

PENRITH CITY COUNCIL

NOTICE OF DETERMINATION

DEVELOPMENT APPLICATION DETAILS

Application number:	DA20/0581.02
Description of development:	Section 4:55(1A) Modifications to Car Parking Layout for Approved Child Care Centre
Classification of development:	Class 9b
Name of Applicant:	Homeco (Penrith) Pty Ltd

DETAILS OF THE LAND TO BE DEVELOPED

Legal description:	Lot 200 DP 1230338
Property address:	72 Mulgoa Road, JAMISONTOWN NSW 2750

DECISION OF CONSENT AUTHORITY

In accordance with Sections 4.18(1) (a) and 4.55 of the Environmental Planning and Assessment Act 1979, consent is granted subject to the conditions listed in attachment 1.

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

Decision	Approve
Date from which consent operates	20 April 2021
Date the consent expires	20 April 2026
Date of this decision	20 April 2021 as amended on 24 February 2022 under Section 4.55 of the Environmental Planning and Assessment Act.

POINT OF CONTACT

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

Assessing Officer:	Phillip Doy
Contact telephone number:	+61247327654

NOTES

Reasons

The conditions in the attached schedule have been imposed in accordance with Section 4.17 of the Environmental Planning and Assessment Act 1979 as amended.

Conditions

Your attention is drawn to the attached conditions of consent in attachment 1.

Certification and advisory notes

You should also check if this type of development requires a construction certificate in addition to this development consent.

It is recommended that you read any Advisory Note enclosed with this notice of determination.

Review of determination

The applicant may request Council to review its determination pursuant to Division 8.2 of the Environmental Planning and Assessment Act 1979 within twelve months of receiving this Notice of Determination.

These provisions do not apply to designated development, complying development or crown development pursuant to Section 8.2(2) of the Environmental Planning and Assessment Act 1979.

Appeals in the Land and Environment Court

The applicant can appeal against this decision in the Land and Environment Court within twelve months of receiving this Notice of Determination.

There is no right of appeal to a decision of the Independent Planning Commission or matters relating to a complying development certificate pursuant to clause 8.6(3) of the Environmental Planning and Assessment Act 1979.

Designated development

If the application was for designated development and a written objection was made in respect to the application, the objector can appeal against this decision to the Land and Environment Court within 56 days after the date of this notice.

If the applicant appeals against this decision, objector(s) will be given a notice of the appeal and the objector(s) can apply to the Land and Environment Court within 56 days after the date of this appeal notice to attend the appeal and make submissions at that appeal.

Sydney Western City Planning Panels

If the application was decided by the Sydney Western City Planning Panel, please refer to Section 2.16 of the Environmental Planning and Assessment Act, 1979 (as amended) for any further regulations.

ATTACHMENT 1: CONDITIONS OF CONSENT

General

- 1 The development must be implemented substantially in accordance with the following plans and documents stamped approved by Council, the application form and any supporting information received with the application, except as may be amended in red on the stamped approved plans and as amended by the following conditions.

Drawing Title	Prepared By	Project No.	DWG No.	Issue	Date
Overall Site Plan	Five Canons Architecture	19046	S4.55-002	Z-1	31.01.2022
Area Plan	Five Canons Architecture	19046	S4.55-003	Z-1	31.01.2022
Site Plan (Existing)	Five Canons Architecture	19046	S4.55-100	Z-1	31.01.2022
Site Easement Plan	Five Canons Architecture	19046	S4.55-101	Z-1	31.01.2022
Site/Site Analysis Plan (Proposed)	Five Canons Architecture	19046	S4.55-102	Z-1	31.01.2022
Shadow Study	Five Canons Architecture	19046	S4.55-103	Z-1	31.01.2022
Proposed Floor Plan	Five Canons Architecture	19046	S4.55-201	Z-1	31.01.2022
Roof Plan	Five Canons Architecture	19046	S4.55-104	Z-1	31.02.2022
Licensing Plan	Five Canons Architecture	19046	S4.55-202	Z-1	31.01.2022
Elevations	Five Canons Architecture	19046	S4.55-300	Z-1	31.01.2022
External Finishes Elevations	Five Canons Architecture	19046	S4.55-301	Z-1	31.01.2022
Sections	Five Canons Architecture	19046	S4.55-400	Z-1	31.01.2022
General Arrangement Plan	henry&hymas	--	20820_S4.55_C100	02	04.02.2022
Stormwater Miscellaneous Details & Pit Lid Schedule	henry&hymas	--	20820_DA_C200	01	31.08.2020
Soil & Erosion Control Plan	henry&hymas	--	20820_DA_SE01	01	31.08.2021
Soil & Erosion Control Details	henry&hymas	--	20820_DA_SE02	G	31.08.2021

