

PENRITH CITY COUNCIL

NOTICE OF DETERMINATION

DESCRIPTION OF DEVELOPMENT

Application number:	DA15/0794
Description of development:	Use as Education Centre & Signage
Classification of development:	Class 1b

DETAILS OF THE LAND TO BE DEVELOPED

Legal description:	Lot 1 DP 164798 Lot 1 DP 252457
Property address:	134 - 138 Henry Street, PENRITH NSW 2750

DETAILS OF THE APPLICANT

Name & Address:	D Higinbotham 2/107 Macquarie Road SPRINGWOOD NSW 2777
-----------------	--

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	14 September 2015
Date the consent expires	14 September 2017
Date of this decision	10 September 2015

POINT OF CONTACT

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

Assessing Officer:	Clare Aslanis
Contact telephone number:	(02) 4732 8195

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 plans numbered Sheets 1-3 and dated 9 September 2015, as 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.
- 2 **The development shall not be used or occupied until an Occupation Certificate has been issued.**
- 3 Clients shall be arranged on an appointment only basis so that:
 - no more than 15 clients are being taught at any one time, and
 - no more than 5 staff are on the site at any one time.
- 4 The approved operating hours are from 8:30 am to 9 pm Mondays to Saturdays, and 9 am to 1 pm Sundays.
- 5 All materials and goods associated with the use shall be contained within the building at all times.
- 6 The finishes of all structures and buildings are to be maintained at all times and any graffiti or vandalism immediately removed/repaired.

BCA Issues

- 7 In accordance with the requirements of Clause 94 of the Environmental Planning and Assessment Regulation 2000, the following works shall be completed to ensure the fire safety of the premises:
 - a) Emergency and exit lighting is to be provided in accordance with Part E4 of the Building Code of Australia (BCA).
 - b) Hand railing and balustrades are to be provided in accordance with Clause D2.16 of the BCA.
 - c) All exit doors are to be provided with latching devices in accordance with D2.21 of the BCA.
 - d) Suitable portable fire extinguishers are to be installed in accordance with the BCA.

Upon completion suitable installation certificates are to be submitted to Council.

8 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.

9 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.

Construction

10 All 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.

Certification

11 An Occupation Certificate is to be obtained from the Principal Certifying Authority on completion of all works and prior to the operation of the commercial 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:	Clare Aslanis
Signature:	

For the Development Services Manager