

# PENRITH CITY COUNCIL

## NOTICE OF DETERMINATION

### DESCRIPTION OF DEVELOPMENT

Application number:	DA14/0833
Description of development:	Demolition of all Existing Structures and Facilities Associated with a Previous Concrete Batching Plant and Carry out Earthworks for Future Industrial Developments
Classification of development:	N/A

### DETAILS OF THE LAND TO BE DEVELOPED

Legal description:	Lot 136 DP 31912
Property address:	53 - 59 Christie Street, ST MARYS NSW 2760

### DETAILS OF THE APPLICANT

Name & Address:	Artazan Property Group PO Box 6036 FRENCHS FOREST NSW 2086
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### DECISION OF CONSENT AUTHORITY

In accordance with Section 81(1) (a) of the Environmental Planning and Assessment Act 1979, consent is granted subject to the conditions listed in attachment 1.

Please note that this consent will lapse on the expiry date unless the development has commenced in that time.

Date from which consent operates	2 October 2014
Date the consent expires	2 October 2016
Date of this decision	25 September 2014

## POINT OF CONTACT

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

Assessing Officer:	Aimee Lee
Contact telephone number:	(02) 4732 7429

## NOTES

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### **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 following plans stamped approved by Council, the application form and any supporting information received with application, except as may be amended in red on the attached plans and by the following conditions.

Drawing Title	Plan No.	Prepared By	Date
Cover Page, Location Plan, Schedules	DAD 1.01 Rev A	Nicholas Associates Architects Pty Ltd	09.07.14
Existing/Demolition Site Plan	DAD 1.02 Rev A	Nicholas Associates Architects Pty Ltd	09.07.14
External Works/Site Plan	DAD 1.03 Rev A	Nicholas Associates Architects Pty Ltd	09.07.14
Elevations & Sections	DAD 1.04 Rev A	Nicholas Associates Architects Pty Ltd	09.07.14
Plan of Details and Levels	5052-DET1 Sheet No. 1	Mepstead	11/07/13
Hydraulic Services Street Location Plan	HDA01/P1	AJ Whipps Consulting Group	30.06.14
Hydraulic Services Site Plan	HDA02/P1	AJ Whipps Consulting Group	30.06.14
Statement of Environmental Effects	Document No. 1778 SEE	Nicholas Associates Architects Pty Ltd	July 2014 Revision A

2 **Prior to the commencement of work**, further detailed and representative analysis, including soil sampling and analysis, of the uncontrolled fill material present on site is required. The detailed investigation of the fill material existing on the site is:

- to be carried out by an appropriately qualified person (as defined in the Penrith City Council Contaminated Land Development Control Plan) in accordance with all relevant Contaminated Land guidelines (e.g. EPA, ANZECC, NH&MRC), standards, planning instruments and legislation
- to provide details of the volume of fill material and include appropriate soil sampling and analysis that is representative of the volume of fill present, in accordance with relevant Contaminated Land guidelines, to determine whether the fill material is suitable for its intended purpose and land use
- to determine whether the fill material is suitable for its intended purpose and whether the fill material will or will not pose an unacceptable risk to human health or the environment.

A report of the investigation of the fill is required to be prepared by the appropriately qualified person and submitted to Council for consideration and approval, prior to the commencement of works, to ensure that the fill material existing on the site and proposed to be used, is suitable for the intended purpose. A copy of Council's approval of this report, is to be provided to the Principal Certifying Authority, if Council is not the Principal Certifying Authority.

Should the further investigation and analysis of the uncontrolled fill material find that the fill is not suitable for the proposed use, the fill material is to be removed from the site and disposed of at a lawful waste facility. Suitable documentation is to be provided to Council demonstrating the lawful transportation and disposal of the contaminated material. No contaminated soil is to be retained on site.

3 The "Unexpected Finds Protocol" in Attachment 1 of "Soil Supplemented Stage 1 Preliminary Site Investigation: 53-59 Christie Street, St Marys NSW 2760" prepared by DLA Environmental dated August 2013 (Ref. DL3136\_S000872) is to be complied with at all times during all demolition and site works.