Documents:

- Audit Process letter prepared by Rambol Australia Pty Ltd, Ref: 318001139, dated 8 March 2021;
- Building Code of Australia 2019.1 Design Review prepared by Hendry Group Pty Ltd, Reference No. 20200383, Revision 2, dated 31 October 2020;
- Childcare Centre Management Plan prepared by Aurrum Childcare and Preschool, dated September 2020;
- Civil Design Statement prepared by H&H Consulting Engineers Pty Ltd (henry&hymas), Ref: 20820/tr, dated 14 September 2020;
- Conceptual Site Model prepared by Senversa Pty Ltd, Ref: S18159_006_CSM_Rev0, dated 10 December 2020;

- Construction Environmental Management Plan prepared by Senversa Pty Ltd, Ref: S18159_007_CEMP_Rev0, dated 10 December 2020;
- Long Term Environmental Management Plan prepared by Senversa Pty Ltd, Ref: S18159_008_LTEMP_Rev0, dated 10 December 2020;
- Landscape Concept Design Package prepared by Aspect Studios, Project No. A20014-SK001, dated 25 November 2020;
- Noise Impact Assessment, prepared by Rodney Stevens Acoustics Pty Ltd, Report No. 200754R1, Revision 1, dated 16 February 2021;
- Roof Water Harvesting letter prepared by VOS Group Pty Ltd, Ref: S9645, dated 20 November 2020;
- Site Suitability letter prepared by Senversa Pty Ltd, Ref: S18159_009_LTR_Rev0, dated 1 March 2021;
- Soil Vapour Assessment Report prepared by Senversa Pty Ltd, Ref: S18159_004_LET_Rev0, dated 20 October 2020;
- Summary of Contaminated Land Condition prepared by Senversa Pty Ltd, Ref: S18159_002_Let_Rev0, dated 31 August 2020;
- Transport Impact Assessment prepared by onemilegrid, Ref: 200095TIA001F-F, dated **17** September **2021**; and
- Waste Management Plan prepared by Willow Tree Planning, Ref: WTJ20-149_WMP, dated 10 December 2020.

As amended on 24/02/2022 under Section 4.55(1A) of the Environmental Planning and Assessment Act 1979.

2 The proprietor of the food business shall ensure that the requirements of the NSW Food Act 2003, NSW Food Regulation 2010 and the Australian and New Zealand Food Standards Code are met at all times.

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

A satisfactory inspection from an authorised officer of Council's Environmental Health Team is required **prior to the issue of an Occupation Certificate**. The occupier is to contact the Environmental Health Department to organise an appointment at least 72 hours prior to the requested inspection time.

4 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 issue of an Occupation Certificate and operation of the business**.

5 A separate development application for the erection of a sign or advertising structure, other than advertising listed as exempt development, is to be submitted to Penrith City Council, complying with the requirements of Penrith Development Control Plan 2014.

6 The operating hours are from 6:30am to 6:30pm, Mondays to Fridays.

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

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

9 The maximum number of children placed at the centre is to be limited to 110, with 44 child care placements for 0-2 years old, 26 places for 2-3 years old, 40 places for 3-6 years old.

