

PENRITH CITY COUNCIL

NOTICE OF DETERMINATION

DESCRIPTION OF DEVELOPMENT

Application number:	DA21/0089
Description of development:	Change of Use to a Long Day Care Centre for 118 Children Aged 0 – 5 Years and Continued Operation of Before and After School Care including Vacation Care for 87 School Aged Children
Classification of development:	Class 9b

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:	Mesabo Pty Limited Go Bananas St Marys Rugby League Club Boronia Road NORTH ST MARYS NSW 2760
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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	6 July 2021
Date the consent expires	6 July 2026
Date of this decision	5 July 2021

POINT OF CONTACT

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

Assessing Officer:	Pukar Pradhan
Contact telephone number:	+612 4732 7726

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 twelve 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 twelve 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 56 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 56 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.

OTHER APPROVALS

APPROVAL BODIES(Delete this section if not applicable)

APPROVAL BODY NAME	DATE OF GENERAL TERMS OF APPROVAL	REF. NO.	NO. OF PAGES	RELEVANT LEGISLATION
New South Wales Rural Fire Service (NSW RFS)	1 April 2021	DA20210329001189-Original-1	2	Section 100B of the Rural Fires Act 1997

The approval bodies listed above have provided General Terms of Approval for this development in accordance with the relevant legislation. A copy of these General Terms of Approval is provided with this development consent notice. Compliance with the relevant State Government departments' General Terms of Approval are required in conjunction with the following conditions listed in Attachment 1: Conditions of Consent issued by Penrith City Council.

ATTACHMENT 1: CONDITIONS OF CONSENT

General

- 1 The development must be implemented in accordance with the following documents and (amended) drawings listed below, and as stamped approved by Council, the application form, and any supporting information received with the application, except as may be amended by the following conditions:

Description	Drawing No. (Revision)	Prepared by	Date
Site/Roof Plan and Locality Plan	DA - 01 (D)	Robertson + Marks Architect	11/03/2021
Ground Floor Plan	DA - 02 (C)	Robertson + Marks Architect	11/03/2021
North and East Elevations	DA - 03 (C)	Robertson + Marks Architect	11/03/2021
Sections	DA - 04 (C)	Robertson + Marks Architect	11/03/2021
External Finishes	DA - 05 (C)	Robertson + Marks Architect	11/03/2021
Car Parking Layout	-	-	-

- 2 This approval is for a maximum capacity of 205 children. The maximum number of children permitted to attend the Long Day Care and Before and After School Care, including Vacation Care, is set out below:

- Long Day Care (LDC) – 118 Children
- Before and After School Care, including Vacation Care (OSHC) – 87 Children

- 3 The development must comply, at all times, with the maximum children numbers for each room and outdoor areas, as follows;

Room	Maximum Children Numbers
0-2 Room 1	17
0-2 Room 2	18
2-3 Room 1	16
2-3 Room 2	16
3-5 Room 1	20
3-5 Room 2	20
LDC Library	11
Outdoor Play 1	
LDC 826m ²	118
OSHC 609m ²	87
Outdoor Play 2	7

- 4 The approved operating hours of the development is as follows:

- Long Day Care Centre (LDC): 7am to 6pm, Monday to Friday,

- Before and After School Care Centre (OSHC): 7am to 9.30am & 3pm to 6pm, Monday to Friday,
- Vacation Care: from 7am to 6pm, Monday to Friday during school holiday periods and pupil free days only,
- Children's Entertainment Facility: 7am to 6pm, Saturday & Sunday only.

The Long Day Care and Before and After School Care Centres are not to operate on weekends or public holidays.

Any use outside of these hours can only be by staff and tradespeople, involved in maintaining, cleaning or repairing the premises. Any personnel on site outside of the operating hours are not to generate noise which is considered to be a nuisance or is readily audible from neighbouring dwellings.

