

PENRITH CITY COUNCIL

NOTICE OF DETERMINATION

DESCRIPTION OF DEVELOPMENT

Application number:	DA19/0647
Description of development:	Modification application to amend DA04/1060 - changes to operating hours and to external storage conditions
Classification of development:	N/A

DETAILS OF THE LAND TO BE DEVELOPED

Legal description:	Lot 31 DP 1005063
Property address:	134 - 140 Old Bathurst Road, EMU PLAINS NSW 2750

DETAILS OF THE APPLICANT

Name & Address:	Cityscape Planning & Projects PO Box 127 GLENBROOK NSW 2773
-----------------	---

DECISION OF CONSENT AUTHORITY

In accordance with Sections 4.18(1) (a) and 4.55 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	2 August 2004
Date the consent expires	2 August 2006
Date of this decision	2 August 2004 as amended on 25 November 2019 under Section 4.55 of the Environmental Planning and Assessment Act.

POINT OF CONTACT

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

Assessing Officer:	Jake Bentley
Contact telephone number:	+612 4732 8087

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 six 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 six 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 28 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 28 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.

ATTACHMENT 1: CONDITIONS OF CONSENT

General

- 1 The development must be implemented substantially in accordance with the plans numbered 040032-S02D,S03D,S04D,S05D,S06D all by SBD, Drawing No's A101A,A102A,L101A by Foran Design and the ***Plan titled Existing Site Plan prepared by Foran Design, numbered SK101, revision 4 and dated 12/9/2019,*** and stamped approved by Council, 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.

{Note: Prescribed conditions under the Environmental Planning and Assessment Regulation 2000 as amended will apply to building and subdivision work commencing/approved on 1 July 2003.)

As amended on 25 November, 2019 under Section 4.55(1A) of the Environmental Planning and Assessment Act, 1979.

- 2 All construction works shall be carried out strictly in accordance with Penrith City Council's Engineering Works Development Control Plan and accompanying Guidelines for Engineering Works for Subdivisions and Developments Part 2-Construction.
- 3 The development shall not be occupied until an Occupation Certificate has been issued.
- 4 Truck movements are not permitted along Russell Street, Emu Plains before 7.00am or after 6.00pm.
- 5 Prior to the issue of the Occupation Certificate a copy of the approval/licence issued by Workcover is to be submitted to the Principal Certifying Authority (PCA) and Council (if it is to be nominated as the PCA).
- 6 Security of all dangerous goods shall be ensured at all times.
- 7 ***The operating hours are from 5.00am to 7.00pm Mondays to Fridays (with the exception of plastic moulding activities which can operate until 12am), 6.00am to 7.00pm Saturdays.***

As amended on 25 November, 2019 under Section 4.55(1A) of the Environmental Planning and Assessment Act. 1979.

- 8 ***The outdoor storage of goods shall:***

- ***Not interfere with required vehicle access/egress routes,***
- ***Not exceed 6m in height,***
- ***Be conducted in a safe manner to not cause a hazard on-site and to nearby properties, and***
- ***Be provided with suitable lighting if subject to night time activity.***

As amended on 25 November, 2019 under Section 4.55(1A) of the Environmental Planning and Assessment Act. 1979.

- 9 The finishes of all structures and buildings are to be maintained at all times and any graffiti or vandalism immediately removed/repaired.

Environmental Matters

- 10 Erosion and sediment control measures shall be installed prior to the commencement of works on site including approved clearing of site vegetation, and 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" 1998.

{Note: To obtain a copy of the publication, you should contact the Publications Officer, Housing Production Division, Department of Housing on (02) 9821 6092.}

The erosion and sediment control measures shall be certified (by way of a Compliance Certificate) as having been installed in accordance with the approved erosion and sediment control plan(s) for the development and "Managing Urban Stormwater: Soils and Construction" 1998. The Compliance Certificate shall be obtained and issued a minimum 2 days before works are to commence on site.

The approved sediment and erosion control measures are to be installed prior to and maintained throughout the construction phase of the development until the landscaping, driveway and on-site parking areas have been completed for the development. These measures shall ensure that the tracking of mud and soil deposits from the site does not occur during the construction of the development.