10 A NSW EPA Accredited Site Auditor is to be engaged and shall oversee and endorse the development

works in accordance with the Contaminated Land Management Guidelines for the NSW Site Auditor Scheme (3rd edition) and the conditions of consent. All contamination management works are to consider and incorporate necessary engineering and other technical requirements to ensure the stability, durability, safety and longevity of the contamination containment system endorsed by the Site Auditor.

- 11 The following community safety and crime prevention through environmental design (CPTED) requirements are required to be implemented:

Lighting

- All outdoor/public spaces throughout the development must be lit to the minimum AS 1158. Lighting must be consistent in order to reduce the contrast between shadows and illuminated areas and must be designed in accordance with AS 4282 - Control of the obtrusive effects of outdoor lighting.

Car Parking

- All areas of the car park must be well-lit, with consistent lighting to prevent shadowing or glare.

Building Security & Access Control

- Intercom, code or card locks or similar must be installed for all entries to the building.
- Australian Standard 220 – door and window locks must be installed.
- CCTV is to be provided to cover communal public space areas. Cameras must be of sufficient standard to be useful for police in the event of criminal investigations. Lighting must be provided to support cameras at night (alternatively infra-red cameras are recommended). Signage must be displayed to indicate that CCTV cameras are in use.
- Security provisions outlined in Plan of Management to be conditioned.

Graffiti/Vandalism

- Graffiti resistant coatings must be used to external surfaces where possible, including signage, furniture, retaining walls etc.
- Procedures must be in place to ensure the prompt removal and/or repair of graffiti or vandalism to the buildings, fencing, and common areas. This includes reporting incidents to police and/or relevant authorities.
- Outdoor equipment/furniture must be stored away after hours to minimise opportunities for vandalism/theft.

Landscaping

- All vegetation must be regularly pruned to ensure that sight lines are maintained.

Demolition

- 12 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**.

- 13 Dust suppression techniques are to be employed during demolition and construction works to reduce any potential nuisances to surrounding properties.

- 14 Mud and soil from vehicular movements to and from the site during demolition and construction works must not be deposited on the road.

Environmental Matters

- 15 Construction works shall be carried out in accordance with the NSW Department of Environment and Climate Change's *"Interim Construction Noise Guideline"* 2009.
- 16 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 throughout the construction phase of the development until the landscaping, driveway and on-site parking areas have been completed for the development. Erosion and sediment control measures are to be 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) 9841 8600).

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.

- 17 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.
- 18 Noise levels from the premises shall not exceed the relevant noise criteria detailed in the Council approved *'Noise Impact Assessment: Proposed Child Care Centre, 72 Mulgoa Road, Jamisontown NSW 2750'* prepared by Rodney Stevens Acoustics and dated 16 February 2021 (Ref. 200754R1 Revision 1). The recommendations provided in section 6 the Noise Impact Assessment shall be implemented and incorporated into the design, construction and operation of the development, and shall be shown on plans accompanying the Construction Certificate application. This applies to the acoustic fencing required by the Noise Impact Assessment.

A compliance certificate is to be obtained from a qualified acoustic consultant certifying that the development (including acoustic fencing) has been constructed to meet the noise criteria in accordance with the approved acoustic report. This certificate is to be submitted to Penrith City Council **prior to the issue of an Occupation Certificate**.

- 19 All mechanical plant and equipment is to comply with the noise criteria outlined in the *'Noise Impact Assessment: Proposed Child Care Centre, 72 Mulgoa Road, Jamisontown NSW 2750'* prepared by Rodney Stevens Acoustics dated 16 February 2021 (Ref. 200754R1 Revision 1).

Prior to the issue of a Construction Certificate, further details on the type and location of all mechanical plant and equipment associated with the development is to be provided to Penrith City Council for consideration and approval. Suitable data and information, prepared by a suitably qualified acoustic consultant, on the noise impacts associated with this plant and equipment is to be supplied to demonstrate compliance with the established noise criteria.

