

# PENRITH CITY COUNCIL

## NOTICE OF DETERMINATION

### DESCRIPTION OF DEVELOPMENT

|                                |  |
|--------------------------------|--|
| Application number:            | DA18/0334  |
| Description of development:    | Occupation and Fitout of a Business Premises - Training and Counselling Services |
| Classification of development: | Class 6  |

### DETAILS OF THE LAND TO BE DEVELOPED

|                    |   |
|--------------------|---|
| Legal description: | Lot B DP 152452<br>Lot C DP 152452<br>Lot 1 DP 1127305<br>Lot 2 DP 1127305<br>Lot A DP 152452 |
| Property address:  | 32 - 52 Harris Street, NORTH ST MARYS NSW 2760  |

### DETAILS OF THE APPLICANT

|                 |  |
|-----------------|--|
| Name & Address: | L Hudson, C/- Insite Planning Services<br>PO Box 93<br>CESSNOCK NSW 2325 |
|-----------------|--|

### 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 | 19 June 2018 |
| Date the consent expires         | 19 June 2020 |
| Date of this decision            | 15 June 2018 |

## POINT OF CONTACT

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

|                           |                |
|---------------------------|----------------|
| Assessing Officer:        | Lucy Goldstein |
| Contact telephone number: | +61247328136   |

## 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 Sydney West 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.

### **Sydney West Planning Panels**

If the application was decided by the Sydney West Planning Panel, please refer to Section 18 of the Greater Sydney Commission Act 2015 and 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 the application, except as may be amended in red on the attached plans and by the following conditions.

| Drawing Title | Drawing Reference | Prepared By | Dated      |
|---------------|-------------------|-------------|------------|
| Site Plan     | -                 | -           | 16/04/2010 |
| Floor Plan    | -                 | Insite      | 24/5/2018  |

- 2 The work must be carried out in accordance with the requirements of the Building Code of Australia. If the work relates to a residential building and is valued in excess of \$20,000, then a contract of insurance for the residential development shall be in force in accordance with Part 6 of the Home Building Act 1989.

{Note: Residential building includes alterations and additions to a dwelling, and structures associated with a dwelling house/dwelling such as a carport, garage, shed, rural shed, swimming pool and the like}.

- 3 **The development shall not be used or occupied until an Occupation Certificate has been issued.**

- 4 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.

- 5 The operating hours are from 4:00am to 10:00pm Mondays to Sundays.

- 6 No retail sale of goods shall be conducted from the subject premises.

- 7 **Prior to the issue of an Occupation Certificate**, a lighting system shall be installed for the development to provide uniform lighting across common areas and driveways. Exterior lighting shall be located and directed in such a manner so as not to create a nuisance to surrounding landuses. The lighting shall be the minimum level of illumination necessary for safe operation. The lighting shall be in accordance with AS 4282 "Control of the obtrusive effects of outdoor lighting" (1997).

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

- 9 A **Construction Certificate** shall be obtained prior to commencement of any building works.
  
- 10 Exercise machines are to be located only within the designated 'exercise area' as identified on the stamped approved floor plan.
  
- 11 Client attendance shall be arranged on an appointment only basis.
  
- 12 The development is required to comply with the 'Business Premises' definition within Penrith Local Environmental Plan 2010, and the operational details outlined in the development application.

## **Environmental Matters**

- 13 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 the areas are to be fully enclosed when the site is unattended.
  
- 14 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.

## **BCA Issues**

- 15 The structural alterations to the buildings shall not unduly reduce or compromise:
  - the existing level of fire protection afforded to persons accommodated in or accessing the building, or
  - the existing level of resistance to fire of the building, or
  - the existing safeguards against the potential spread of fire to adjoining buildings.
  
- 16 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.
  
- 17 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.

18 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.

## Health Matters and OSSM installations

19 The walls and floor of the treatment room/s are to be constructed of materials that are durable, smooth, impervious to moisture and capable of being easily cleaned. No exposed brickwork, timber or carpet is permitted.

20 A hand wash basin in the treatment room/s is to be provided where skin penetration procedures are to be carried out. The hand wash basin is to have a supply of clean, warm, potable water provided through a single spout. The hand wash basin/s is also to be supplied with appropriate hand cleaning and drying equipment (i.e. pump pack antibacterial soap and disposable paper towels).

21 All needles and sharps that penetrate the skin are to be sterile.

22 An appropriate sharps container must be provided at the premises that complies with either AS/NZS 4261:1994 *"Reusable containers for the collection of sharps items used in human and animal medical applications"*, if reusable sharps are used; or that complies with AS 4031-1992 *"Non-reusable containers for the collection of sharp medical items used in health care areas"*, if non-reusable sharps are used.

- 23 All sharps generated from the operation of the business must be disposed of at a licensed waste facility. Receipts for disposal must be kept at the premises and available for inspection by an authorised officer upon request. Details of how sharps will be disposed (e.g. details of waste contractor, frequency of disposal etc) must be provided to Council prior to the issuing of the occupation certificate and commencement of the business.
- 24 Staff belongings and other items not associated with the business shall be kept completely separate from skin penetration activities and equipment and maintained in a clean condition.
- 25 Ensure operators carrying out skin penetration procedures (other than the use of wax for hair removal purposes) wear gloves and appropriately dispose of the gloves immediately after completing the procedure.
- 26 Ensure operators carrying out skin penetration procedures (other than the use of wax for hair removal and colonic lavage) wear a clean gown or apron during the procedure.
- 27 Skin penetration operators using the title, Chinese Medical Practitioner, Acupuncturist, Chinese Herbal Medicine Practitioner, Oriental Medicine Practitioner or Chinese Herbal Dispenser, are required to register with the Chinese Medical Board of Australia. A copy of this registration is to be provided to Council prior to the issuing of the occupation certificate and commencement of the business.

## Construction

- 28 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 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.

29 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.

30 Prior to the issue of a Construction Certificate, a completed waste management plan shall be submitted to Penrith City Council for consideration and approval.

The waste management plan shall be prepared in accordance with the Waste Planning Development Control Plan (2004), 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.



## Landscaping

- 31 No trees are to be removed, ringbarked, cut, topped or lopped or wilfully destroyed without the prior consent of Penrith City Council and in accordance with Council's Tree Preservation Order and Policy.

## Certification

- 32 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.

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

- 33 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 1979, 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 of 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

|            |                |
|------------|----------------|
| Name:      | Lucy Goldstein |
| Signature: |                |

For the Development Services Manager