- 11 No fill material is to be imported to the site without the prior approval of Penrith City Council in accordance with Sydney Regional Environmental Plan No.20 (Hawkesbury-Nepean River) (No.2-1997). No recycling of material for use as fill material on the site shall be carried out without the prior approval of Council.
- 12 All waste materials stored on-site must be contained in 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(2) waste bays/bins so as to allow for the separation of wastes and are to be fully enclosed when the site is unattended.
- 13 All excavated material or waste generated as a result of the development that cannot be re-used or recycled shall be disposed of at a Council approved site or waste facility. Details of the proposed disposal location of all excavated material from the development site shall be provided to the Principal Certifying Authority prior to construction works commencing.
- 14 Noise levels from the premises shall not exceed the relevant noise criteria detailed in Acoustic Report prepared by PKA Acoustic Consulting. The recommendations provided in the above-mentioned acoustic report shall be implemented and incorporated into the design and construction of the development, and shall be shown on plans accompanying the Construction Certificate application. A certificate is to be obtained from a qualified acoustic consultant certifying that the building has been constructed to meet the noise criteria in accordance with the approved acoustic report. This certificate is to be submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

The provisions of the Protection of the Environment Operations Act 1997 apply to the development, in terms of regulating offensive noise.

- 15 The operating noise level of plant and equipment 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 A plan detailing the spills prevention, contingency and emergency clean-up procedures for the development

shall be submitted for approval prior to construction works commencing. The approved procedures plan shall be implemented in the event of a spill or emergency.

- 17 All works and storage areas where spillages are likely to occur shall be bunded. The size of the area to be bunded shall be calculated as being equal to 10% of the total volume of containers stored, or 110% of the largest container stored, whichever is the greater. All bunded areas shall be graded to a blind sump so as to facilitate emptying and cleaning. Details are to accompany the application for a Construction Certificate.
- 18 Offensive odours are not to be emitted from the premises. Vapours, fumes, gases or any other substance harmful to human health or the environment are not to be emitted from the premises.
- 19 Solid waste materials are to be disposed of at a lawful waste facility, or, if suitable recycled. Prior to removal for disposal or recycling, solid waste materials are to be stored in a designated area to the satisfaction of Council.
- 20 Only clean and unpolluted water shall be discharged to Penrith City Council's stormwater drainage system. Liquid wastes suitable for discharge to the sewer are to be discharged in accordance with the requirements of Sydney Water. If Sydney Water will not allow disposal to the sewer, a 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 licences issued by the Department of Environmental and Conservation.
- 21 The stormwater drainage system shall not be altered or new lines directed into the system without the prior approval of Penrith City Council.
- 22 Prior to the issue of a Construction Certificate, an Environmental Management Plan (EMP) for the site shall be submitted to Penrith City Council for consideration and approval. The EMP shall be prepared by suitably qualified consultants in consultation with Council and other relevant agencies, and may need to be amended to include the comments provided by Council and other agencies. The EMP is to:
 - * address all environmental aspects of the development's construction and operational phases, and
 - * recommend any systems/ controls to be implemented to minimise the potential for any adverse environmental impact(s), and
 - * incorporate a programme for ongoing monitoring and review to ensure that the EMP remains contemporary with relevant environmental standards.

The EMP should include but is not limited to the following:

- * soil and water management
- * dust suppression
- * litter control
- * noise control
- * waste management
- * dangerous/hazardous goods storage
- * emergency response and spill contingency.

Council will not withhold its consent to the Environmental Management Plan provided the above-mentioned matters are reasonably addressed.

- 23 All manufacture and assembly associated with the use shall be conducted within the confines of the building at all times.
- 24 Any liquid discharge from the air handling system, resulting from operation, maintenance and/or cleaning operations, are to be disposed of into the sewer system. Discharge into the stormwater disposal system is not permitted.
- 25 All gases, odours, fumes, steam, moisture and particulate matter generated by the use of the premises shall be collected into a one-stack system with a suitable filter system for discharge to the atmosphere. The quality of the discharges from the stack system shall comply with the requirements of the Protection of the Environment Operations Act 1997.

BCA Issues

- 26 Access and sanitary facilities for persons with disabilities are 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.
- 27 A fire safety list of essential fire or other safety measures shall be submitted 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.
- 28 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.

29 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

30 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.

Signage but not more than 2 signs are to contain the following details:

* 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.

The signage but no more than 2 signs stating the above details is 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.

31 The following matters are ancillary aspects of the development under Section 80A (2) of the Environmental Planning and Assessment Act, 1979. Appeal provisions will apply to the submission requirements regarding ancillary aspects of the development (see Sections 80A(3) and 97 of the Act).

