

# PENRITH CITY COUNCIL

## NOTICE OF DETERMINATION

### DESCRIPTION OF DEVELOPMENT

Application number:	DA14/1086
Description of development:	Construction of an Aerial Rope Recreation Facility Including Associated Fencing, Amenities Kiosk and Modifications to the Existing Go Bananas Facility
Classification of development:	Class 9b , Class 10a , Class 10b

### DETAILS OF THE LAND TO BE DEVELOPED

Legal description:	Lot 11 DP 1192443
Property address:	Boronia Road, NORTH ST MARYS NSW 2760

### DETAILS OF THE APPLICANT

Name & Address:	Family Entertainment Centres (Aust) Pty Ltd C/- Urbis GPO Box 5278 SYDNEY NSW 2001
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### 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	31 March 2015
Date the consent expires	31 March 2017
Date of this decision	24 March 2015

## POINT OF CONTACT

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

Assessing Officer:	Mahbub Alam
Contact telephone number:	(02) 4732 7693

## NOTES

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### **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

Drawing Title	Drawing No.	Prepared By	Dated
Site Plan, Ground Level Plan and Part Roof Plan	DA101 (Issue B)	Curtin Bathgate & Somers Pty. Limited	18.02.15
Elevations and Sections	DA102 (Issue A)	Curtin Bathgate & Somers Pty. Limited	27.08.14
Accessibility Mark Up Plan	Rev 3	Curtin Bathgate & Somers Pty. Limited	9/3/15
Sample Board	SB AAP 003	Touch Cloud Global Pty Ltd	August 2014
Schedule of Materials and Finishes	SMF AAP 001	Touch Cloud Global Pty Ltd	August 2014
Access Upgrade Strategy Report	P214_266-4 (Access) QT	Design Confidence	3 November 2014
Plan of Management	-	Touch Cloud Global Pty Ltd	-
AAP Safety Statement	-	Touch Cloud Global Pty Ltd	-
Waste Management Plan	-	Lei Chen	10/03/15

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

- 2 The development shall not be used or occupied until an Occupation Certificate has been issued.**
- 3 A separate development application for the erection of a sign or advertising structure, other than an advertisement listed as exempt development, is to be submitted to Penrith City Council, complying with the requirements of Penrith Development Control Plan-Advertising Signs.
- 4 The operating hours are from 9am to 8pm Monday to Sunday in Daylight Savings Time (First Sunday in October to First Saturday in April) and 9am to 6pm Monday to Sunday in Non-Daylight Savings Time (First Sunday in April to First Saturday in October). Delivery and service vehicles generated by the development are limited to daylight hours.
- 5 All materials and goods associated with the use shall be contained within the building at all times.

- 6 Exterior lighting shall be located and directed in such a manner so as not to create a nuisance to surrounding land uses. 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 design recommendations of the Access Upgrade Strategy Report (Reference: P214\_266-4, Access QT) dated 3 November 2014 prepared by Design Confidence shall be incorporated into the **Construction Certificate** plans and the works shall be certified accordingly by a suitably qualified access consultant **prior to the issue of an Occupation Certificate**:
- 10 The recommendations contained in the Plan of Management Report prepared by Touch Cloud Global Pty Ltd shall be implemented.
- 11 The recommendations contained in the AAP Safety Statement prepared by Touch Cloud Global Pty Ltd shall be implemented.

12 **Water Sensitive Urban Design (WSUD)**

Prior to issue of the Construction Certificate the following information shall be submitted and approved by Penrith City Council.

**Music Modelling**

a) Stormwater quantity and quality modelling shall be undertaken applying the Model for Urban Stormwater Improvement and Conceptualisation (MUSIC) to inform development of a stormwater treatment system and WSUD Strategy for the development site. The design must meet the following environmental pollutant retention criteria:

-90% Gross Pollutants

-85% Suspended solids

-60% Phosphorus

-45% Nitrogen, and

-Requirements to meet water conservation and flow management targets (refer to WSUD Policy)

b) The MUSIC model is to include a report which clearly identifies catchment breakup, splitting of surface types and all other assumptions that have been made in the model. This must include detail down to the sub-catchment level. Electronic copies of the modelling are also to be submitted to Council for review and approval.

c) Modelling parameters for the determination of the size and configuration of WSUD elements must be in accordance with MUSIC Modelling Guidelines for New South Wales (eWater User Guide which is provided with the MUSIC Software (2011) and with the parameters developed for use in Penrith. Penrith Council has developed a range of parameters to be used in the Stormwater modelling which is available in Council's WSUD Technical Guidelines (available [www.penrithcity.nsw.gov.au](http://www.penrithcity.nsw.gov.au)).

It is preferable that MUSIClink is utilised which is available in the latest version of MUSIC as it allows the model to be prepared using Council's required parameters.

