

PENRITH CITY COUNCIL

NOTICE OF DETERMINATION

DESCRIPTION OF DEVELOPMENT

Application number:	DA14/1554
Description of development:	Site Remediation Works, Replacement of Existing Underground Fuel Storage Tanks & Fuel Dispensers & Associated Works
Classification of development:	Class 10a

DETAILS OF THE LAND TO BE DEVELOPED

Legal description:	Lot 4021 DP 851358
Property address:	4 Endeavour Avenue, ST CLAIR NSW 2759

DETAILS OF THE APPLICANT

Name & Address:	Milestone (Aust) Pty Limited PO Box 288 LEICHHARDT NSW 2040
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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	22 May 2015
Date the consent expires	22 May 2017
Date of this decision	17 March 2015

POINT OF CONTACT

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

Assessing Officer:	Mathew Rawson
Contact telephone number:	(02) 4732 7522

NOTES

Reasons

The conditions in the attached schedule have been imposed in accordance with Section 80A of the Environmental Planning and Assessment Act 1979 as amended.

Conditions

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

Certification and advisory notes

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

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

Review of determination

The applicant may request Council to review its determination pursuant to Section 82A of the Environmental Planning and Assessment Act 1979 within 6 months of receiving this Notice of Determination.

You cannot make this request if the development is Designated Development, Integrated Development or State Significant development or if the application was decided by a Joint Regional Planning Panel.

Appeals in the Land and Environment Court

The applicant can appeal against this decision in the Land and Environment Court within six (6) months of receiving this Notice of Determination.

You cannot appeal if a Commission of Inquiry was held for the subject development application, or if the development is a State Significant Development.

An appeal to the Land and Environment Court is made by lodging an application to the Court in accordance with the Rules of the Court.

Designated development

If the application was for designated development and a written objection was made in respect to the application, the objector can appeal against this decision to the Land and Environment Court within 28 days after the date of this notice. The objector cannot appeal if a Commission of Inquiry was held.

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

Joint Regional Planning Panels

If the application was decided by a Joint Regional Planning Panel, please refer to Section 23H of the Environmental Planning and Assessment Act, 1979 (as amended) for any further regulations.

ATTACHMENT 1: CONDITIONS OF CONSENT

General

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

- Site Analysis and Development Plans prepared by Hazkem, including:

- Drawing List, Drawing No. HAZ -1905 dated 7 November 2014;
- General Notes, Drawing No. HAZ-1905-S01, Revision 0 dated 7 November 2014;
- Existing Conditions Plan, Drawing No. HAZ-1905-A01, Revision 1 dated 27 November 2014;
- Demolition Plan, Drawing No. HAZ-1905-A02, Revision 0 dated 7 November 2014;
- Proposed Site Plan, Drawing No. HAZ -1905-A03, Revision 2 dated 27 November 2014;
- Tanker Path Layout, Drawing No. HAZ-1905-A04, Revision 2 dated 27 November 2014;
- Erosion and Sediment Control Plan, Drawing No. HAZ-1905-A05, Revision 2 dated 27 November 2014;
- LPG System Layout, Drawing No. HAZ-1905-G01, Revision 2 dated 27 November 2014;
- Population and Exclusion Zones, Drawing No. HAZ -1905-G02, Revision 1 dated 19 November 2014;
- Fuel System Layout, Drawing No. HAZ-1905-T01, Revision 2 dated 27 November 2014;
- Electrical Conduit Layout, Drawing No. HAZ-1905-E01, Revision 2 dated 27 November 2014;
- Forecourt Drainage Layout, Drawing No. HAZ-1905-E02, Revision 1 dated 19 November 2014;
- Concrete Replacement Plan, Drawing No. HAZ-1905-C01, Revision 2 dated 27 November 2014; and
- Hazardous Area Layout, Drawing No. HAZ-1905-HZ01, Revision 2 dated 27 November 2014.

- Waste Management Plan for Construction prepared by Milestone dated November 2014.