All remediation works in the Penrith Local Government Area are considered to be Category 1 works under State Environmental Planning Policy 55-Remediation of Land. Should remediation works be found to be required as a result of complying with the "Unexpected Finds Protocol" then development consent is to be sought from Penrith City Council before the remediation works commence.

## Demolition

4 All demolition works are to be conducted in accordance with the provisions of AS 2601-1991 "The Demolition of Structures". **Prior to demolition**, all services shall be suitably disconnected and capped off or sealed to the satisfaction of the relevant service authority requirements.

All demolition and excavated material shall be disposed of at a Council approved site or waste facility. Details of the proposed disposal location(s) of all excavated material from the development site shall be provided to the Principal Certifying Authority **prior to commencement of demolition**.

- 5 You should read Council's Fact Sheet titled "Handling and Disposal of Fibrous Cement Products" **before any demolition works commence on the site.**

**Prior to commencement of demolition works on site**, a portaloo with appropriate washing facilities shall be located on the site and the Principal Certifying Authority is to be satisfied that:

- Measures are in place so as to comply with the WorkCover Authority's "Short Guide to Working with Asbestos Cement" and
- The person employed to undertake the works is a licensed asbestos removal contractor and is holder of a current WorkCover Asbestos Licence.

Any demolition works involving the removal of all asbestos shall only be carried out by a licensed asbestos removal contractor who has a current WorkCover Asbestos Licence.

All asbestos laden waste, including asbestos cement flat and corrugated sheeting must be disposed of at a tipping facility licensed by the Environmental Protection Authority to receive asbestos wastes.

- 6 Dust suppression techniques are to be employed during demolition and site development works to reduce any potential nuisances to surrounding properties.
- 7 Mud and soil from vehicular movements to and from the site must not be deposited on the road.
- 8 Demolition and site works will 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 demolition or site work is permitted on Sundays and Public Holidays.

The provisions of the Protection of the Environment Operations Act, 1997 in regulating offensive noise also apply to all works.

## **Environmental Matters**

- 9 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.

(Note: To obtain a copy of the publication, you should contact Landcom on (02) 98418600).

The approved sediment and erosion control measures are to be installed **prior to and maintained throughout the demolition and site development works until the land, that was subject to the works, has been stabilised and grass cover established.** These measures shall ensure that mud and soil from vehicular movements to and from the site does not occur during demolition and site works and shall ensure that the loss of soil through dust does not occur during, nor upon completion, of the site development works.

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

11 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.

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.

12 No fill material shall be imported to the site until such time as a Validation Certificate (with a copy of any report forming the basis for the validation) for the fill material has been submitted to Council. The Validation Certificate shall:

- state the legal property description of the fill material source site,
- be prepared by an appropriately qualified person (as defined in Penrith Contaminated Land Development Control Plan) with consideration of all relevant guidelines (e.g. EPA, ANZECC, NH&MRC), standards, planning instruments and legislation,
- clearly indicate the legal property description of the fill material source site,
- provide details of the volume of fill material to be used in the filling operations,
- provide a classification of the fill material to be imported to the site in accordance with the Environment Protection Authority's "Environmental Guidelines: Assessment, Classification & Management of Non-Liquid Wastes" 1997, and
- (based on the fill classification) determine whether the fill material is suitable for its intended purpose and land use and whether the fill material will or will not pose an unacceptable risk to human health or the environment.

An appropriately qualified person/s (as defined in the Penrith City Council Contaminated Land Development Control Plan) shall:

- Supervise the filling works,
- (On completion of filling works) carry out an independent review of all documentation relating to the filling of the site, and shall submit a review findings report to Council and any Principal Certifying Authority,
- Certify by way of a Compliance Certificate or other written documentation that fill materials have been placed on the site in accordance with all conditions of this consent and that the site will not pose an unacceptable risk to human health or the environment. A copy of the Compliance Certificate or other documentation shall be submitted to Council and any Principal Certifying Authority.

The contact details of any appropriately qualified person/s engaged for the works shall be provided with the Notice of Commencement.

