

# PENRITH CITY COUNCIL

## MAJOR ASSESSMENT REPORT

<b>Application number:</b>	DA16/0639
<b>Proposed development:</b>	Paint Ball Facility with Associated Playing Fields, Structures and Upgrade of an Existing Car Parking Area
<b>Property address:</b>	308 - 332 Londonderry Road, LONDONDERRY NSW 2753
<b>Property description:</b>	Lot 1 DP 1084891
<b>Date received:</b>	30 June 2016
<b>Assessing officer</b>	Mahbub Alam
<b>Zoning:</b>	RU4 Primary Production Small Lots - LEP 2010
<b>Class of building:</b>	Class 5 , Class 9b , Class 10a
<b>Recommendations:</b>	Deferred Commencement

## Executive Summary

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Council is in receipt of a development application from Delta Force Paint Ball for the establishment of a recreation facility (outdoors) – Paintball Facility and construction of associated amenities at 308 332 Londonderry Road Londonderry.

The subject site is zoned RU4 Rural Production Small Lots under Penrith Local Environmental Plan 2010 (LEP 2010). The proposal is defined as a Recreation Facility (outdoor) which is a permissible subject to Council Consent.

The Development Application was submitted as an integrated application and the Office of Water was consulted as a part of the referral process. General Terms of Approval have been provided. The Roads and Maritime Services (RMS) was also consulted as a part of the referral process.

The subject site has an 88b restriction along the watercourse which does not permit development within 40m of the watercourse. The small portion of bushland within the proposed development area is subject to the 88b restriction. The proposed development has been amended from that previously pursued through a preceding DA to minimize the impact on the flora and fauna. The amended proposal has been moved further to the east. This now provides a better buffer to the bushland and results in only a small section of bushland within the proposed development area being affected. The impacts from the development on the bushland and creek line can be further minimized through suitable conditions including the requirement for fencing covered in shade cloth (or the like) which would prevent paintballs entering that area. In turn it would also prevent unwanted access for users of the site. In this instance the modification of the 88B restriction is supported noting that the restriction was not imposed under common seal.

A Phase-1 (preliminary) Environmental Site Assessment Report was submitted with this application and the report outlined in the conclusions and recommendations that a Phase 2 detailed site contamination investigation is required to be undertaken and a report prepared by a suitable qualified person, with consideration of all relevant guidelines (e.g. EPA, NEPM 2013), standards and planning instruments, to establish whether the site is suitable for the proposed development. The Phase-2 report was not submitted with this application to satisfy Clause 7 of SEPP 55, the Phase-2 Detailed Site Investigation and, if necessary, a separate DA for remediation is recommended as a Deferred Commencement condition. This ensures that the condition of the site can be confirmed prior to the consent becoming operational with any remediation condition requirements addressed through a separate development application.

This application was exhibited and notified from 15 July 2016 to 18 August 2016 and Council received three (3) submissions to the proposal which concerns relating to noise and pollution.

An assessment under Section 79C of the *Environmental Planning and Assessment Act 1979* has been undertaken and the application is in general satisfactory however the application is recommended for deferred commencement as the additional information is required prior to the consent becoming operational.

### Background

A previous application (for a paint ball facility) was lodged with Council on 16 October 2014 (DA 14/1313). In response to correspondence and various meeting with the applicant, including site meetings, the previous application was withdrawn on 12 February 2016 as the location of works impact on vegetation and was not supportable. The purpose of the withdrawal was to enable the preparation of amended plans and amended reports to respond to Councils Issues and to correlate with the amended location of the facility on the site.

## Site & Surrounds

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The subject site is situated on the western side of Londonderry Road and the eastern boundary runs along Wilshire Road. The site is L shaped, is orientated in an east - west direction from the front to rear of the site and has a total area of 29.82 Ha.

The subject site is known as The Richmond Race Club. It comprises an established race track for greyhound racing with kennels, existing buildings that are associated with the major recreational facility use and a two storey building that contains spectator seating areas, office administration areas, a licensed lounge bar, ground floor parking and service areas.

The surrounding area is characterised by small lot rural properties.

## Proposal

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The proposed development is for the establishment of a recreation facility (Outdoors) – Paintball facility and construction of associated amenities. The proposal included:

- The construction of a homebase building,
- Installation of an ablution block,
- Upgrading of an existing carpark,
- Establishment of 6 game zones plus 2 rejuvenation rotational fields,
- Use of an existing structure for marker storage; and
- Associated signage.
- A total of ten (10) staff members will be required for the operation of the paintball facility.
- The hours of operation - 9am to 4pm, Monday to Sunday.
- Anticipated number of user (Daily) - 150 per day.

### ***General Operational Details:***

- Patrons arrive around 8:30 and are marshalled into the car park area.
- Once they have parked in their assigned car space they are directed into the base camp where they are registered and issued with coveralls, protective body armor and paintball canisters.
- Once all the players have been registered they are split into teams of around 10-15 people, which are identified by coloured arm bands.
- The Centre Manager Will conduct the safety briefing and ensure all players understand the rules, their obligations, instruction on using the equipment and a general run down of the day.
- Each team is assigned a marshal who will stay with them throughout the entire day. With two teams playing one another, this means that each game zone will always be attended by at least two marshals to supervise proceedings, enforce the safety rules along with scoring, tactical advice and to ensure everyone is having a great time.
- At the start of the day, the paintball markers are removed from the secure store by qualified marshals and taken to an onsite firing range where they are prepared and tested for the day's activities; they remain under constant supervision.
- Once all safety equipment is fitted by the players and checked by the qualified marshals, players enter the

game zone arena and are issued with their designated paintball marker.