### **Concept Designs / WSUD Strategy and Operation and Maintenance manual**

A WSUD Strategy shall be submitted which includes information on the following:

- WSUD Principles, Objectives and Targets
- Site analysis which identifies any possible constraints for the implementation of WSUD
- Details in the proposed WSUD measures including concept designs of the proposed measures.
- Details of proposed GPTs should also be included to ensure that the proposed devices are modelled appropriately in MUSIC and are suitable for use in the Penrith LGA.

A Draft Operation and Maintenance manual is also be provided for the proposed stormwater treatment measures. The manual is to include details on the cleaning / maintenance requirements as well as provide estimation on the annual and lifecycle costs associated with the proposed treatment measures.

The approved WSUD strategy plans and operational maintenance manual is to be completed with as part of the development.

## **Demolition**

- 13 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**.

- 14 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 Environmental Protection Authority to receive asbestos wastes.

- 15 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

- 16 Erosion and sediment control measures shall be installed **prior to the commencement of works on site** including approved clearing of site vegetation. The erosion and sediment control measures are to be maintained in accordance with the approved erosion and sediment control plan(s) for the development and the Department of Housing's "Managing Urban Stormwater: Soils and Construction" 2004.

(Note: To obtain a copy of the publication, you should contact Landcom on (02) 98418600).

- 17 Dust suppression techniques are to be employed during construction to reduce any potential nuisances to surrounding properties.
- 18 Mud and soil from vehicular movements to and from the site must not be deposited on the road.
- 19 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.
- 20 Noise levels from the premises shall not exceed the relevant noise criteria detailed in the Noise Emission Assessment prepared by Acoustic Logic dated 12 August 2014. The provisions of the Protection of the Environment Operations Act 1997 apply to the development, in terms of regulating offensive noise.
- 21 Music must not exceed 75dB(A) in the outdoor aerial park.
- 22 The maximum number of patrons occupying the facility shall not exceed 150 at any one time.

## BCA Issues

- 23 Access for persons with disabilities is 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.

- 24 A fire safety list of essential fire or other safety measures shall be submitted to Penrith City Council prior to the issue of the Construction Certificate. The fire safety list shall specify all measures (both current and proposed) that are required for the building so as to ensure the safety of persons in the building in the event of fire. The fire safety list must distinguish between:
- the measures that are currently implemented in the building premises,
  - and the measures that are to be proposed to be implemented in the building premises, and must specify the minimum standard of performance for each measure.
- 25 The owner of a building, to which an essential fire safety measure is applicable, shall provide Penrith City Council with an annual fire safety statement for the building. The annual fire safety statement for a building must:
- (a) deal with each essential fire safety measure in the building premises, and
- (b) be given:
- within 12 months after the last such statement was given, or
  - if no such statement has previously been given, within 12 months after a final fire safety certificate was first issued for the building.
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- As soon as practicable after the annual fire safety statement is issued, the owner of the building to which the statement relates:
- must also provide a copy of the statement (together with a copy of the current fire safety schedule) to the Commissioner of New South Wales Fire Brigades, and
  - prominently display a copy of the statement (together with a copy of the current fire safety schedule) in the building.
- 26 All aspects of the building design shall comply with the applicable performance requirements of the Building Code of Australia so as to achieve and maintain acceptable standards of structural sufficiency, safety (including fire safety), health and amenity for the on-going benefit of the community. Compliance with the performance requirements can only be achieved by:
- (a) complying with the deemed to satisfy provisions, or
- (b) formulating an alternative solution which:
- complies with the performance requirements, or
  - is shown to be at least equivalent to the deemed to satisfy provision, or
- (c) a combination of (a) and (b).

It is the owner's responsibility to place on display, in a prominent position within the building at all times, a copy of the latest fire safety schedule and fire safety certificate/ statement for the building.

## Utility Services

- 27 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](http://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.



28 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**

29 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.

30 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.

31 A completed waste management plan shall be submitted to Penrith City Council for consideration and approval. Council must approve the plan before a Construction Certificate be issued for the approved development.

The waste management plan shall consider the construction and operational phases of the development and be prepared in accordance with the Waste Planning Development Control Plan (2004). The plan shall address all waste materials likely to result from the proposed development, with details of the estimated waste volumes, onsite storage and management, proposed re-use of materials, designated waste contractors, recycling outlet and / or landfill site.

The approved waste management plan must be implemented on-site and adhered to throughout all stages of the development, with supporting documentation / receipts retained in order to verify the recycling and disposal of materials in accordance with the approved plan.

32 Detailed engineering plans and specifications relating to the work shall be submitted for consideration and approval prior to the issue of a Construction Certificate.

33 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

34 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.

35 **Prior to the issue of a Construction Certificate**, the Certifying Authority shall ensure that vehicular access, circulation, manoeuvring, pedestrian and parking areas associated with the subject development are in accordance with AS 2890.1, AS2890.2, AS2890.6 and Penrith City Council's Development Control Plan.

## Landscaping

36 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.

37 Existing landscaping is to be retained and maintained at all times.

## Certification

- 38 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:	Mahbub Alam
Signature:	

For the Development Services Manager