

PENRITH CITY COUNCIL

NOTICE OF DETERMINATION

DESCRIPTION OF DEVELOPMENT

Application number:	DA17/0506
Description of development:	Alterations & Additions to an Existing Structure for a Veterinary Hospital and Club Administration Offices
Classification of development:	Class 5 , Class 6

DETAILS OF THE LAND TO BE DEVELOPED

Legal description:	Lot 1 DP 1084891
Property address:	308 - 332 Londonderry Road, LONDONDERRY NSW 2753

DETAILS OF THE APPLICANT

Name & Address:	Richmond Race Club Ltd C/- Urban City Planning PO Box 1201 WINDSOR NSW 2756
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DECISION OF CONSENT AUTHORITY

In accordance with Sections 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	15 May 2018
Date the consent expires	15 May 2020
Date of this decision	11 May 2018

POINT OF CONTACT

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

Assessing Officer:	Gannon Cuneo
Contact telephone number:	+612 4732 7774

NOTES

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 stamped approved plans, 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.

Title	Reference	Author	Date
Site Plan	170809-1 (Issue D)	Barbara Tarnawski Architects	21/03/18
Proposed Floor Plan	170809-3 (Issue D)	Barbara Tarnawski Architects	21/03/18
Elevations and Section	170809-4 (Issue D)	Barbara Tarnawski Architects	21/03/18

- 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 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 State Environmental Planning Policy No. 64 - Advertising and Signage and Penrith Development Control Plan.
- 4 The operating hours of the veterinary hospital are from 8.30am to 7.00pm Mondays to Fridays and 8.30am to 1.00pm Saturdays. Delivery and service vehicles generated by the development are limited to the operating hours of the veterinary hospital.
- 5 A **Construction Certificate** shall be obtained prior to commencement of any building works.
- 6 The office space within the development shall not be leased or subleased for any business or operations that do not exist on the site. The area identified as office space shall be occupied by the operator of the site only.
- 7 **Prior to the issue of an Occupation Certificate**, the following works are required:
- Any external areas of the building that are dilapidated or deteriorated are to be updated and enhanced;
 - An awning is to be constructed over the entrance to the veterinary hospital and office to assist in way finding;
 - Traffic calming devices are to be installed in the car park to ensure the safety of pedestrians; and
 - Line marking and bollards are to be installed in accordance with the stamped approved plan.
- 8 The Veterinary Clinic shall not:
- involve more than 2 *Veterinary* professionals and 2 support staff at any one time, or
 - provide services to the community other than via appointment only, or
 - operate above the capacity of the existing car parking and waiting room facilities, or
 - operate outside the approved hours for anything other than an emergency.
- 9 Animal boarding and training facilities are not permitted under this consent.

Demolition

- 10 All demolition works, including internal demolition, 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**.

- 11 Dust suppression techniques are to be employed during demolition and construction to reduce any potential nuisances to surrounding properties.
- 12 Mud and soil from vehicular movements to and from the site must not be deposited on the road.
- 13 Demolition and construction works will be restricted to the following hours in accordance with the NSW Environment Protection Authority Noise Control Guidelines:
- Mondays to Fridays, 7am to 6pm
 - Saturdays, 7am to 1pm (if inaudible on neighbouring residential premises), otherwise 8am to 1pm
 - No work is permitted on Sundays and Public Holidays.

In the event that the works relate to works inside the building and do not involve external walls or the roof, and do not involve the use of equipment that emits noise then the demolition works are not restricted to the hours stated above.

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

Environmental Matters

- 14 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.
- 15 All excavated material and other wastes generated as a result of the development are to be re-used, recycled or disposed of in accordance with the approved waste management plan.

Waste materials not specified in the approved waste management plan are to be disposed of at a lawful waste management facility. Where the disposal location or waste materials have not been identified in the waste management plan, details shall be provided to the Certifying Authority as part of the waste management documentation accompanying the Construction Certificate application.

All receipts and supporting documentation must be retained in order to verify lawful disposal of materials and are to be made available to Penrith City Council on request.

BCA Issues

- 16 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.
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- 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.
- 17 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

- 18 Public waiting areas and toilets in the premises shall be maintained in a clean and hygienic condition free from a build up of waste at all times.
- 19 The ionising radiation apparatus is to be registered with the NSW Office of Environment & Heritage (OEH) prior to its use. Note: Guidance may be obtained from the NSW EPA guidelines "*Radiation Guideline 6 - Registration requirements and industry best practice for ionising radiation apparatus used in diagnostic imaging*". Any X-ray device must incorporate all necessary safety features to prevent exposure to radiation in excess of that permitted by the *Radiation Control Act 1990* and Regulations and any other relevant legislation, code or standard
- 20 Suitably constructed waste disposal containers with securely fitting lids must be kept on the property for the storage of any clinical, contaminated waste or related waste prior to final disposal of the material at a facility approved by the NSW Office of Environment and Heritage. A licensed clinical waste contractor must be engaged to collect and dispose of all clinical waste generated on site and produced to Council upon request. Receipts of service must be kept on site specifying the volume collected and the dates of service.

Construction

- 21 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.

22 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, 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.

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 Stormwater drainage from the site shall be discharged to the existing site drainage system.