Prior to the issue of an Occupation Certificate, a Compliance Certificate, prepared by a suitably qualified acoustic consultant, is to be submitted to and approved by Council. The Certificate is to outline that all plant and equipment has been installed to comply with the above information and the established noise criteria.

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

20 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 Certifying Authority or Council. The Validation Certificate shall:

- state the legal property description of the fill material source site,
- be prepared by an appropriately qualified person 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 in accordance with the requirements of the NSW EPA (2015) 'Waste Classification Guidelines' or the requirements of the applicable resource recovery order (RRO) and resource recovery exemption (RRE) issued by the EPA under clause 93 of the Protection of the Environment Operations (Waste) Regulation 2014, 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 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: an appropriately qualified person is defined as "a person who, in the opinion of Council, has a demonstrated experience, or access to experience in hydrology, environmental chemistry, soil science, ecotoxicology, 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."}

A NSW EPA Accredited Site Auditor (as accredited under the Contaminated Land Management Act 1997) shall supervise the filling works. A Site Audit Statement and Site Audit Report must be submitted to Penrith City Council and any Principal Certifying Authority on completion of the filling works. The site must be suitable for its intended land use and shall not pose any unacceptable risk to human health or the environment.

The contact details of the EPA Accredited Site Auditor engaged for the works shall be provided with the Notice of Commencement.

21 Due to noise requirements, restrictions apply to the number of children allowed in the outdoor play area at any one time. A maximum of:

- 44 children aged 0-2 years or
- 26 children aged 2-3 years or
- 40 children aged 3-5 years are permitted.

22 Works shall be carried out generally in accordance with the NSW EPA accredited Site Auditor endorsed:

- 'Conceptual Site Model, Proposed Childcare Centre, 72-80 Mulgoa Road, Penrith NSW', dated 10 December 2020 (the CSM);
- 'Construction Environmental Management Plan, Proposed Childcare Centre, 72-80 Mulgoa Road, Penrith NSW', dated 10 December 2020 (the CEMP);
- 'Long-Term Environmental Management Plan, Child Care Centre, 72-80 Mulgoa Road, Penrith, NSW', dated 10 December 2020 (the EMP);
- Any additional NSW EPA accredited Site Auditor requirements as identified during site development works;
- Audit Process Letter titled 'Re: Contamination Audit Process Letter, 72 Mulgoa Road, Jamisontown NSW' prepared by Ramboll and dated 8 March 2021 (author NSW EPA Accredited Auditor 1505); and
- The applicant/developer must manage the site in accordance with any Environmental Management Plan approved by the Site Auditor (if any).

as well as Penrith Development Control Plan 2014, applicable NSW Environment Protection Authority Guidelines (including the Contaminated Land Management Guidelines for the NSW Site Auditor Scheme), and the National Environment Protection (Assessment of Site Contamination) Measure (1999) [NEPM 2013].

Prior to issue of an Occupation Certificate, the following documentation is to be submitted for approval to the Principal Certifying Authority and Penrith City Council, if Council is not the Principal Certifying Authority:

- Site Audit Statement and Site Audit Report prepared by a NSW EPA Accredited Site Auditor and confirming that the land is suitable for the proposed land use as a child-care centre.

23 **Prior to the issue of an Occupation Certificate**, the applicant shall register a Restriction as to User with Land and Property Information, relating to the NSW EPA Accredited Site Auditor endorsed Environmental Management Plan regarding containment of contamination on site with Council being the beneficiary. The Restriction as to User shall contain words that are in accordance with the Site Audit Statement and Site Audit Report and include words to the effect:

'This land is subject of an Environmental Management Plan that contains specific requirements in relation to managing activities on this land. Please contact Penrith City Council on 4732 7777 to access information contained in this report'.

