

PENRITH CITY COUNCIL

NOTICE OF DETERMINATION

DESCRIPTION OF DEVELOPMENT

Application number:	DA16/0275
Description of development:	Replacement of Existing River Pontoon
Classification of development:	N/A

DETAILS OF THE LAND TO BE DEVELOPED

Legal description:	Lot 1 DP 566392
Property address:	1 Factory Road, REGENTVILLE NSW 2745

DETAILS OF THE APPLICANT

Name & Address:	Bennett Cruising Pty Ltd PO Box 674 EMU PLAINS NSW 2750
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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 July 2016
Date the consent expires	22 July 2018
Date of this decision	14 July 2016

POINT OF CONTACT

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

Assessing Officer:	Kathryn Saunders
Contact telephone number:	+612 4732 8567

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 This is a time limited consent. This condition limits the period during which the development may be carried out as follows:

(a) The approved use and installation of the pontoon as ancillary office, storage and mooring must cease on or before **22 July 2018** unless;

- (i) a new development application is approved by Penrith City Council to continue the use/operation; or
- (ii) an application under Section 96 of the *Environmental Planning and Assessment Act 1979* (the Act) is approved by Penrith City Council to continue the use/operation.

Note: This condition has been imposed to allow a review of the practical effect of this consent through the submission of a new development application or the further assessment of an application to amend or delete this condition under section 96 of the Act prior to this consent's expiration in accordance with this condition. It is recommended that a new application be lodged to modify or delete this condition a minimum of 3 months prior to the expiration date.

Note: The use and activities at the site, must be in conjunction and accordance with a valid lease agreement for the use of the slipway bay between the consent holder and Penrith City Council.

- 2 The development must be implemented substantially in accordance with the stamped approved pontoon layout submitted with 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.
- 3 Use of the new pontoon must not commence until such time as Council has inspected the vehicular access pathway from Tench Street South Reserve to the Slipway and has confirmed in writing that it is surfaced to a sufficient standard and to Council's satisfaction. Sufficient all weather access must be maintained at all times (by the consent holder) to the accessway such that vehicles do not cause environmental damage or track mud into the roadway or carpark.
- 4 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.
- 5 The mooring pontoon shall not be used under any circumstances for habitable purposes. No ticket sales or public boarding is to occur at the site which is approved for use of staff only.
- 6 No approval is granted for the erection of any signage, advertising or related structures, other than that which is required by legislation or for safety purposes.
- 7 Deliveries and servicing of the pontoon or vessels is limited to between the hours of 7:00am to 6:00pm seven days.
- 8 No retail sale of goods shall be conducted from the mooring pontoon.
- 9 Any exterior lighting shall be located and directed in such a manner so as not to create a nuisance to surrounding waterway and 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).

- 10 Grey water and sewage must be disposed of in accordance with the *Protection of the Environment Operations Act 1997* (POEO Act) and the *Marine Pollution Regulation 2006*.
- 11 In addition to operating in compliance with these conditions of consent, access, management and use of the site and the slipway bay is to be in accordance with any deed, lease or other formal agreement in place between the operator and Penrith City Council.
- 12 The use of the pontoon and activities within the slipway bay are to be managed in accordance with the applicable provisions within the NSW government's *Best Management Practice for Marinas and Slipways* document available via the NSW Environmental Protection Authority (EPA) website.
- 13 Mud and soil from vehicular movements to and from the site must not be deposited on the road.

Environmental Matters

- 14 All waste materials stored on-site are to be contained within a designated area, in secured bins to ensure that no waste materials are allowed to enter the waterway or neighbouring properties. The designated waste storage area shall provide at least two bins so as to allow for the separation of recyclable wastes and are to be fully enclosed and secured when the site is unattended. All waste is to be regularly removed from the site and disposed of in an appropriate manner.

No approval is granted for the storage of batteries, oils, chemicals or fuel at the site.