The proposed development and stormwater drainage system shall be designed to ensure no adverse impact on adjoining properties by the diversion, damming or concentration of stormwater flows.

The proposed method of stormwater discharge shall be detailed in the Construction Certificate issued by the Certifying Authority.

- 25 **Prior to the issue of any Construction Certificate**, the Certifying Authority shall ensure that vehicular access, circulation, manoeuvring, pedestrian and parking areas associated with the subject development are in accordance with AS2890.2, AS2890.6 and Penrith City Council's Development Control Plan.

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

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

- 27 **Prior to the issue of any Occupation Certificate**, directional signage and line-marking shall be installed in accordance with the stamped approved site plan, indicating directional movements and the location of customer parking to the satisfaction of the Principal Certifying Authority.

Landscaping

- 28 **Prior to the issue of an Occupation Certificate**, landscaping shall be provided in accordance with the stamped approved Site Plan (Drawing No. 170809-1, dated 07/12/17, prepared by Barbara Tarnawski). A range of small, medium and large shrubs shall be provided.

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.

- 29 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.
- 30 Existing landscaping is to be retained and maintained at all times.

Certification

- 31 Prior to the commencement of any earthworks or construction works on site, the proponent is to:
- (a) employ a Principal Certifying Authority to oversee that the said works carried out on the site are in accordance with the development consent and related Construction Certificate issued for the approved development, and with the relevant provisions of the Environmental Planning and Assessment Act and accompanying Regulation, and
 - (b) submit a Notice of Commencement to Penrith City Council.

The Principal Certifying Authority shall submit to Council an "Appointment of Principal Certifying Authority" in accordance with Section 81A of the Environmental Planning and Assessment Act 1979.

Information to accompany the Notice of Commencement

Two (2) days before any earthworks or construction/demolition works are to commence on site (including the clearing site vegetation), the proponent shall submit a "Notice of Commencement" to Council in accordance with Section 81A of the Environmental Planning and Assessment Act 1979.

Operation of OSSM

- 32 The owner/occupier shall enter into a service contract with the manufacturer, distributor or other person authorised (in writing) by Penrith City Council to service the system as recommended in the owner's manual. An Annual inspection and service check is to be carried out in the following manner:

An annual service shall include a check on all mechanical, electrical and functioning parts of the system including:

- all pumps and switches,
- the alarm system,
- the effluent disposal area and sub-surface irrigation lines and filters,
- monitoring and maintenance of humus levels, and
- the biology of the filter beds.

When the system requires emptying, all composted matter is to be removed by a qualified contractor and disposed of by burial within the confines of the premises in soil which is not to be used for at least 3 months for the cultivation of food for human consumption. The minimum cover of soil over the deposited compost must be 100mm.

On completion of each service, a service report sheet is to specify all service items and test results, parts replaced (if applicable), the date the service was conducted and the technician's name. A copy of the service report is to be:

- given to the property owner and another to the applicant (if not the same), and
- forwarded to Penrith City Council.

Each service agent shall provide a registered business office which, if unattended during business hours, is provided with a telephone answering device or service. A means of reporting a malfunction or breakdown outside normal business hours shall be available. In the event of a breakdown or malfunction, the service agent shall, within 24 hours of the breakdown or malfunction, ensure that temporary repairs are carried out to the aerated system to ensure continued operation of the system. This may necessitate provision of adequate spare parts and temporary replacement blowers and irrigation pumps where repairs cannot be completed on site.

- 33 No concreting, driveways, vehicles or any other structure or access way is to be located over any portion of the effluent management area.

34 Council is to be provided with an Annual Environmental Performance Report detailing the performance of the system, including but not limited to the following information:

- Details and records of maintenance checks of disposal areas.
- Copies of maintenance report sheets.
- Results of effluent output testing.
- Health of the biological filter bed

The Report shall demonstrate compliance with:

- All relevant OSSM conditions imposed under the existing License to Operate
- Conditions of consent imposed under DA05/1994, and
- Consent conditions imposed through this Notice of Determination.

The first Environmental Performance Report is to be provided to Council **twelve months from date of the issue of the Notice of Determination.**

35 Bi-annual testing of effluent output is to occur for the following parameters:

- Total Nitrogen
- Total Phosphorus
- Faecal Coliforms
- Biochemical Oxygen Demand
- Total Suspended Solids

Effluent is to be sampled by a suitably qualified person and tested at a NATA accredited laboratory. The test results are to be provided to Council within 21 days of their receipt by the owner/operator. **Testing is to occur every six months from the date of the issue of the Notice of Determination.**

36 All wastewater generated through the operation of the veterinary clinic and any associated facilities is to be directed to the existing Biolytix commercial wastewater management system approved under DA05/1994

37 The on-site sewage management system and effluent management area shall be operated in accordance with the:

- recommendations contained in the Wastewater Report prepared by Kerry Flanagan Wastewater (dated: 28 April 2017 and further information provided 24 September 2017)
- the approved Effluent Management Area Plan;
- all relevant OSSM conditions of consent imposed under DA05/1994;
- All relevant OSSM conditions imposed under the existing License to Operate; and
- all conditions of consent imposed under this Notice of Determination.

SIGNATURE

Name:	Gannon Cuneo
Signature:	

For the Development Services Manager