

# PENRITH

# CITY COUNCIL

## NOTICE OF DETERMINATION

### DESCRIPTION OF DEVELOPMENT

Application number:	DA13/0936
Description of development:	Community Facility - Village 4 Park Construction and Landscaping
Classification of development:	Class 10a

### DETAILS OF THE LAND TO BE DEVELOPED

Legal description:	Lot 11 DP 1176163
Property address:	11 Lakeside Parade, JORDAN SPRINGS NSW 2747

### DETAILS OF THE APPLICANT

Name & Address:	Maryland Development Company Pty Ltd PO Box 1870 PENRITH NSW 2750
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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	7 November 2013
Date the consent expires	7 November 2015
Date of this decision	31 October 2013

### POINT OF CONTACT

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

Assessing Officer:	Gavin Cherry
Contact telephone number:	(02) 4732 8125

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

DRAWING	TITLE	ISSUE	DATE
WPV4LDA	Location Plan	A	22/08/2013
JOR-0011 DA	Table of Contents	01	July 2013
JOR-0011 DA3	Design Statement	01	July 2013
JOR-0011 DA4	Landscape Master Plan (as amended)	01	July 2013
JOR-0011 DA5	Sectional Elevation AA & BB	01	July 2013
JOR-0011 DA6	Indicative Landscape Materials Palette	01	July 2013
JOR-0011 DA7	Indicative Landscape Planning Palette	01	July 2013

- 2 The development shall not be used or occupied until an Occupation Certificate has been issued.
- 3 A separate development application for the erection of any sign or advertising structure, other than an advertisement listed as exempt development, is to be submitted to Penrith City Council.
- 4 A **Construction Certificate** shall be obtained prior to commencement of any building works.
- 5 The development is required to be amended (prior to the issue of the construction certificate) to reflect the following:-
  - Inclusion of an additional pathway on the eastern perimeter of the play area adjoining the rubber softfall, connecting the pathway to create a loop.
  - The sandstone clad wall adjoining the kick about area is to be replaced with a sandstone clad wall with solid sandstone blocks.
  - The shade structures are to be of metal finish to ensure durability.
  - Timber look stepping stumps are to be provided in the play area instead of concrete finish stepping stumps.Or as otherwise agreed to by Council's Park Program Coordinator as part of the construction certificate.
- 6 The following accessibility amendments are required to be undertaken prior to the issue of the construction certificate:-
  - The timber swing bridges are to be replaced / amended so as to enable disabled access
  - Additional seating and breakout areas are to be provided around the park
  - The sandstone block wall is to provide varying heights to facilitate seating capability
- 7 The site is subject to the provisions of the St Marys Penrith Planning Agreement, as amended. The applicant

is reminded of the obligations under the Planning Agreement with regard to the delivery of certain infrastructure and services as part of the development of the Western Precinct. All works shall be carried out in accordance with the requirements of the St Marys Penrith Planning Agreement, as amended.

- 8 The soil salinity management measures outlined within the Western Precinct Plan must be implemented during construction.
- 9 **Prior to the formal hand over** of the riparian corridor and associated landscape embellishment works, the applicant shall contact Council's City Parks Department for a final inspection to ensure all the works have been carried out in accordance with the requirements of the St Marys Penrith Planning Agreement, as amended and to the satisfaction of Penrith City Council's.
- 10 The landscape maintenance and handover of the Village 4 Park shall be undertaken in accordance with the St Marys Western Precinct - Landscape Maintenance and Handover Plan (part of the St Marys Western Precinct Plan) which includes an on-maintenance period of no less than 12 months.
- 11 The development is required to ensure the following safer by design requirements are complied with:-

#### **Landscaping**

Avoid medium height vegetation with concentrated top to bottom foliage.

Trees with dense low growth foliage should be spaced or crown raised to avoid a continuous barrier.

Only use low ground cover or high canopied trees with clean trunks.

Avoid vegetation that impedes the effectiveness of public and private space lighting.

Use "green screens" (wall hugging vegetation that cannot be hidden behind) if screening large expanses of fencing or feature walls.