- Each game zone will have different demountable or natural barriers themed to a variety of paintball scenarios. There Will be distinct pathways between the base camp and each game zone for players to be escorted on and perimeter roping, fencing (or Similar) clearly defined for player orientation.
- Each game zone area will be roped off prior to the commencement of games. Buffer areas of 100m from the edge of each skirmish area will be contained entirely inside the subject lands. The range of the paintball markers have an upper limit of 80m.
- It is proposed that game zone usage will be rotated to provide a variety of activities and ensure that no particular section of the site is over used.
- Each paintball game generally lasts about 15-20 minutes. The common objective and specific rules associated with the specific game zone are explained by the marshals and players are directed to their starting positions. Teams Will begin at opposite ends of the game zone with a whistle Initiating and concluding the game. Players Will try to 'mark' their opponents in working towards the game's objective with 'marked' players leaving the game zone to a designated 'dead zone' where they Will remain until the conclusion of the game.
- Groups will play 2 games on each game zone before returning to the base camp for a short 5 minute break allowing for an equipment check, re-load of paintballs and refreshments. A 45- minute lunch break is scheduled at approximately 1 pm before afternoon games continue.
- Examples of game scenarios Include "Capture the Flag", "Claim the Crypt", "London after the Apocalypse", "Apocalypse" the President".
- At the end of the day, a presentation ceremony occurs with results of the day's play announced and awards presented. Patrons depart soon after and the facility and equipment are cleaned and checked.
- Pre-packaged snacks such as chocolate bars, and potato chips Schweppes soft drink, water and sports drink ranges will be sold in the site.

#### **Modifications to previous proposal:**

Primarily in response to concerns regarding Flora and Fauna, the location of the Paintball Facility has been relocated within the site. All areas associated with the use are now located to the east of the creek. The result of relocating the game zones is that the nominated areas are predominantly clear of the area constrained by the 88B instrument, and that the previously proposed bridge crossing of the creek has been eliminated. Further, the relocation reduces the extent of additional hardstand areas required to facilitate the development. Patrons and employees of the facility will now utilize an existing car parking area to the west of the clubhouse. No changes to the operational details are proposed. Each game zone is approximately 440m<sup>2</sup>.

#### **Plans that apply**

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- Local Environmental Plan 2010 (Amendment 4)
- Development Control Plan 2014
- State Environmental Planning Policy No 55—Remediation of Land
- Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

- **Section 5A - Threatened Species assessment**

The Flora and Fauna Assessment Report has been submitted with this application. This report assessed whether any threatened flora and fauna species, endangered populations and endangered ecological communities, are likely to be impacted upon by the proposed paintball facility. It addresses the Threatened Species Conservation Act (1995) and the Environmental Protection and Biodiversity Conservation Act (1999).

The endangered ecological community River Flat Eucalypt Forest while mapped as being on site, will not be affected by the proposal as no vegetation that is a part of this community will be removed.

No other threatened species, endangered populations or endangered ecological communities listed on the schedules of the NSW Threatened Species Conservation Act 1995, or the Commonwealth Environment Protection and Biodiversity Conservation Act 1999 were recorded in the subject site.

Following the application of the seven factors from Section 5A of the NSW Environmental Planning and Assessment Act 1979, as required by the NSW Threatened Species Conservation Act 1995, in accordance with relevant assessment guidelines, it is concluded that the proposal is unlikely to have a significant effect on threatened species, endangered populations, ecological communities, or their habitats.

Following consideration of the administrative guidelines for determining significance under the Commonwealth Environment Protection & Biodiversity Conservation Act 1999, it is concluded that the proposal is unlikely to have a significant impact on matters of National Environmental Significance or Commonwealth land, and a referral to the Commonwealth Environment Minister is not necessary.

A number of impact mitigation and amelioration strategies have been recommended for the proposal. These strategies mitigate the effects of the proposal on threatened species, endangered populations, ecological communities, or their habitats and minimise the impacts of the proposal on the flora and fauna values of the subject site in general.

Furthermore Council's Biodiversity office has reviewed this application and raised no objection subject to conditions.

- **Section 79C - Evaluation**

The proposed development has been assessed in accordance with the matters for consideration under Section 79C of the Environmental Planning and Assessment Act 1979, and having regard to those matters, the following issues have been identified for further consideration.

- **Section 91- Integrated development**

### **Water Management Act**

The subject site has been identified as containing a natural watercourse. The proposed development is considered to be a controlled activity and, as such, the proposal is considered to be an Integrate Development Application.

General Terms of Approval were provided by the Department of Primary Industries Office of Water on 02 August 2016.

Confirmation from the Office of Water that the General Terms of Approval provided on 02 August 2016 were to be included in their entirety within the recommendations of Council's approval of the development.