2 The works must be carried out in accordance with the requirements of the Building Code of Australia.

3 All vehicle manoeuvring, loading, unloading and parking associated with the subject development must be entirely within the subject site's boundaries.

4 The mitigation measures included in the document titled "SEPP 33 - Risk Screening Document and Preliminary Hazard Analysis: Proposed Tank Replacement - 7 Eleven Stores Pty Ltd, 4 Endeavour Avenue, St Clair NSW" prepared by Hazkem Pty Ltd and dated November 2014 are to be implemented and adhered to.

Demolition

5 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**.

- 6 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.

Environmental Matters

- 7 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.

- 8 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.

- 9 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.

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.

- 10 The following details are to be submitted to and approved by the PCA prior to the commencement of works:
- The proposed fuel bowser/s shall be covered with a canopy. All uncontaminated stormwater from the canopy and other roofed areas shall be directed away from the forecourt area under the canopy.
 - The covered fuel bowser/s area shall be protected from the entry of external surface waters at the canopy line by either a minimum 2% change in grade, or a combination of a minimum 2% grade changes and a grated drainage system.
 - Tanker delivery facilities shall be provided with a spillage collection device, which will collect any spilt fuel.

- 11 All wastes collected within the canopy of the fuel bowsers shall be directed to the sewer after being treated in accordance with the requirements of Sydney Water.
- 12 Inlets to underground storage tanks are to be located so as to ensure that vehicles discharging fuel are contained within the boundaries of the site.
- 13 Prior to the commencement of works, details of any pre-treatment facilities as required by Sydney Water and, if required a Section 73 Certificate issued by Sydney Water for the said development, are to be submitted to the Certifying Authority.
- 14 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.

- 15 The stormwater drainage system shall not be altered or new lines directed into the system without the prior approval of Penrith City Council.
- 16 No fill material shall be imported to the site until such time as a Validation Certificate (with a copy of any report forming the basis for the validation) for the fill material has been submitted to Council. The Validation Certificate shall:
 - state the legal property description of the fill material source site,
 - be prepared by an appropriately qualified person (as defined in Penrith Contaminated Land Development Control Plan) with consideration of all relevant guidelines (e.g. EPA, ANZECC, NH&MRC), standards, planning instruments and legislation,
 - clearly indicate the legal property description of the fill material source site,
 - provide details of the volume of fill material to be used in the filling operations,
 - provide a classification of the fill material to be imported to the site in accordance with the Environment Protection Authority's "Environmental Guidelines: Assessment, Classification & Management of Non-Liquid Wastes" 1997, and
 - (based on the fill classification) determine whether the fill material is suitable for its intended purpose and land use and whether the fill material will or will not pose an unacceptable risk to human health or the environment.

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

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

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

Notice of Commencement.

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

{Note: Penrith Contaminated Land Development Control Plan defines an appropriately qualified person as “a person who, in the opinion of Council, has a demonstrated experience, or access to experience in hydrology, environmental chemistry, soils 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.”}

- 17 Dust suppression techniques are to be employed during all works 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 The removal of the underground petroleum storage system is to be undertaken in accordance with the relevant legislation, guideline documents, technical notes and Australian Standards, including the *Protection of the Environment (Underground Petroleum Storage Systems) Regulation 2014*, the *Guidelines for implementing the Protection of the Environment (Underground Petroleum Storage Systems) Regulation 2008* and the *UPSS Technical Note: Decommissioning, Abandonment and Removal of UPSS*.
- 20 The decommissioned underground petroleum storage tanks are to be disposed of to a lawful waste facility. Suitable documentation is to be provided to Council demonstrating the lawful disposal of the tanks with the submission of the Validation Report.
- 21 An appropriately qualified person/s (as defined in the Penrith City Council Contaminated Land Development Control Plan) shall:
 - a) Supervise the remediation works.
 - b) Supply Council with a copy of any relevant documentation for further testing carried out during the remediation works.
 - c) Address off site impacts and proposed management strategies where relevant.
 - d) After completion of works Certify by way of a Compliance Certificate or other written documentation that remediation works have been carried out in accordance with all conditions of this consent and that the site will not pose an unacceptable risk to human health or the environment (this information can be included in the Validation Report). A copy of the Compliance Certificate or other written documentation is to be submitted to the Principal Certifying Authority (PCA) and Penrith City Council if Council is not the PCA.