Dense vegetation (i.e. shrubs and trees) must not be planted around the children's playground area. Low-level planting (i.e. ground covers and grasses) are more suitable. This assists in maintaining surveillance of the play area from surrounding areas of the hotel and prevents opportunities to climb into the play area when locked, which can also pose a risk of accident or injury.

#### **Space Management and Maintenance and Graffiti/Vandalism**

Ensure the speedy repair or cleaning of damaged or vandalised property.

Provide for the swift removal of graffiti.

Provide information advising people where to go for help and how to report maintenance or vandalism problems.

All play equipment, fencing and surfaces must be regularly checked to ensure that all surfaces and equipment are safe for children's use.

Broken, damaged or vandalised equipment must be closed off until repaired or replaced.

#### **Signage**

Signage must be provided to indicate the conditions of use of the play equipment. This includes the age-range of children that can safely use the equipment, hours of use, no food or drink to be consumed in the play area (particularly alcohol to prevent glass bottles and glasses in the play area), and the requirement that children must be supervised at all times by an adult/ parent or carer.

Signage must be displayed to indicate that smoking is prohibited in and around the play area, in accordance with NSW smoke-free legislation.

Signage must be displayed to indicate that no alcohol must be consumed or taken into the playground area.

Signage must be clearly visible and in plain language.

- 12 The development shall be carried out in accordance with the procedures set out in the Western Precinct Contamination Management Plan and the conditions and procedures set out in the Site Audit Statements relating to the Western Precinct.

## **Demolition**

- 13 Dust suppression techniques are to be employed during construction to reduce any potential nuisances to surrounding properties.
- 14 Mud and soil from vehicular movements to and from the site must not be deposited on the road.

## **Environmental Matters**

- 15 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).

Certification that the erosion and sediment control measures have been installed in accordance with the approved erosion and sediment control plan (s) for the development and "Managing Urban Stormwater: Soils and Construction 2004" shall be obtained and issued a minimum 2 days before any other site works are to commence, including earthworks and clearing of the site.

The approved sediment and erosion control measures are to be installed **prior to and maintained throughout the construction phase of the development until the land, that was subject to the works, have 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 the construction of the development.

- 16 No fill material is to be imported to the site without the prior approval of Penrith City Council in accordance with Sydney Regional Environmental Plan No.20 (Hawkesbury- Nepean River) (No.2-1997). No recycling of material for use as fill material shall be carried out on the site without the prior approval of Council.
- 17 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.

18 The following tree species are to be substituted:

- *Eucalyptus sclerophylla* – Replace with *Eucalyptus tereticornis* or *Eucalyptus moluccana*
- *Melaleuca decora* - Replace with *Exocarpus cupressiformis* or *Angophora bakeri*

## BCA Issues

19 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).

## Construction

20 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.

21 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.

22 A completed waste management plan shall be submitted to Penrith City Council for consideration and approval. Council must approve the plan before a Construction Certificate can be issued for the approved development.

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.

23 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

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

25 Any Construction Certificate issued by the Principal Certifying Authority or Certifying Authority shall incorporate plans and details for erosion and sediment control in accordance with the Department of Housing's "Managing Urban Stormwater: Soils and Construction" 2004.

26 **Prior to the issue of a Construction Certificate**, a Roads Act application, including payment of application and inspection fees shall be lodged with Penrith City Council, as the Roads Authority, for the following works:

- Provision of a heavy-duty vehicular crossing/s.

All works within the road reserve shall be carried out in accordance with Penrith City Council's Design Guidelines and Construction Specification for Civil Works.

Penrith City Council (being the Roads Authority under the Roads Act) shall approve the works completed on or over the road reserve. Contact Council's **City Works Department** on (02) 4732 7777 to arrange an inspection of the works (and payment of inspection fees, if required).

27 Subdivision works shall be provided generally in accordance with the concept plan/s lodged for development approval, prepared by Clouston Associates , reference number JOR-0011 DA4, revision 01, dated July 2013.

Any Construction Certificate/s issued by the Certifying Authority shall include but not be limited to the following subdivision works.

- Landscape works
- Retaining walls
- Paving works
- Stormwater Management Works

Engineering plans, supporting calculations and relevant certification for the works shall be prepared by suitably qualified people and must accompany the application for a Construction Certificate.