The General Terms of Approval have been included within this report.

## **Section 79C(1)(a)(i) The provisions of any environmental planning instrument**

## State Environmental Planning Policy No 55—Remediation of Land

A Phase-1 (preliminary) Environmental Site Assessment Report was submitted with this application and the report outlined in the conclusions and recommendations that a Phase 2 detailed site contamination investigation is required to be undertaken and a report prepared by a suitable qualified person, with consideration of all relevant guidelines (e.g. EPA, NEPM 2013), standards and planning instruments, to establish whether the site is suitable for the proposed development. The Phase-2 report was not submitted with this application to satisfy Clause 7 of SEPP 55, the Phase-2 Detailed Site Investigation and, if necessary, a separate DA for remediation is recommended as a Deferred Commencement condition. This ensures that site can be confirmed prior to the consent becoming operational with any remediation requirements addressed through a separate development application. This enables Council to determine the application as the land can be made suitable for the proposed use of any contaminants are identified as part of the phase 2 assessment.

## Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

Sydney REP No. 20 integrates planning with catchment management to protect the Hawkesbury-Nepean river system, requiring the impact of future land use to be considered in a regional context. The plan covers water quality and quantity, environmentally sensitive areas, riverine scenic quality, agriculture and urban and rural-residential development. It controls development that has the potential to impact on the river environment. The plan applies to all parts of the catchment in the Sydney region (15 local government areas), except for land covered by *Sydney REP No. 11 - Penrith Lakes Scheme*. The REP is supported by an Action Plan, which includes actions necessary to improve existing conditions.

The proposed development is in accordance with the general planning considerations set out in Clause 5 of the REP and the relevant specific planning policies and related recommended strategies set out in Clause 6.

The General Terms of Approval provided by the Office of Water, the recommended conditions by Council's Environmental Health Officers and Development Services Engineers will ensure the protection of water quality within the locality.

An appropriate condition of consent has been included within this report.

## Local Environmental Plan 2010 (Amendment 4)

Provision	Compliance
Clause 2.3 Permissibility	Complies - See discussion
Clause 2.3 Zone objectives	Complies - See discussion

### Clause 2.3 Permissibility

The subject site is zoned RU4 Primary Production Small Lots under the provisions of Penrith Local Environmental Plan 2010. The proposal is defined as a recreation facility (outdoor) which is a permissible land use in the zone with Council consent.

### Clause 2.3 Zone objectives

The proposed development is consistent with the aims and objectives of both the LEP and the zone itself for the following:

- The Site is currently utilised as a greyhound racing facility. The proposal provides further recreational uses of the site. Given the long standing establishment and use of the greyhound racing facility, it is considered that further recreational use of the property is befitting in this location.
- The nature of the development will require permanent staffing, employing 10 staff on a permanent basis. Whilst the proposal does not strictly fall within the realms of 'primary industry enterprise', the generation of employment opportunities in conjunction with the provision of a facility which benefits the public and community generally, is considered to have positive Impact on the locality.
- The site is currently utilised for recreational activities, with the proposal expanding this approved land use. Further the proposal will not Impact on the amenity of the precinct. The paintball facility will have minimum impact to adjoining land uses, being relatively obscured from view from neighbouring sites and public spaces.
- The site is currently utilised for greyhound race activities, with the proposal providing further recreational activities in this locality. Services required to be extended to the paintball centre include electricity and telephone, both of which are currently available to the immediate area. Water will be harvested and collected to rainwater storage tanks for use in the development, and wastewater will be treated and disposed of on-site by the existing system. It is therefore considered, taking Into account the findings of the Flora and Fauna Assessment and Traffic Study which accompanies the application, that the proposal complies with this zone objective, having minimal Impact on the environmental and responds to the capabilities of the land.

## Section 79C(1)(a)(iii) The provisions of any development control plan

### Development Control Plan 2014

Provision	Compliance
C1 Site Planning and Design Principles	Complies - see Appendix - Development Control Plan Compliance
C2 Vegetation Management	Complies - see Appendix - Development Control Plan Compliance
C3 Water Management	Complies
C4 Land Management	Complies
C5 Waste Management	Complies
C6 Landscape Design	Complies
C7 Culture and Heritage	N/A
C8 Public Domain	N/A
C9 Advertising and Signage	N/A
C10 Transport, Access and Parking	Complies - see Appendix - Development Control Plan Compliance
C11 Subdivision	N/A
C12 Noise and Vibration	Complies
C13 Infrastructure and Services	Complies

## **Section 79C(1)(b)The likely impacts of the development**

### **Context and Setting**

During the assessment of the Development Application, much discussion and negotiations have been undertaken in relation to the placement of the paint ball facility within the site, to ensure the existing vegetation is maintain, protection of the existing rural character and amenity of the adjoining property owners.

The relocation of the paintball fields within the site, the limitations on the hours of use and number of vehicles utilising the paintball facilities ensures the development is compatible with the surrounding and adjacent land uses and will have no major impact on the amenity of the area.

It is considered appropriate setback from the adjoining properties. Appropriate conditions of consent have been included within this report.

The proposal will have no adverse impacts on the natural environment.