If the Principal Certifying Authority or Penrith City Council is not satisfied that suitable fill materials have been used on the site, further site investigations or remediation works may be requested. In these circumstances the works shall be carried out prior to any further approved works.

{Note: Penrith Contaminated Land Development Control Plan defines an appropriately qualified person as "a person who, in the opinion of Council, has a demonstrated experience, or access to experience in hydrology, environmental chemistry, soil science, eco-toxicology, sampling and analytical procedures, risk evaluation and remediation technologies. In addition, the person will be required to have appropriate professional indemnity and public risk insurance."}

- 13 The removal of any underground petroleum storage tanks is to be undertaken in accordance with the relevant legislation, guideline documents, technical notes and Australian Standards, including the Protection of the Environment (Underground Petroleum Storage Systems) Regulation 2008, the Guidelines for Implementing the Protection of the Environment (Underground Petroleum Storage Systems) Regulation 2008 and the UPSS Technical Note: Decommissioning, Abandonment and Removal of UPSS.

The person responsible for an underground petroleum storage system at the time of decommissioning must ensure that the site is investigated for contamination and a validation report prepared. [Guidelines For Implementing the POEO (Underground Petroleum Storage Systems) Regulation 2008].

**A Validation Report** prepared by an appropriately qualified and experienced person is to be submitted to Council within sixty (60) days of the removal of any underground petroleum storage system. The validation report is to be prepared in accordance with relevant technical notes and EPA guidelines and is to be submitted to Council in accordance with the Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2008. Soil sampling and analysis is required to be undertaken as part of the validation process and shall be in accordance with relevant NSW EPA guidelines. Should site contamination be identified during or upon removal of the underground petroleum storage tanks and should remediation be required, then development consent is to be sought from Penrith City Council before the remediation works commence. All remediation works in the Penrith Local Government Area are considered to be Category 1 works under State Environmental Planning Policy 55 - Remediation of Land.

The decommissioned underground petroleum storage tanks are to be disposed of at a lawful waste facility. Suitable documentation is to be provided to Council demonstrating the lawful disposal of the tanks with the submission of the Validation report.

- 14 No native trees or other vegetation (including shrubs and other understory vegetation) are to be removed, ringbarked, cut, topped, lopped, slashed or wilfully destroyed (other than those on the approved External Works/Site Plan (drawing number: DAD1.03) prepared by Nicholas Associates Architects Pty. Ltd. dated 09/07/14) without the prior consent of Penrith City Council and in accordance with Council's Tree Preservation Order and Policy.
- 15 No fill, machinery, or materials are to be placed or stored within the drip line of any tree. Tree protection measures are to be implemented as outlined in the Australian Standard AS 4970-2009 'Protection of trees on development sites'.
- 16 Sediment control measures are to be in place at all times. No sediment, wastewater, building or demolition waste, or other materials associated with the development activities are to enter into the vegetation surrounding the site.
- 17 Only native seed stock of local provenance and suitable to the Shale Gravel Transition Forest vegetation community is to be used for site stabilisation purposes and any future landscaping works.

## Construction

- 18 A completed waste management plan shall be submitted to Penrith City Council for consideration and approval. Council must approve the plan before works can commence on site can be issued for the approved development.

The waste management plan shall be prepared in accordance with Chapter C5 Waste Management of the Penrith Development Control Plan 2010, and shall address all waste materials likely to result from the proposed development, with details of the estimated waste volumes, onsite storage and management, proposed re-use of materials, designated waste contractors, recycling outlet and / or landfill site.

The approved waste management plan must be implemented on-site and adhered to throughout all stages of the development including demolition, with supporting documentation / receipts retained in order to verify the recycling and disposal of materials in accordance with the approved plan.

## Payment of Fees

- 19 All roadworks, dedications and drainage works are to be carried out at the applicant's cost.
- 20 Prior to the commencement of any works on site, all fees associated with Penrith City Council-owned land and infrastructure shall be paid to Council. These fees include Road Opening fees and Infrastructure Restoration fees.

## Certification

- 21 Prior to the commencement of any earthworks, construction or 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.

### 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.

## SIGNATURE

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Name:	Aimee Lee
Signature:	

For the Development Services Manager