24 **Prior to the issue of a Construction Certificate**, the following reports are to be submitted to Penrith City Council for approval. The reports are to be endorsed by a NSW EPA accredited Contaminated Sites Auditor and be submitted together with the associated Site Auditor Interim Audit Advice (IAA) letter as detailed in the document titled '*RE: Contamination Audit Process Letter, 72 Mulgoa Road, Jamisontown NSW*' prepared by Ramboll Australia and dated 8 March 2021 (ref: 318001139).

The required reports are to include, but not necessarily be limited to:

- Environmental Management Plan (EMP);
- Conceptual Site Model (CSM); and
- Construction Environment Management Plan (CEMP).

All activities on the site are to be implemented and carried out in accordance with the above Site Auditor

endorsed and Council approved documents, as well as the conditions of this consent.

- 25 **Prior to the issue of a Construction Certificate**, a Construction Waste Management Plan is to be submitted to Council for approval. This Plan is to address all waste materials generated during the construction phase of the development, including details of the proposed waste volumes, on site storage and management, designated waste contractors and waste facilities.

The approved Waste Management Plan must be implemented and adhered to on site, with supporting documentation/receipts retained in order to verify the disposal of materials in accordance with the approved Plan.

- 26 Appropriate signage is to be installed in the carpark and entrance of the centre requesting patrons to minimise noise and protect the amenity of the surrounding neighbourhood.

Prior to the issue of an Occupation Certificate, a suitable signage plan is to be submitted to Council for approval. The signage plan is to provide details on the location, sizing and wording of the proposed signs and the signs are to be constructed **prior to the issue of an Occupation Certificate**.

- 27 In the event of ongoing noise complaints relating to the development being received by Council, the owner and/or occupier of the development may be required by Council to obtain the services of a suitably qualified acoustic consultant to undertake a noise impact assessment on the development to address the concerns of the community.

The noise impact assessment report is to be prepared and provided to Council for approval within 45 days of being requested. Any mitigation works are to be undertaken within thirty (30) days from the date of notice from Council, unless otherwise specified.

- 28 A Noise Management Plan (NMP) is to be prepared and submitted to Penrith City Council for consideration and approval **prior to the issue of an Occupation Certificate**. The NMP shall be prepared by suitably qualified persons, and may need to be amended to include any comments provided by Council. The NMP is to address all noise related aspects of the development's operational phases, including:

- address the relevant conditions of this consent; and
- recommend any systems/controls to be implemented to minimise the potential for any adverse noise impact(s); and
- incorporate a program for ongoing monitoring and review to ensure that the NMP remains contemporary with relevant environmental standards.

The approved Noise Management Plan is to be implemented and complied with at all times.

- 29 Should remediation be required that is outside the scope of works detailed in the Construction Environmental Management Plan and Long Term Environmental Management Plan submitted with this application, Penrith City Council is to be notified and consulted before the remediation works commence. This applies in addition to the requirement for endorsement by a NSW EPA Accredited Site Auditor.

BCA Issues

- 30 The requirements of Clause 143 of the Environmental Planning and Assessment Regulation 2000 are to be taken into consideration **prior to the issue of a Construction Certificate**. In particular, but not limited to, the consequence of the construction of the child care centre on the open space requirements of the existing building as per Clause C2.3 of the Building Code of Australia is to be addressed . This may be by the formulation of a "Performance Solution".
- 31 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 relevant Construction Certificate application.
- 32 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

- 33 The construction, fit-out and finishes of the food premises must comply with Standard 3.2.3 of the Australian and New Zealand Food Standards Code, and AS 4674-2004 *Design, Construction and Fit-out of Food Premises*.

- 34 Cooking appliances which exceed a total maximum power input of 8kw for electrical, or a total gas input of 29MJ/h for a gas appliance are required to have a kitchen exhaust system installed in accordance with Clause F4.12 of the Building Code of Australia and AS 1668 Parts 1 & 2.

Detailed plans together with calculations for the system must be provided as part of the development application or as part of the Construction Certificate application.