### **Accessibility**

The Access to Premises Standard has been included in the proposed plan to ensuring that both access into and around the premises / activity, as well as amenity provision complies with accessibility requirements under the premises standard, BCA and DDA.

### **Noise**

The applicant was required to provide an Acoustic Report to demonstrate that the proposal does not have adverse noise impact to adjoining properties considering all noise generating activities (including all noise generating activities on the site such as the use of the driveway, carpark facilities, traffic, plant and equipment (including PA systems), use of paintball guns, and noise from participants and spectators). This Acoustic Report considered:

- The 'NSW Industrial Noise Policy' in terms of assessing the noise impacts associated with development, including all noise generating activities on the site such as the use of the driveway, carpark facilities, traffic, plant and equipment (including PA systems), use of paintball guns, and noise from participants and spectators.
- The 'Interim Construction Noise Guideline' in assessing the impacts associated with the construction phase of the development.
- The otential impact from road traffic noise resulting from vehicles entering and exiting site, demonstrating compliance with *NSW Road Noise Policy*.
- Considered the cumulative impacts of the use of both facilities that are located on the site, such as when the paintball facility is in use when a race meet is being held.

That report was also referred to Council's Environment Officer for comments. The recommendations of the report and the provision of a compliance certificate ensuring that all works have been completed as to acoustic report recommendations and there is no adverse noise impact.

### **Flora and Fauna**

The Flora and Fauna Assessment Report has been submitted with this application. This report assessed whether any threatened flora and fauna species, endangered populations and endangered ecological communities, are likely to be impacted upon by the proposed paintball development. It addresses the Threatened Species Conservation Act (1995) and the Environmental Protection and Biodiversity Conservation Act (1999).

The endangered ecological community River Flat Eucalypt Forest while mapped as being on site, will not be affected by the proposal as no vegetation that is a part of this community will be removed.

No other threatened species, endangered populations or endangered ecological communities listed on the schedules of the NSW Threatened Species Conservation Act 1995, or the Commonwealth Environment Protection and Biodiversity Conservation Act 1999 were recorded in the subject site.

A number of impact mitigation and amelioration strategies have been recommended for the proposal. These

strategies mitigate the effects of the proposal on threatened species, endangered populations, ecological communities, or their habitats and minimise the impacts of the proposal on the flora and fauna values of the subject site in general.

Furthermore Council's Biodiversity office has reviewed this application and raised no objection subject to condition.

#### ***Vehicular access***

A Traffic and Parking Impact Report dated December 2015 has been submitted with this application. The application also Includes a concept BAR design as required by Council. Therefore, the proposed development will not create any additional impact on vehicular access. The application was referred to RMS and Council's Traffic Engineering Department for further review and raised no objection subject condition.

#### ***Hours of Operation***

- **9am to 4pm, Monday to Sunday**

A Noise Impact Report has been submitted with this application. Detailed consideration has been given to noise spill onto the adjoining properties to ensure the proposed development will not sterilize any adjoining land or limit its ability for development in future.

These hours of operation are reflected within the recommended conditions of consent outlined within this report.

#### ***Social and Economic***

The proposal would provide additional recreational facility within the locality while maintaining the rural use of the property.

In view of the above advice this development is therefore supported as it is considered to benefit the social and economic situation of the area.

### **Section 79C(1)(c)The suitability of the site for the development**

The site attributes are conducive to the proposed development for the reasons set out below:

- The facility and infrastructure on the site are already established, therefore the proposed paintball facility will be maximising the efficiency of the existing services and infrastructure;
- The endangered ecological community River Flat Eucalypt Forest while mapped as being on site, will not be affected by the proposal as no vegetation that is a part of this community will be removed.
- The site is not a heritage item, within a heritage conservation area, or within close proximity to a heritage item;
- The site is capable of accommodating adequate parking for staff, members and guests; and
- The zoning of the site and specific additional uses for the site under the LEP 2010 permit the proposed works.

Accordingly the site is considered suitable for the development subject to conditions.

### **Section 79C(1)(d) Any Submissions**

#### **Community Consultation**

In accordance with Section F4 Notification and Advertising of the Penrith Development Control Plan 2014, the proposed development was advertised and notified from 15 July 2016 to 18 August 2016 to adjoining residents and/ or occupiers. Three (3) submissions were received in response to the notification process. The following issues were raised in the submissions received and have formed part of the assessment.