**Prior to the issue of a Construction Certificate**, the Certifying Authority shall ensure that the works have

been designed in accordance with Penrith City Council's Design Guidelines and Construction Specification for Civil Works.

28 **Prior to the commencement of works on site**, including approved clearing of site vegetation, erosion and sediment control measures shall be installed. The erosion and sediment control measures are to be installed 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.

29 Work on the subdivision shall not commence until:

- a Construction Certificate (if required) has been issued,
- a Principal Certifying Authority has been appointed for the project, and
- any other matters prescribed in the development consent for the subdivision and the Environmental Planning and Assessment Act and Regulation have been complied with.

A Notice of Commencement is to be submitted to Penrith City Council two (2) days prior to commencement of engineering works or clearing associated with the subdivision.

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

31 Prior to the connection of private drainage to Council's drainage system, an inspection is to be carried out by Penrith City Council's Development Engineering Unit. A fee will be charged in accordance with Council's adopted Fees and Charges, and is to be paid prior to the inspection.

32 After completion of all civil works, works-as-executed drawings and compliance documentation shall be submitted to the Principal Certifying Authority in accordance with Penrith City Council's Design Guidelines and Construction Specification for Civil Works.

An original set of works-as-executed drawings and copies of compliance documentation shall also be submitted to Penrith City Council with notification of the issue of the Occupation Certificate where Council is not the Principal Certifying Authority.

33 **Prior to the issue of a Construction Certificate** the Certifying Authority shall ensure that the landscaping embellishment works do not conflict with the engineering plans prepared by J. Wyndham Prince, reference 9408/CC304, revision B and dated 24/05/2013. The landscape works shall make particular regard to the conveyance of stormwater and overland flows, and shall not restrict the depression on the site. Any masonry feature walls shall not impact the existing drainage infrastructure located on the southern side of road 4. Final landscape treatment subjected to flooding should be of a flood compatible type.

## **Landscaping**

34 All landscape works are to be constructed in accordance with the stamped approved Landscape Master Plan, Sections F5 “Planting Techniques”, F8 “Quality Assurance Standards” and F9 “Site Management Plan” of Penrith Council’s Landscape Development Control Plan.

Landscaping shall be maintained:

- in accordance with the approved plan, and
- in a healthy state, and in perpetuity by the existing or future owners and occupiers of the property.

If any of the vegetation comprising that landscaping dies or is removed, it is to be replaced with vegetation of the same species and, to the greatest extent practicable, the same maturity as the vegetation which died or was removed.

35 The following series of reports relating to landscaping are to be submitted to the nominated consent authority at the appropriate time periods as listed below. These reports shall be prepared by a landscape professional listed in Council’s Approved Landscape Consultants Register as suitable to design category 2 landscape works.

i. Implementation Report

- Upon practical completion of the landscape works, an Implementation Report must be submitted to the Principal Certifying Authority attesting to the satisfactory completion of the landscaping works for the development. The report is to be prepared by a landscape professional listed in Council’s Approved Landscape Consultants Register as suitable to design category 2 landscape works.
- If Penrith City Council is not the Principal Certifying Authority, a copy of the satisfactory Implementation Report is to be submitted to Council.

ii. Maintenance Report

- On the first anniversary of the date of the practical completion of the landscape works, a Landscape Maintenance Report is to be submitted to Penrith City Council certifying that the landscape works are still in accordance with the development consent and the plant material is alive and thriving.
- This report is to be prepared by a landscape professional listed in Council’s Approved Landscape Consultants Register as suitable to design category 2 landscape works.

36 All landscape works are to meet industry best practice and the following relevant Australian Standards:

- AS 4419 Soils for Landscaping and Garden Use,
- AS 4454 Composts, Soil Conditioners and Mulches, and
- AS 4373 Pruning of Amenity Trees.

37 No trees are to be removed, ringbarked, cut, topped or lopped or wilfully destroyed (other than those within the location of the approved works 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.

38 The approved landscaping for the site must be constructed by a landscape professional listed in Council’s Approved Landscape Consultants Register as suitable to construct category 2 landscape works.

## Certification

39 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.

## SIGNATURE

Name:	Gavin Cherry
Signature:	

For the Development Services Manager