The exhaust hood must completely cover the equipment to be ventilation and extended at least 200mm beyond the perimeter of the equipment. The exhaust hood must be provided with a condensation gutter around its base. The gutter must be at least 50mm wide by 25mm deep. Where abutting walls are located the hood must be constructed so as to finish flat against the wall surface.

The low edge of a canopy type exhaust hood must be at least 2000mm above floor level.

Prior to the issue of an Occupation Certificate, and operation of the business, the exhaust system shall be certified by an appropriately qualified person to comply with the Building Code of Australia and AS 1668 Parts 1 & 2. A copy of the certification and supporting documentation must be provided to Council's Environmental Health Department if Council is not the Principal Certifying Authority.

- 35 The floor of the food premises must be finished in an approved non-absorbent material, evenly laid, or graded and drained to a trapped floor waste. All floor wastes in the food preparation, service and scullery area must be fitted with a sump removable basket and grate, a minimum 200mm in diameter, and finished in all stainless steel.
- 36 Approved, recessed coving must be provided at all intersections of the floor with the walls within all food preparation, service, storage and scullery areas. All coving must have a minimum concave radius of 25mm and be installed so as to be integral to the surface finish of both floor and wall in such a manner as to form a continuous, uninterrupted surface.
- 37 The walls of the food preparation area must be of solid construction and finished with glazed ceramic tiles or other approved material to a height of 2 metres. The intersection of tiles and render must have a flush finish, or be splayed at a 45 degree angle to eliminate a ledge that would allow dust and grease to accumulate.
- 38 The walls at the rear of cooking appliances must be surfaced with an impervious material, such as stainless steel, which extends from the canopy to the floor. Where a cooking appliance is sealed to the wall, the material must be lapped over the top edge of the appliance to provide a grease and vermin proof seal. Cooking appliances must only be sealed to walls made of a non-combustible material.
- 39 The ceiling in the kitchen must be constructed with a rigid, non-absorbent, smooth faced material free from open joints, cracks and crevices and be painted with a light coloured washable paint. The intersection of the walls and ceiling must be tight jointed, sealed and dust proofed. Drop-in panel style ceilings are not permitted.
- 40 A cleaner's sink must be serviced with hot and cold water through taps fitted with hose connectors must be provided within the facility. Cleaner's sinks must be located outside of areas where open food is handled.
- 41 All fixtures, fittings and equipment must be provided with smooth and impervious surfaces, free from cracks and crevices to enable easy cleaning.

All fittings and fixtures must be built into the wall and floor so as to be free from joint, gaps and cavities to enable easy cleaning or alternatively, supported on one of the following:

- a. Plinths – plinths must be an integral part of the floor, constructed of solid materials similar to the floor at least 75mm in height and coved at the intersection with the floor. All plinths must have a smooth and impervious finish. All fittings and fixtures must be properly sealed to the plinth so to be free from gaps, cracks and cavities.
- b. Wheels or castors – fittings and fixtures can be supported on wheels or castors. The wheels and castors must be capable of supporting and easily moving a full loaded fitting. All wheels and castors must be provided with a restraining device.
- c. Legs – fittings and fixtures can be supported on legs but must be constructed of a non-corrosive, smooth metal or moulded plastic. All legs must be free from cracks and crevices. All legs must have a clearance space between the floor and the underside of the fitting of at least 200mm.

NOTE: False bottoms under fittings are not permitted (AS 4674-2004 – Sections 4.2 and 4.3).