<b>Issue Raised</b>	<b>Comments</b>
<b>Paint Contamination (use of paintball bullets).</b>	<p>The application has been referred to the Office of Water for consideration as a part of the assessment of the Development Application. General Terms of Approval have been provided which require the preparation of such documentation including a Vegetation Management Plan, Riparian Corridors Plan, Soil and Water Management Plan and Erosion and Sediment Control Plan.</p> <p>Appropriate conditions of consent are to be included to protect the water quality within the locality and ensure the level of water flow into the adjoining properties is not diminished as a part of the proposal.</p>
<b>Noise</b>	<p>The location of the paintball fields provide a greater setback of the fields from the adjoining properties. A Noise Impact Report has been submitted with this application. Detailed consideration has been given to noise spill onto the adjoining properties to ensure the proposed development will not sterilize any adjoining land or limit its ability for development in the future.</p> <p>The hours of operation have been imposed as follows for all aspects of the development:</p> <ul style="list-style-type: none"> <li>9am to 4pm Monday to Sunday.</li> </ul> <p>It is important to note that night time operations are not permitted.</p>
<b>Safety and privacy of the Paintball Area</b>	<p>The paintball area has been located away from adjoining properties (60m from nearest boundary line and 240m from existing nearest dwelling) to ensure paintball bullets do not stray into adjoining properties.</p> <p>The safe storage of the paintball guns and ammunition will be required as a condition of consent.</p>
<b>Permissibility of Paintball Facility</b>	<p>Concerns relating to the permissibility of the Paintball Facility have been considered.</p> <p>The proposed Paintball facility is considered to fall within the definition of a recreation facility (outdoor) of LEP 2010 which is a permissible form of development within the zone.</p>
<b>Waste and Litter Generation</b>	<p>Appropriate waste receptacles will be installed within the site to ensure the appropriate management of waste.</p> <p>It will be the responsibility of owners to ensure waste is appropriately managed on the site without impacting the adjoining properties.</p>

## Referrals

The application was referred to the following stakeholders and their comments have formed part of the assessment:

Referral Body	Comments Received
Building Surveyor	No objections - subject to conditions
Development Engineer	No objections - subject to conditions
Environmental - Environmental management	No objections - subject to conditions
Environmental - Biodiversity	No objections - subject to conditions
Traffic Engineer	No objection subject to conditions

## Section 79C(1)(e)The public interest

The paintball facility will contribute additional social and entertainment opportunities and facilities to the community within an established and recognised site, without reducing the amenity or privacy of local residents and businesses. The proposed development will also increase employment and recreational densities.

## Conclusion

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The proposal has been assessed against the relevant environmental planning instruments and other matters set out under Section 79C of the Environmental Planning and Assessment Act 1979 and found to be satisfactory subject to deferred commencement requirements and recommended conditions of consent. Furthermore, the development performs adequately in terms of its relationship to the surrounding rural and built environment, particularly in relation to likely impacts upon surrounding properties. Consequently, the proposal is supported from an environmental planning perspective.

## Recommendation

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That DA16/0639 for an establishment of a recreation facility (outdoors) – Paintball Facility and construction of associated amenities at 308 332 Londonderry Road Londonderry be approved subject to the attached conditions.

## General

### 1 A001

The development must be implemented substantially in accordance with the following plans

Drawing Title	Drawing No.	Prepared By	Dated
Site Plan	DA1 (1016a)	Graham Zerk	20 June 2016
Richmond GRC Base Camp Shed Floor Plan	DFAUS16 (Sheet 1 of 1)	-	28/06/16
Richmond GRC Rural BAR Right Turn Treatment Concept	DFAUS16 (Sheet 1 of 1)	-	06/06/16
Car Park Detail	-	-	24/11/2016
Ablution Block Details and Layout	-	-	-

and any supporting information received with the application, except as may be amended in red on the attached plans and by the following conditions.

### 2 A021 - BUSINESS REGISTRATION

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**.

### 3 A026 - Advertising sign (not for residential)

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.

### 4 A029 - HOURS OF OPERATION AND DELIVERY TIMES

The operating hours are from 9:00 am to 4:00 pm Mondays to Sundays.

### 5 A039 - Graffiti

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

### 6 A046 - Obtain Construction Certificate before commencement of works

A **Construction Certificate** shall be obtained prior to commencement of any building works.

### 7 A Special (BLANK)

Item 1 within the 88B restriction that applies to the development site is to be amended to remove the extent of land subject to encroachment of the paintball facility.

Details of the amended 88B restrictions are to be submitted to Penrith City Council for approval and evidence of its registration with the Land and Property is to be submitted **prior to issue of an Occupation Certificate**.

### 8 A Special (BLANK)

The applicant shall comply with the conditions contained in the General Terms of Approval issued by the NSW Department of Primary Industries (Water), Reference 10 ERM2016/0527 dated 02 August 2016.

### 9 A Special (BLANK)

The applicant shall comply with the conditions contained in the concurrence issued by the NSW Roads and Maritime Services, Reference SYD14/01284/03 (A14502987) dated 19 September 2016.

### 10 A special BLANK

Amplified music and public address systems associated with the development are not to be audible at the boundaries of the property.

### 11 A special BLANK

There is to be a maximum of 150 persons on site each day.

## Demolition

### 12 B004 - Dust

Dust suppression techniques are to be employed during construction to reduce any potential nuisances to surrounding properties.

### 13 B005 - Mud/Soil

Mud and soil from vehicular movements to and from the site must not be deposited on the road.

## Environmental Matters

### 14 D001 - Implement approved sediment& erosion control measures

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.

### 15 D002 - Spraygrass

All land that has been disturbed by earthworks is to be spray grassed or similarly treated to establish a grass cover.

### 16 D009 - Covering of waste storage area

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.

### 17 D010 – Appropriate disposal of excavated or other waste

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 accompanying the Construction Certificate application.

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.

### 18 D131 - Approved noise level 2

Noise levels from the premises shall not exceed the relevant noise criteria detailed in the Environmental Noise Report prepared by Day Design Pty Ltd dated 22 April 2016 (Ref: 5633-1-1R-Rev B). The provisions of the Protection of the Environment Operations Act 1997 apply to the development, in terms of regulating offensive noise.

