site Management Layout	Greenview Consulting	ESM2	1	26/6/2018
Waste Management Site Plan	GROUPN	19-07	1	9/7/2018

- Access and Mobility Report, prepared by Bio-Building Design, dated 30/5/2018
- Asbestos & Hazardous Materials Demolition & Refurbishment Survey, prepared by Banksia EOHS, dated 4/5/2018, and
- Waste Management Plan, prepared by GROUPN dated 9/7/2018.

- 2 The hours of operation for all external dining, gaming and terrace areas is restricted to the existing hours of operation of the club:

Monday: 10:00am - 9:30pm
 Tuesday: 10:00am -10:30pm
 Wednesday: 10:00am -10:30pm
 Thursday :10:00am -10:30pm
 Friday: 10:00am -1:00am
 Saturday 9:00am -1:00am
 Sunday: 10:00am - 9:00pm

Noise levels from the premises shall not be audible within a habitable room of any residence at any time. The provisions of the Protection of the Environment Operations Act 1997 apply to the development, in terms of regulating offensive noise. Should Council receive complaints regarding noise emissions arising from the occupation and use of any external area of the club within a six-month period following operation, the applicant shall be required to submit a full acoustic assessment.

- 3 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.

- 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 an advertisement listed as exempt development, is to be submitted to Penrith City Council, complying with the requirements of Chapter C9 Advertising and Signage of Penrith Development Control Plan 2014.
- 6 All materials and goods associated with the use shall be contained within the building at all times.
- 7 A **Construction Certificate** shall be obtained prior to commencement of any building works.
- 8 **Prior to the issue of a Construction Certificate**, the Principal Certifying Authority shall ensure that the lift is located above the 1% AEP water surface level.
- 9 The recommendations made in the Statement of Environmental Effects accompanying the development application prepared by GROUPN, document reference No. NA_16_10076_30_01, revision 1, dated 9 July, 2018 relating to principles of Crime Prevention through Environmental Design shall be implemented.
- 10 **Prior to the issue of a Construction Certificate**, the Principal Certifying Authority shall ensure that suitable ventilation equipment is provided to ensure passive smoke from the external gaming area does not impact on any users of the social terrace. This is required if the social terrace includes a dining area.
- 11 No amplified music is to be provided to the first floor social terrace area.
- 12 Patrons to the social terrace area and external gaming area are to be appropriately advised of the closing time and moved from this area in line with the approved hours of operation of the club.
- 13 Activities to the social terrace area and external gaming area are to be conducted and patrons are to be controlled at all times so that no interference occurs to surrounding properties and premises.
- 14 Club Management shall be available at a mutually convenient time, at the invitation of Penrith City Council and/or the NSW Police, to discuss and action agreed Community Safety, Security or other issues in conjunction with other local stakeholders in the area should the need arise.
- 15 The recommendations provided in the document 'Asbestos and Hazardous Materials Demolition and Refurbishment Survey, Emus Sports Club' prepared by Banksia EOHS Pty Limited (dated 4 May 2018) shall be implemented and incorporated into all demolition and construction works.
- 16 The following community safety and crime prevention through environmental design (CPTED) requirements are required to be implemented:

Lighting

- All outdoor/public spaces throughout the development, including the at-grade car park, must be lit to the minimum Australian Standard of AS 1158. Lighting must be consistent in order to reduce the contrast between shadows and illuminated areas and must be designed in accordance with AS 4282 - Control of the obtrusive effects of outdoor lighting.

Car Parking

- A security system must be installed on vehicle entry/exit points to the car park to minimise opportunities for unauthorised access.
- All areas of the car park must be well-lit, with consistent lighting to prevent shadowing or glare.

Building Security & Access Control

- Intercom, code or card locks or similar must be installed to all restricted areas.
- Australian Standard 220 – door and window locks must be installed.
- CCTV is to be provided to cover public space areas. Cameras must be of sufficient standard to be useful for police in the event of criminal investigations. Lighting must be provided to support cameras at night (alternatively infra-red cameras are recommended). Signage must be displayed to indicate that CCTV cameras are in use.
- A monitored alarm system must be installed and extended to cover the new and refurbished areas of the club.

Amenities

- Entrances to the amenities must be clear of screening to enable staff and patrons to observe people entering and exiting.

Graffiti/Vandalism

- Graffiti resistant coatings must be used to external surfaces where possible, including signage, furniture, retaining walls etc.
- Procedures must be in place to ensure the prompt removal and/or repair of graffiti or vandalism to the buildings, fencing, and common areas. This includes reporting incidents to police and/or relevant authorities.