- 42 All garbage must be stored in accordance with the requirements of the Food Safety Standards of the Australian and New Zealand Food Standards Code and the Protection of the Environment Operations Act 1997 to prevent the harbourage of vermin or generation of odours.
- 43 The grease arrestor must not be installed in any kitchen, food preparation or food storage area. The grease arrestor shall be installed in accordance with Sydney Water’s requirements.
- 44 A bottle preparation sink and a separate hand washing sink must be provided to all bottle preparation areas.
- 45 **Prior to the issue of a Construction Certificate**, detailed specifications and plans of the kitchen fit-out must be provided to the Certifying Authority demonstrating Standard 3.2.3 of the Australian and New Zealand Food Standards Code, and AS 4674-2004 *Design, Construction and Fit-out of Food Premises* will be met.
- 46 Hand basins must be freestanding, serviced with hot and cold water through a single outlet, able to be mixed at a temperature of at least 40°C and fitted with a hands free operation. Where sensor taps are used the basin must not be more than 6 metres from the hot water system. Disposable paper hand towels and soap must be provided and serviced from a dispenser adjacent to each hand basin.
- 47 Hand washing facilities must be provided immediately adjacent to nappy changing stations.

Utility Services

- 48 A Section 73 Compliance Certificate under the Sydney Water Act 1994 shall be obtained from Sydney Water. The application must be made through an authorised Water Servicing Coordinator. Please refer to “Your Business” section of Sydney Water’s website at www.sydneywater.com.au then the “e-developer” icon, or telephone 13 20 92.

The Section 73 Compliance Certificate must be submitted to the Principal Certifying Authority **prior to the issue of an Occupation Certificate**.

- 49 **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.

Construction

50 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-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 on-site, 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 Final Occupation Certificate has been issued for the development.

51 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 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.

52 Construction and demolition 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 that 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

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

54 ***Deleted on 24/02/22 under DA20/0581.02 as per Section 4.55 1(1A) of the Environmental Planning and Assessment Act 1979.***

55 ***Deleted on 24/02/22 under DA20/0581.02 as per Section 4.55 1(1A) of the Environmental Planning and Assessment Act 1979.***

56 The stormwater management system shall be consistent with the plan/s lodged for development approval, prepared by Henry & Hymas, ***reference number 20820_S4.55_C100, revision 2, dated 04.02.2022.***

Prior to the issue of any Construction Certificate or Subdivision Works Certificate, the Certifier shall ensure that the stormwater management system has been designed in accordance with Penrith City Council's Stormwater Drainage Specification for Building Developments and Water Sensitive Urban Design (WSUD) Policy.

Engineering plans and supporting calculations for the stormwater management system are to be prepared by a suitably qualified person and shall accompany the application for a Construction Certificate or Subdivision Works Certificate.

As amended on 24/02/22 under DA20/0581.02 as per Section 4.55(1A) of the Environmental Planning and Assessment Act 1979.

57 **Prior to the issue of a Construction Certificate**, the Certifier shall ensure that the foundations of proposed structures adjoining the drainage and/or services easement have been designed clear of the zone of influence.

58 **Prior to the issue of a Construction Certificate**, the Certifier shall ensure that all habitable floor levels are a minimum RL 29.65m AHD.

59 **Prior to the issue of a Construction Certificate**, the Certifier shall ensure that all electrical services associated with the proposed building works are adequately flood proofed in accordance with Penrith Development Control Plan 2014 relating to flood liable land. Flood sensitive equipment (including electric motors and switches) shall also be located above the adopted flood level of RL 29.65m AHD.

60 **Prior to commencement of works**, sediment and erosion control measures shall be installed in accordance with the Construction Certificate and to ensure compliance with the Protection of the Environment Operations Act 1997.

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

- 61 A certificate by a registered surveyor verifying that all habitable floor levels are at or above RL 29.65m AHD (adopted flood level +0.5m freeboard) shall be submitted upon completion of the building to that level. No further construction of the building is to be carried out until approval to proceed is issued by the Certifier.
- 62 ***Deleted on 24/02/22 under DA20/0581.02 as per Section 4.55 1(1A) of the Environmental Planning and Assessment Act 1979.***
- 63 Prior to the issue of an Occupation Certificate, the Principal Certifier shall ensure that the stormwater management system (including water sensitive urban design measures):
- Have been satisfactorily completed in accordance with the approved Construction Certificate and the requirements of this consent;
 - Have met the design intent with regard to any construction variations to the approved design, and;
 - Any remedial works required to be undertaken have been satisfactorily completed.