### 19 D Special BLANK

Prior to the issue of the Construction Certificate, an amended Environmental Management Plan (EMP) is to be submitted to Council for approval. This is to include:

1. An Operational Erosion and Sediment Control plan
2. An Environmental Emergency Plan

### 20 D Special BLANK

The approved Environmental Management Plan (EMP) prepared by Envirotech, dated 4th January 2016, (including any Council approved amendments) is to be implemented and adhered to.

### 21 D Special BLANK

Twelve (12 months after the issue of the Occupation Certificate, an Acoustic Compliance Report is to be submitted to and approved by Council. The report is to be prepared by a suitably qualified acoustic consultant and is to address, but is not limited to, all noise generating activities on the site at the level of compliance with the noise criteria set within the Environmental Noise Report prepared by Day Design Pty Ltd, dated 22 April 2016 (Ref: 5633-1-1R Rev B). It is also to consider the requirements of the NSW Environment Protection Authority's Industrial Noise Policy, other relevant guideline documents and the conditions of this development consent.

Should the Compliance Report identify any non-compliance issues, the Report is to provide suitable recommendations for the mitigation of those issues. Any mitigation works are to be undertaken within thirty (30) days from the date of notice from Council, unless otherwise specified.

### 22 D Special BLANK

**Prior to the Issuing of the Occupation Certificate** suitable chain mesh fencing is to be provided as a barrier along the western boundary of the of the paint ball fields and a minimum of 60 metres along the southern game zone boundary. The fencing should be 3.6 metres in height and be covered from top to ground level in a mesh or shade cloth that prevents paintball markers and other refuse/contaminates from leaving the gaming zones. The fence is also to prevent access to the bushland and creek from patrons of the facility.

## 23 [D Special BLANK](#)

### **Ongoing Site Environmental Management**

The Environmental Management Plan prepared by Envirotech Pty. Ltd. dated 4 January 2016 is to be implemented. Any changes or amendments to the approved Environmental Management Plan are to be approved by Council. Any changes to the management of the vegetation are to be referred to Councils Senior Biodiversity Officer.

## **BCA Issues**

### 24 [E009 - Annual fire safety-essential fire safety \(Class 2-9 buildings\)](#)

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.

### 25 [E01A - BCA compliance for Class 2-9](#)

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.

## **Utility Services**

### 26 [G004 - Integral Energy](#)

Prior to the issue of a Construction Certificate, a written clearance is to be obtained from Endeavour Energy stating that electrical services have been made available to the development or that arrangements have been entered into for the provision of services to the development.

In the event that a pad mounted substation is necessary to service the development, Penrith City Council shall be consulted over the proposed location of the substation before the Construction Certificate for the development is issued as the location of the substation may impact on other services and building, driveway or landscape design already approved by Council.

## **Construction**

## 27 H001 - Stamped plans and erection of site notice

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.

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 when the Occupation Certificate has been issued for the development.

## 28 H002 - All forms of construction

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 [H041 - Hours of work \(other devt\)](#)

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 [K101 - Works at no cost to Council](#)

All roadworks, stormwater drainage works, associated civil works and dedications, required to effect the consented development shall be undertaken at no cost to Penrith City Council.

31 [K201 - Infrastructure Bond](#)

An Infrastructure Restoration Bond is to be lodged with Penrith City Council for development involving works around Penrith City Council's Public Infrastructure Assets. The bond is to be lodged with Penrith City Council prior to the issue of any Construction Certificate. The bond and applicable fees are in accordance with Council's adopted Fees and Charges.

An application form together with an information sheet and conditions are available on Council's website.

Contact Penrith City Council's City Works Department on (02) 4732 7777 or visit Penrith City Council's website for more information.

32 **K202 - S138 Roads Act – Works and Structures - Minor Works in the public road DRIVEWAYS ROAD OPENINGS**

Prior to the issue of any Construction Certificate, a Section 138 Roads Act applications, including payment of application and inspection fees, shall be lodged and approved by Penrith City Council (being the Roads Authority for any works required in a public road). These works may include but are not limited to the following:

- a) Vehicular crossings (including kerb reinstatement of redundant vehicular crossings)
- b) Concrete footpaths and or cycleways
- c) Road opening for utilities and stormwater (including stormwater connection to Penrith City Council roads and other Penrith City Council owned drainage)
- d) Road occupancy or road closures
- e) The placement of hoardings, structures, containers, waste skips, signs etc. in the road reserve
- f) Temporary construction access

All works shall be carried out in accordance with the Roads Act approval, the development consent, including the stamped approved plans, and Penrith City Council's specifications, guidelines and best engineering practice.

Contact Penrith City Council's City Works Department on (02) 4732 7777 or visit Penrith City Council's website for more information.