- 15 The operating noise level of plant and equipment in relation to the pontoon and the use of the slipway (e.g. maintenance) shall not exceed 5dB(A) above the background noise level when measured at neighbouring premises. The provisions of the *Protection of the Environment Operations Act 1997* apply to the development, in terms of regulating offensive noise.
- 16 The following plans (and any updated versions) detailing spill prevention, contingency and emergency clean-up procedures for the development shall be followed and implemented in the event of a spill or emergency:
 - Refueling of Vessels v1.0 dated 11/10/15, Approved by Chris Bennett
 - Disposal of Sewerage, Garbage, Waste Oil & Grey Water v1.0 dated 11/10/15 approved by Chris Bennett
 - Emergency Response Procedure for Hazardous & Non-Hazardous Spills v1.0, dated 11/10/15, approved by Chris Bennett

Should they be updated, the plans should be submitted to Council for approval. Copies of these plans shall be made available to Council upon request.

- 17 A plan detailing spill prevention, contingency and emergency clean-up procedures and contact numbers as well as a marine/riverine spill kit of an appropriate capacity (minimum 120L) shall be kept on the mooring

pontoon in a readily accessible location. The spill kit shall contain floating (interlocking) booms for perimeter containment, adsorbent mats, waste disposal bags with ties and easy to read step-by-step response instructions fixed to the spill kit lid. The procedures plan shall be implemented in the event of a spill or emergency and appropriate agency notified if required.

- 18 All maintenance works and areas where spillages are likely to occur shall be bunded during these works and/or appropriate drop sheets provided.
- 19 No waste water is to be disposed of into the waterway or surrounds. Waste contractors are to hold the relevant licenses issued by the NSW Environment Protection Authority.
- 20 Waste is to be regularly removed from the vessels and mooring pontoon for disposal or recycling by private arrangement. All waste is to be stored on the mooring pontoon and/or vessels in a secure location and regularly removed by the operators. No waste materials are to be disposed of in Council's public waste bins.
- 21 No mechanical work including the painting of vessels and preparation of vessels for painting such as rubbing back and washing shall be carried out unless bunding and drop sheets are in place to prevent contamination or run-off to the river.

Health Matters and OSSM installations

- 22 Any food storage and/or preparation areas shall be finished in accordance with the requirements of the Australian Institute of Environmental Health "National Code for the Construction and Fitout of Food Premises" 1993, the *Food Act 2003* and *Food Regulation 2004*.
- 23 The construction, fit out and finishes of the food premises must comply with Standard 3.2.3 of the Australian and New Zealand Food Standards Code, and AS4674-2004 *Design, Construction and Fitout of Food Premises*.
- 24 Prior to the operation of the pontoon a food safety program is to be completed and submitted to Council for review. The food safety program shall be consistent with the requirements of division one of standard 3.2.2. and include, as a minimum, a description of food practices and procedures such as food delivery, handling, storage, packaging, pest control, cleaning and sanitising, temperature control, and waste management related to the operation on both pontoon and related vessels.
- 25 Potable water is to be available at all times on the pontoon for drinking, hand washing, domestic cleaning and other such activities.
- 26 Detailed layout plans of the pontoon including food storage areas, shelving, coolrooms, storage rooms, waste management areas and freezers shall be supplied to Council prior to fit-out works and the commencement of the use of the mooring pontoon. The plan should demonstrate compliance with Australia New Zealand Food Standards Code 3.2.3 - *Food Premises and Equipment* and Australian Standard 4674 -2004 *Design, Construction and Fit-out of Food Premises*.

The plan should also include details of any kitchen areas, toilets and hand basin facilities within the pontoon.

- 27 The applicant must demonstrate that the water supply is potable and fit for purpose and the supply and storage of water is compliant with the requirements of the Public Health Act 2010 and Food Act 2003.
- 28 The slipway bay, pontoon and immediate area are to be kept clean, tidy and secure at all times. The

existing redundant pontoon is to be removed from the site.

Operation of OSSM

- 29 The vessels and pontoon shall have the waste water tanks emptied on a weekly basis, unless otherwise agreed by Penrith City Council.

SIGNATURE

Name:	Kathryn Saunders
Signature:	

For the Development Services Manager