The contact details of any appropriately qualified person/s engaged for the works shall be provided **prior to commencement**.

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

- 22 Site remediation works shall be carried out in accordance with the approved “Remediation Action Plan for UPSS Replacement: 7-Eleven St Clair Service Station, 4 Endeavour Avenue, St Clair, NSW” prepared by Parsons Brinckerhoff Australia Pty Limited and dated 17 November 2014 (Report Ref: 2201541B-CLM-RPT-1637) as well as Penrith Contaminated Land Development Control Plan, the ANZECC and NHMRC

Guidelines and applicable NSW Environment Protection Authority Guidelines.

On completion of the site remediation works, the following documentation is to be submitted to the Principal Certifying Authority and Penrith City Council, if Council is not the Principal Certifying Authority:

- Written notification that the site remediation works have been completed is to be submitted **within 30 days of the said works having been completed**.
- A Validation Report, prepared by an appropriately qualified person as defined in Penrith Contaminated Land Development Control Plan, is to be submitted **within 60 days of the said works having been completed**. The report shall certify that the remediation works have been carried out in accordance with the approved Remedial Action Plan, relevant NSW Environment Protection Authority requirements and Penrith Contaminated Land Development Control Plan.

23 No contaminated soil is to be retained on site.

24 The underground petroleum storage system (UPSS) (including new and existing storage tanks) cannot be commissioned until the following requirements have been met:

- The UPSS is to be appropriately designed, installed and commissioned by duly qualified persons in accordance with the UPSS Regulation.
- The UPSS is to have minimum mandatory pollution protection equipment installed, consistent with the Regulation, comprising non-corrodible secondary containment tanks and associated pipework and overfill protection devices.
- The UPSS is to have groundwater monitoring wells installed and tested in accordance with the Regulation.
- The UPSS is to have a certificate showing that an equipment integrity test (EIT) has been carried out in line with the written directions of duly qualified persons.

Documentation to certify that the above requirements have been met is to be submitted to Council accompanying the Validation Certificate.

25 The premises is to have an Environment Protection Plan (EPP) in place. The Plan is to incorporate procedures for loss monitoring and detection and incident management. The EPP is to comply with the NSW Department of Environment, Climate Change and Water's "Guidelines for Implementing the Protection of the Environment Operations (Underground Petroleum Storage System) Regulation 2008" (September 2009) and is to be submitted to Council accompanying the Validation Certificate. The EPP must be kept up-to-date and amended as necessary.

Where responsibility for the system changes, all records of the site must be transferred to the new person responsible within 30 days. Records of activities, incidents and modifications must be kept for at least seven years from their date of creation.

BCA Issues

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).

Construction

27 Stamped plans, specifications, a copy of the development consent 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 at the completion of the approved works.

28 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.

29 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

- 30 An Infrastructure Restoration Bond is to be lodged with Penrith City Council for development involving works around Council's Public Infrastructure Assets. The bond is to be lodged with Council prior to the commencement of works. The bond shall be determined accordance with Council's adopted Fees and Charges.

The bond is refundable once a final inspection has been carried out by Council's City Works Department and the works have been completed to Council's satisfaction. The bond may be used to repair or reinstate any damage that occurs to Council's Public Infrastructure Assets as a result of the development works.

Contact Council's City Works Department on 4732 7777 or visit Council's website to obtain the form and request for final inspection.

Landscaping

- 31 All site landscaping is to be re-instated in accordance with the stamped approved plans and Penrith Council's Landscape Development Control Plan prior to the submission of the Validation Certificate.

Landscaping shall be maintained:

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

Certification

- 32 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:	Mathew Rawson
Signature:	

For the Development Services Manager