Note:

- a) Where Penrith City Council is the Certifying Authority for the development, the Roads Act approval for the above works may be issued concurrently with the Construction Certificate.
- b) Separate approvals may also be required from the Roads and Maritime Services for classified roads.
- c) All works associated with the Roads Act approval must be completed prior to the issue of any Occupation Certificate or Subdivision Certificate as applicable.
- d) On completion of any awning over the road reserve, a certificate from a practising structural engineer certifying the structural adequacy of the awning is to be submitted to Council before Council will inspect the works and issue its final approval under the Roads Act

33 **K204 - S138 Roads Act – RMS CIVIL CONSTRUCTION IN THE STATE ROAD**

Prior to the issue of any Construction Certificate, the Certifying Authority shall ensure that any applicable application, including the payment of application and inspection fees, has been lodged with the Roads and Maritime Services for any works within the Londonderry Road road reserve.

A copy of the Roads and Maritime Services approval shall be submitted to Penrith City Council prior to Penrith City Council issuing any Roads Act approval.

34 **K223 - Access, Car Parking and Manoeuvring – Minor Development**

Prior to the issue of any Construction Certificate, the Certifying Authority shall ensure that:

- a) Off street access and parking complies with AS2890.1.
- b) Car parking area has been detailed to be bitumen sealed to allow all weather access and use.
- c) Sight distances at the street frontage have been provided in accordance with AS2890.1.
- d) All cars can enter and exit the site in a forward direction.

35 **K301 - Sediment & Erosion Control**

Prior to commencement of any works associated with the development, sediment and erosion control measures shall be installed in accordance with the approved Construction Certificate and to ensure compliance with the Protection of the Environment Operations Act 1997 and Managing Urban Stormwater series from the Office of Environment and Heritage.

The erosion and sediment control measures shall remain in place and be maintained until all disturbed areas have been rehabilitated and stabilised.

36 [K501 - Penrith City Council clearance – Roads Act/ Local Government Act](#)

Prior to the issue of any Occupation Certificate, the Principal Certifying Authority shall ensure that all works associated with a S138 Roads Act approval or S68 Local Government Act approval have been inspected and signed off by Penrith City Council.

37 [K510 - Entry/ Exit signage](#)

Prior to the issue of any Occupation Certificate, signage which is clearly visible from the public road shall be placed within the development site.

The signage shall indicate that the northern vehicular access is to be used for ingress purposes only and appropriately signposted "Entry Only". The southern vehicular access is to be used for egress purposes only and appropriately signposted "No Entry".

38 [K511 - Directional signage](#)

Prior to the issue of any Occupation Certificate, directional signage and linemarking shall be installed indicating directional movements and the location of customer parking to the satisfaction of the Principal Certifying Authority.

## Landscaping

39 [L008 - Tree Preservation Order](#)

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

40 [Q01F - Notice of Commencement & Appointment of PCA2 \(use for Fast Light only\)](#)

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.

## Operation of OSSM

41 [R102 - OSSM System Type and Disposal Area \(all systems\)](#)

All wastewater generated on the site is to be diverted to the existing on-site sewage management system and be disposed of in the approved effluent management area.

#### 42 [R124 - Operational Wastewater Management Plan](#)

**Prior to the issue of the Occupation Certificate**, an Operational Wastewater Management Plan (OWMP) for the system is to be provided to Penrith City Council for consideration and approval. The OWMP shall be prepared by a suitable qualified consultant 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 OWMP is to address:

- All environmental aspects of the operation of the on-site sewage management system
- All systems and controls to be implemented to minimise the potential for any adverse environmental impacts
- A program for ongoing monitoring and review to ensure that the OWMP remains contemporary with relevant environmental standards. Council is to be consulted prior to any amendments of the OWMP. Council may request a review of the OWMP or any proposed amendments.

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

- System information (including specifications and site plans)
- Monitoring and testing
- Maintenance and servicing program (treatment system and irrigation system)
- System performance
- System failure contingency
- Odour management
- Landscape and disposal area management
- Health and safety

The on-site sewage management system is to be operated in accordance with the requirements of this Plan.

#### 43 [R Special BLANK](#)

Prior to the issue of a Construction Certificate, an amended site plan is to be provided which shows the location of the on-site sewage management system. It is to demonstrate that the buffer distances from the existing effluent disposal area to the proposed paintball facility and associated car park can comply with Council's On-site Sewage Management and Greywater Reuse Policy (2014).

### **Schedule 1 (Deferred Commencement)**

#### 44 [S Special \(BLANK\)](#)

No work on the current development is to proceed until such time the stage 2 site investigation is undertaken and any required remediation works completed, and Council has approved the Validation Report associated with the remediation works.

#### 45 [S Special \(Deferred commencement condition\)](#)

A Stage 2 Detailed Site Investigation for contamination is required to be carried out by a suitably qualified environmental consultant that addresses all land subject to this development application. This investigation is to consider the requirements of the relevant NSW Environment Protection Authority Guidelines and the National Environment Protection (Assessment of Site Contamination) Measure. The associated report needs to establish whether the site is suitable for its intended use and **is to be submitted to Penrith City Council for approval**. If Penrith City Council is not the certifying authority, the assessment is still required to be submitted to Council for approval.