Details of the approved and constructed system/s shall be provided as part of the works-as-executed drawings.

- 64 **Prior to the issue of an Occupation Certificate**, a restriction as to user and positive covenant relating to the stormwater management systems (including water sensitive urban design measures) shall be registered on the title of the property. The restriction as to uses and positive covenant shall be in Penrith City Council's standard wording as detailed in Penrith City Council's Stormwater Drainage Specification for Building Development - Appendix F.
- 65 The stormwater management systems shall continue to be operated and maintained in perpetuity to the satisfaction of Council in accordance with the final operation and maintenance plan. Regular inspection records are required to be maintained and made available to Council upon request. All necessary improvements are required to be made immediately upon awareness of any deficiencies in the treatment measure/s.
- 66 All car spaces are to be sealed/line marked and dedicated for the parking of vehicles only and not to be used for storage of materials/products/waste materials, etc.
- 67 Childcare Drop Off and Staff Parking spaces should be sign posted accordingly.

Landscaping

68 All landscape works are to be constructed in accordance with the stamped approved plans and Appendix F4: Technical Information and C6 Landscape Design of the Penrith Development Control Plan 2014.

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.

69 The approved landscaping for the site must be constructed by a suitably qualified and experienced landscape professional.

70 All plant material associated with the construction of approved landscaping is to be planted in accordance with the Tree Planting Specification prescribed in Penrith Development Control Plan 2014.

71 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.

72 No trees are to be removed from within the subdivision without the prior consent of Penrith City Council. Any trees to be removed as part of the engineering work are to be shown on engineering plans submitted for Council's consideration and subsequent approval.

Section 94

73 This condition is imposed in accordance with Penrith City Council's Section 7.12 Citywide Development Contributions Plan for Non-Residential Development. Based on the current rates detailed in the accompanying schedule attached to this Notice, **\$25,490.00 is to be paid to Council prior to a Construction Certificate being issued** for this development (the rates are subject to quarterly reviews). If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted Section 7.12 Contributions Plan. The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule.

Council should be contacted prior to payment to ascertain the rate for the current quarterly period. The Section 7.12 invoice accompanying this consent should accompany the contribution payment. The Section 7.12 Contributions Plan for Non-Residential Development may be inspected at Council's Civic Centre, 601 High Street, Penrith.

Certification

- 74 A Final 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 Final 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.

- 75 **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 6.6 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 6.6 of the Environmental Planning and Assessment Act 1979.

Unallocated

- 76 All car parking and maneuvering must be in accordance with AS2890.1; AS 2890.2; AS2890.6 and Council's DCP requirements
- 77 All parking spaces are to be constructed with parking bays and circulation aisles clearly delineated in accordance with AS2890.1 and Council's DCP requirements.
- 78 Prior to the issue of any Occupation Certificate, the Principal Certifying Authority is to ensure that a minimum of one (1) raised planter bed is installed in the carpark adjacent to the south western corner of the childcare centre as marked on the stamped approved plans. The raised planter bed is to incorporate a minimum of one (1) tree which would reach a minimum height at maturity, of 6 metres and is to include appropriate ground covers and/or grasses, and soil is to be mounded to increase soil volume. The selected tree is to be a minimum of 40L at the time of planting. The landscaping in the raised planter bed is to be maintained in perpetuity and replaced if planting fails.

Soil volume for the tree (measured in m³) is to be at least 0.6 times the projected mature canopy area of the tree (measured in m²) Soil is to be of high quality and fit for purpose. The minimum area of the planter is to

be 1.8m x 3m

A Landscape Concept Plan is required which must outline how the area of planting will be maintained for the life of the development as per Chapter 6 'Landscape Design' of the *Penrith Development Control Plan 2014*.

79 All car parking and drop-off/pick up spaces with nose to front orientation adjoining the day care building are to have wheel stops implemented.

SIGNATURE

Name:	Phillip Doy
Signature:	

For the Development Services Manager