(a) A soil erosion and sediment control plan, prepared in accordance with the Department of Housing's "Managing Urban Stormwater: Soils and Construction" 1998 shall be submitted for consideration and approval with the Construction Certificate application. {Note: To obtain a copy of the publication, you should contact the Publications Officer, Housing Production Division, Department of Housing on (02) 9821 6092.}

32 A completed waste management plan shall be submitted to Penrith City Council for consideration and approval. Council must approve the plan before issue of a Construction Certificate.

33 Subdivision or construction works that are carried out in the open 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 Engineering design drawings are to be prepared strictly in accordance with Penrith City Council's Engineering Works Development Control Plan and the Guidelines for Engineering Works for Subdivisions and Developments Part 1—Design.

35 After completion of all the engineering works, Work-as-Executed Drawings and Certificates are to be submitted to the Principal Certifying Authority in accordance with Penrith City Council's Engineering Works Development Control Plan and Guidelines for Engineering Works for Subdivisions and Developments - Part 1 Design and Part 2 Construction. A copy of Work-as-Executed Drawings and Certificates are also to be submitted with Penrith City Council, if Council is not the Principal Certifying Authority.

36 A drainage design plan, detailing the proposed method of stormwater drainage disposal by gravity to Penrith City Council's drainage system, is to be submitted and approved prior to the issue of the Construction Certificate.

37 All electrical services associated with the proposed building works shall be adequately flood proofed in accordance with Penrith City Council's Interim Policy for the Development of Flood Liable Land. Flood sensitive equipment (including electric motors and switches) shall also be located 0.5metres above the standard flood level of RL24.1m AHD.

38 All land required for vehicular access and parking is to be concreted or sealed with a bituminous pavement.

39 On completion of the Water Quality Control System, Works-As-Executed (WAE) plans, prepared by a registered surveyor or the design engineer, are to be submitted to the Principal Certifying Authority. If Penrith City Council is not the Principal Certifying Authority, a copy of the WAE plans is to be submitted to Council. The WAE plans are to be certified by the designer of the system and are to clearly make reference to:

- * the works having been constructed in accordance with the approved plans, and
- * any variation to the approved design and required remedial works, and
- * the anticipated performance of the system with regard to the design intent.

Landscaping

40 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.

Certification

41 Prior to the commencement of any earthworks or construction/demolition 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.

{Note: As from 1 July 2003, if Penrith City Council is to be appointed as the Principal Certifying Authority (PCA) for the development, then the proponent is to formally appoint Council as the PCA. You should contact Council's Building Approvals and Environment Protection Department on (02) 47327991 to commence the procedures for appointing Council as the PCA.}

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.

The following documentation shall accompany the "Notice of Commencement" to be submitted to Penrith City Council:

- * A Compliance Certificate certifying that sediment and erosion control measures has been installed in accordance with condition 10.

42 An Occupation Certificate is to be obtained from the Principal Certifying Authority on completion of all works and prior to the occupation of the building/tenancy and commencement of the approved use. The Occupation Certificate shall not be issued if any conditions of this consent, but not the conditions relating to the operation of the development, are outstanding, and the development does not comply with the provisions of the Environmental Planning and Assessment Act and Regulation.

Before the Occupation Certificate can be issued for the development, Fire Safety Certificates issued for the building are to be submitted to Penrith City Council and the New South Wales Fire Brigades. In addition, a Compliance Certificate or other documentation deemed suitable to the Principal Certifying Authority (PCA) is to be submitted to the PCA, detailing compliance with:

(a) The provisions of AS1428.1 and that any person with disabilities can access the building, including its perimeter. In this regard, the Compliance Certificate (or other documentation) is to be prepared by an accredited access consultant.

(b) Condition 13 whereupon a qualified acoustic consultant has certified that the development has been constructed in accordance with the approved acoustic report.

A copy of the Occupation Certificate and all necessary documentation supporting the issue of that Certificate including the abovementioned documents shall be submitted to Penrith City Council, if Council is not the Principal Certifying Authority.

43 Prior to the issue of an Occupation Certificate a maintenance manual for the Water Quality System shall be submitted too, and the details approved by Penrith City Council.

44 All car parking and access must comply with AS2890. Details must be submitted with the Construction Certificate application.

45 ***In the event Council receives noise complaints associated with the business activities, Council may require the submission of an acoustic assessment prepared by an environmental consultant to assess the noise generating activities and make suitable recommendations to mitigate any offensive noise.***

Added on 25 November, 2019 under Section 4.55(1A) of the Environmental Planning and Assessment Act. 1979.

SIGNATURE

Name:	Jake Bentley
Signature:	

For the Development Services Manager