Should it be identified in the Stage 2 Detailed Site Investigation that remediation works are required to be undertaken on the site, a separate development application is to be submitted to Penrith City Council for approval for the remediation of land. The separate application is to be submitted and approved prior to this consent becoming operational. All remediation works in the Penrith Local Government Area are considered Category 1 remediation works under State Environmental Planning Policy No 55 - Remediation of Land, and therefore require development consent. The application for remediation must be accompanied by a Remedial Action Plan and be consistent with the contaminated land planning guidelines and policies, including but not limited to all NSW Environment Protection Guidelines. All works associated with any remediation are required to be completed and validated to the satisfaction Council.

# Appendix - Development Control Plan Compliance

## Development Control Plan 2014

### Part C - City-wide Controls

#### DCP Objectives

It is considered that the objectives of the DCP have been satisfied.

Penrith Development Control Plan 2014 (DCP 2014) applies to the land. The proposal has been assessed, having regard to the provisions of Part C – Controls applying to all land uses and Part D – Rural Land Uses as detailed below:

#### C1 Site Planning and Design Principles

##### *Crime Prevention Through Environmental Design*

The Development Application was assessed against the CPTED principals.

It was noted the importance to implement appropriate security measures on the site, particularly after hours due to the semi-rural setting of the locality.

Appropriate conditions have been recommended and included within this report.

#### C2 Vegetation Management

Relocation of the paint ball facility as proposed ensures the majority of the game zones do not contain native vegetation as prescribed. Game zones 3 and 4 are an exception, and vegetation Within these areas has been classified as being 'cleared and disturbed to poor', Whilst rotation of these fields Will assist in their rejuvenation, the cumulative Impacts of the proposal on native vegetation have been significantly reduced through the relocation.

#### C10 Transport, access and Parking

Access to the site has been established from the Londonderry Road frontage. Londonderry Road is an arterial road providing one of the main routes between Richmond and Penrith. Due to the existing use of the Site as a Greyhound Racing Facility, separate ingress and egress points have been created. These access points are approximately 8m wide and sealed. Access leads to a large bitumen car parking area which is located at the northeast corner of the property. Internal driveways have been created throughout the Site. Providing access to the various amenities and areas throughout the facility. The majority of these driveways have been sealed to afford all-weather use. Access to the paintball facility is to utilise one of these existing sealed routes which leads past the main racing facility. It is proposed that this route will be extended to an existing car parking area which is to be upgraded and which will have provision for the parking of up to 50 vehicles. Suitability of the proposed access and parking arrangement to sufficiently cater for the proposal have been addressed in the Traffic and Parking Impact Report prepared by ML Traffic.

The car parking requirements for the proposed paintball facility use are not defined in Penrith Development Control Plan 2014 (DCP 2014) or NSW Roads and Maritime Services (RMS) Guide to Traffic Generating Development.

In view of this report, a "first principal" analysis was conducted, based on a survey of car parking accumulation, vehicle occupancy and traffic generation associated with a similar facility, Action Paintball Games, located at the corner of Edwards Road & Annangrove Road, Rouse Hill. The facility is larger with 18 games fields on approximately 22 hectares. A telephone survey was conducted to determine the busiest day of the week to enable data on maximum parking & traffic generation to be collected.

*The Survey indicate the following:*

- *An average vehicle occupancy rate 2:1.*
- *Over 80% patrons car pooled.*
- *Approximately 450 patrons for the day, based on total number of arrivals between 7am and 5pm and the vehicle occupancy rate applied over the majority of the day.*

- *An average of 25 patrons for each game field.*
- *Saturday being the busiest day for paintball recreation.*
- *A traffic generation rate of between 60 & 70 vehicles per hour between 7.30am & 9.30 am (mostly arrivals) and between 2.30pm & 4.30pm (mostly departures)*
- *A peak weekend traffic generation of 460 Vehicles per day.*

*Based on the findings of the survey for the proposed paintball facility:*

- *A maximum patronage rate of around 150 would apply for the proposed 6 field paintball facility at the subject site on Saturday, the busiest day of the work for the proposed race.*
- *A lower patronage rate would be on Sunday (maximum 128).*
- *A parking requirement of around 55 spaces would apply on Saturday and 45 spaces on Sunday.*
- *A traffic Generation rate of between 25 & 30 Vehicles per hour between 7.30am & 9.30am and between 2.30am to 4.30am on Saturday or a Sunday.*
- *The weekday PM hour will generate about 25 cars comprising staff and customer departures.*
- *The weekday AM peak hour is staff arrivals with an estimated 5 staff arriving in the weekday AM peak hour.*
- *A peak weekend traffic generation of around 150 vehicles per day.*

#### *Adequacy of proposed Car parking Provision.*

The proposed paintball facility will have a dedicated new carpark of 62 car spaces (including two accessible parking space). Therefore, The Maximum parking demand of 55 spaces can be readily accommodated on-site without dependent on existing car parking spaces for greyhound club.

In accordance with the above discussion the proposed paintball facility use at the subject site with the proposed on-site car parking provision is appropriate.

#### *D1 Rural Land Uses (Rural Character)*

The importance of the site within the locality, particularly the sites contribution to the rural character of the area has been noted. In particularly, the proximity of the site to Londonderry Road and the view corridors within the locality.

The proposed outdoor recreational facility is to be located towards the rear of the site, which existing built form providing screening to the new works. The scenic and landscape values are further protected through the implementation of the recommendations made in the Flora and Fauna Assessment prepared Envirotech.