Landscaping

- All vegetation must be regularly pruned to ensure that sight lines are maintained.

Demolition

- 17 All structures nominated for demolition on the stamped approved plans shall be demolished as part of the approved works.
- 18 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 of all excavated material from the development site shall be provided to the Principal Certifying Authority **prior to commencement of demolition**.

- 19 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, a portaloo with appropriate washing facilities shall be located on the site and 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 Environment Protection Authority to receive asbestos wastes.

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

Environmental Matters

- 22 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 for the development and Landcom's "Managing Urban Stormwater: Soils and Construction" 2004.
{Note: Visit www.urbangrowth.nsw.gov.au to obtain a copy of the publication.}

The approved sediment and erosion control measures are to be installed prior to and maintained throughout the construction phase of the development until the land, that was subject to the works, has been stabilised and grass cover established.

- 23 All land that has been disturbed by earthworks is to be spray grassed or similarly treated to establish a grass cover.
- 24 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.
- 25 No fill material shall be imported to the site until such time as a Validation Certificate (with a copy of any report forming the basis for the validation) for the fill material has been submitted to, considered and approved by Council. The Validation Certificate shall:
 - state the legal property description of the fill material source site,
 - be prepared by an appropriately qualified person (as defined in Penrith Development Control Plan 2014) 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.

{Note: Penrith Development Control Plan 2014 defines an appropriately qualified person as "a person who, in the opinion of Council, has a demonstrated experience, or access to experience in hydrology, environmental chemistry, soil science, eco-toxicology, sampling and analytical procedures, risk evaluation and remediation technologies. In addition, the person will be required to have appropriate professional indemnity and public

risk insurance.”}.

If the Principal Certifying Authority or Penrith City Council is not satisfied that suitable fill materials have been used on the site, further site investigations or remediation works may be requested. In these circumstances the works shall be carried out prior to any further approved works.

26 All construction 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.

27 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.

28 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.

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

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

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

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

BCA Issues

31 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.

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.

32 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

33 Details of any changes to the kitchen, bar, food preparation and storage areas must be submitted to Council for approval **prior to the issue of a Construction Certificate** and are to include:

- Location and details of all hand wash facilities in the kitchen, café and bar areas, including details of hands free tap operation;
- Location and details of all sinks in the kitchen, café and bar areas, including food preparation sinks, mop sinks, wash up sinks etc;
- Location and details of any glass washers or dishwashers;
- Location and details of cooking equipment;
- Location and details of all refrigerators, cool rooms and freezers;
- Location of all other fixtures and fittings throughout the kitchen, café and bar areas (e.g hot and cold food storage, preparation benches, staff lockers, storage shelves etc);
- Location of any floor wastes throughout the kitchen;
- Details of the surface finish of floors, walls, ceiling, shelves, benches etc;
- Details of proposed mechanical ventilation (note – mechanical ventilation is to be installed over dishwashers and glass washers, as well as cooking equipment).

Utility Services

34 A Section 73 Compliance Certificate under the Sydney Water Act 1994 shall be obtained from Sydney Water. The application must be made through an authorised Water Servicing Coordinator. Please refer to “Your Business” section of Sydney Water’s website at www.sydneywater.com.au then the “e-developer” icon, or telephone 13 20 92.

The Section 73 Compliance Certificate must be submitted to the Principal Certifying Authority **prior to the issue of an Occupation Certificate**.

35 **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

36 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 on-site, 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.

37 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 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.

38 Construction and demolition 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 that 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

- 39 All works required to effect the consented development shall be undertaken at no cost to Penrith City Council.
- 40 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 commencement of any works on-site or prior to the issue of any Construction Certificate, whichever occurs first. 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.

- 41 Stormwater drainage from the site shall be discharged to the existing site drainage system.

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

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

- 42 All car parking and manoeuvring must be in accordance with AS 2890.1, AS 2890.2, AS 2890.3, AS 2890.5, AS 2890.6 and Penrith Development Control Plan 2014.

Landscaping

- 43 All trees that are required to be retained as part of the development are to be protected in accordance with the minimum tree protection standards prescribed in Penrith Development Control Plan 2014.
- 44 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 State Environmental Planning Policy (Vegetation in Non-Rural Areas 2017).
- 45 Existing landscaping that is not impacted by the approved development is to be retained and maintained at all times.

Certification

46 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 6.6 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.

47 An Occupation Certificate is to be obtained from the Principal Certifying Authority on completion of all works and prior to the 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:	Jake Bentley
Signature:	

For the Development Services Manager