- 5 A copy of the General Terms of Approval, issued by the New South Wales Rural Fire Service (NSW RFS) under the section 100B of the Rural Fires Act 1997 dated 1 April 2021 (*reference DA20200417001341-CL55-1*) shall be submitted to the Principal Certifying Authority, **prior to occupation and commencement of the development**. A copy of the approval shall be submitted to Penrith City Council **prior to occupation and commencement of the development**, if Council is not the Principal Certifying Authority.
 - *The existing Bush Fire Emergency Management and Evacuation Plan must be updated in line with the proposed changes to the existing childcare facility, and be consistent with the NSW RFS document: A Guide to Developing a Bush Fire Emergency Management and Evacuation Plan. The Bush Fire Emergency Management and Evacuation Plan should include planning for the early relocation of occupants.*
 - *Note: A copy of the Bush Fire Emergency Management and Evacuation Plan should be provided to the Local Emergency Management Committee for its information **prior to occupation and commencement of the development**.*
- 6 **The development shall not be used or occupied until an Occupation Certificate has been issued.**
- 7 The business is to be registered with Penrith City Council by completing the "Registration of Premises" form. This form is to be returned to Council **prior to the commencement of the business**.
- 8 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.
- 9 The finishes of all structures and buildings are to be maintained at all times and any graffiti or vandalism immediately removed/repaired.
- 10 The Children's Entertainment Facility shall only operate within the area of the premises marked as OSHC on the approved Floor Plan.
- 11 The development must operate within the management practices outlined in the Operational Management Plan (OMP) submitted with the development application. The OMP is permitted to be periodically reviewed and updated so as to improve management practices, but cannot be amended to remove practices already contained in the Plan if those amendments result in a watering down of responsibilities.

Penrith City Council is to be informed of any proposed changes to the OMP before they are endorsed and is to be given a minimum of 14 days from that notice being given in which to make comments to the proposed changes.

The OMP shall be updated prior to the commencement of the use to incorporate the requirements of this consent, including the approved operating hours and capacity restrictions.

- 12 The approved child care centre must be maintained in a manner that complies with the Education and Care Services National Regulations 2011.
- 13 **Prior to the installation** of any internal fencing which maybe erected within the outdoor play area to separate the Before and After Care (B&AC) and Long Day Care children (LDC), the area of each spaces shall be of minimum 609m² for B&AC and 826m² for LDC.
- 14 Servicing the site, including all waste collection is to be carried out by a private contractor. **Prior to the commencement of the use**, the Certifying Authority is to ensure that evidence is provided to confirm that a contract has been entered into to collect waste and documentary evidence shall be provided to Council for record. Waste collection shall only take place within the approved operating hours for the premises.

Environmental Matters

- 15 The operating noise level of the development 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.
- 16 In the event of ongoing noise complaints relating to the development being received by Council, the owner and/or occupier of the development may be required by Council to obtain the services of a suitably qualified acoustic consultant to undertake a noise impact assessment on the development to address the concerns of the community.

The noise impact assessment report is to be prepared and provided to Council within 45 days of being requested. Any mitigation works are to be approved by Council and undertaken within 30 days from the date of notice from Council, unless otherwise specified.

- 17 A public contact number is to be displayed at the premises and this phone line must be operational during business hours. A complaint register is to be maintained and must include complaint details and any actions taken to address those complaints. A copy of the register is to be provided to Council upon request.

Engineering

- 18 **Prior to the commencement of the use**, the drop off and pick up and bus/van parking spaces for the facility are to be sign posted and installed to the satisfaction of the Principal Certifying Authority and documentary evidence of their installation shall be provided to Council for record.

19 No heavy vehicles (including mini buses) are permitted to perform reverse manoeuvres in the car park area.

20 **Prior to commencement of the use**, a Flood Risk Management & Evacuation Plan shall be prepared by a qualified consultant including, but not limited to the following components:

- Preparation for a flood emergency.
- Action plans in the likelihood/during a flood/after a flood.
- Emergency contact details.
- Flood Emergency Kit.
- Integration with local flood and catchment plans.
- South Creek/Local Overland Flow flooding evacuation route.
- Implementation, maintenance and review program.

The Flood Risk Management & Evacuation Plan shall be submitted to Council and shall be maintained and updated to meet contemporary standards as necessary for the life of the development.

Landscaping

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

Certification

22 An Occupation Certificate is to be obtained from the Principal Certifying Authority on completion of all works and prior to the occupation/use of the premises.

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:	Pukar Pradhan
Signature:	

For the Development Services Manager