

# PENRITH CITY COUNCIL

## NOTICE OF DETERMINATION

### DESCRIPTION OF DEVELOPMENT

Application number:	DA20/0527
Description of development:	Freestanding Walkway Awning
Classification of development:	Class 10a

### DETAILS OF THE LAND TO BE DEVELOPED

Legal description:	Lot A DP 164781
Property address:	100 a Queen Street, ST MARYS NSW 2760

### DETAILS OF THE APPLICANT

Name & Address:	Dnp Group Pty Ltd Unit 906 3 Foreshore Boulevard WOOLLOOWARE NSW 2230
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### DECISION OF CONSENT AUTHORITY

Penrith Council has determined to grant "Deferred commencement" consent under Section 4.16(3) of the Environmental Planning and Assessment Act 1979. In accordance with Section 4.17 of the Act, the "Deferred commencement" consent is granted subject to the conditions listed in this Notice.

The conditions listed in Schedule 1 are to be complied with prior to the commencement of the consent. On completion of all conditions in Schedule 1 that need to be satisfied before the consent can be commenced, Council will issue an operational consent for the development. If the conditions in Schedule 1 are approved by an accredited certifier, then a copy of the certification relating to the satisfaction of the Schedule 1 condition(s) are to be submitted to Council.

The conditions to be satisfied prior to commencement of the consent will need to be completed within one year from 2 December 2020.

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

Date from which consent operates	3 December 2020
Date the consent expires	3 December 2021

Date of this decision	25 November 2020
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## **POINT OF CONTACT**

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

Assessing Officer:	Lucy Goldstein
Contact telephone number:	+61247328136

## NOTES

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### **Reasons**

The conditions in the attached schedule have been imposed in accordance with Section 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.

## **SCHEDULE 1: CONDITIONS TO BE COMPLIED WITH PRIOR TO CONSENT BECOMING OPERATIONAL**

### **Schedule 1 (Deferred Commencement)**

- 1 **Prior to the issue of an operational consent and within 5 years from the date of this consent**, the following design amendments are required, and additional information as detailed in this condition is to be submitted to and approved by Penrith City Council:

(a) The design is to be amended so that the awning is cantilevered on the northern elevation, allowing for the deletion of the 4x posts located on the southern elevation, and minimising pedestrian obstructions in the walkway. Detailed design plans to this effect are to be submitted to and approved by Penrith City Council before the issue of an operational consent. The amended plans are also to incorporate LED lighting on the multi-coloured strips, so as to create better visual interest at night.; and

(b) A detailed Services Plan of the site that includes an overlay of the awning (inclusive of footing details) is to be submitted to and approved by Penrith City Council, to confirm that the structure is adequately clear of all existing services.

Should documentation as detailed above not be received by Council within 5-years from the date of this consent, this consent shall lapse.

# ATTACHMENT 1: CONDITIONS OF CONSENT

## General

- 1 The development must be implemented substantially in accordance with the following plans stamped approved by Council, those required to satisfy the Deferred Commencement Condition found in Schedule 1 of this Consent, the application form, and any supporting information received with the application, except as may be amended by the following conditions, and arising from the deferred commencement condition requirements, and as marked in red on the attached plans.

Document Title	Reference	Prepared By	Dated
Plans	A101.2	DNP Group	27/07/2020
Elevations N/E	A202.1	DNP Group	27/07/2020
Elevations N/W	A202.2	DNP Group	27/07/2020
Solar Study, Summer; Solar Study Winter	A400.1 and A400.2	DNP Group	27/07/2020
Details	A500.2	DNP Group	27/07/2020
Renders	A600.1 and A600.2	DNP Group	27/07/2020
Soltis Perform 92 Specifications	-	Serge Ferrari Group	-

- 2 **The development shall not be used or occupied until an Occupation Certificate has been issued.**
- 3 **Prior to the issue of an Occupation Certificate**, the lighting system is to be installed for the development to provide uniform lighting across the laneway. Exterior lighting is to be located and directed in such a manner so as not to create a nuisance to surrounding land uses. The lighting shall be the minimum level of illumination necessary for safe operation. The lighting shall be in accordance with Australian Standard AS-4282 Control of the obtrusive effects of outdoor lighting 2019.
- 4 The finishes of all structures and buildings are to be maintained at all times and any graffiti or vandalism immediately removed/repaired.
- 5 A **Construction Certificate** shall be obtained prior to commencement of any building works.

- 6 **Prior to the issue of an Occupation Certificate**, a maintenance schedule for the awning is to be submitted to Penrith City Council.
- 7 **Prior to the issue of a Construction Certificate** the four (4)x yellow bollards are to be deleted. Noting that there are existing bollards at the entrance of the walkway near East Lane, preventing vehicle access into the lane, and the existing bus shelter on the Queen Street end prevents vehicle access.
- 8 Existing Council assets and landscaping on the site are to be maintained. In the event that any Council assets or landscaping are damaged as a result of the works, they are to be replaced at the full cost of the Developer.
- 9 **Prior to the Commencement of any works**, a Pedestrian Management Plan is to be submitted to and approved by Penrith City Council via a Footpath Occupancy.
- 10 **Prior to the issue of an Occupation Certificate**, the existing asphalt footpath is to be restored as per the existing conditions of the site, and to the satisfaction of Penrith City Council.

## **Environmental Matters**

- 11 All waste materials stored onsite are to be contained within a designated area such as a waste bay or bin to ensure that no waste materials are allowed to enter the stormwater system or neighbouring properties. The designated waste storage areas shall provide at least two waste bays / bins so as to allow for the separation of wastes, and the areas are to be fully enclosed when the site is unattended.

## **BCA Issues**

- 12 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).

- 13 Lighting and tactile indicators are to be provided in accordance with the report by ERGON CONSULTING PTY LTD dated 13 July 2020. Details are to be submitted with the Construction Certificate application.

## Construction

- 14 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.

15 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.

16 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

17 Prior to the issue of any Construction Certificate, a Section 138 Roads Act applications, including payment of application and inspection fees, shall be lodged and approved by Penrith City Council (being the Roads Authority for any works required in a public road). These works may include but are not limited to the following:

- a) Vehicular crossings (including kerb reinstatement of redundant vehicular crossings)
- b) Concrete footpaths and or cycleways
- c) Road opening for utilities and stormwater (including stormwater connection to Penrith City Council roads and other Penrith City Council owned drainage)
- d) Road occupancy or road closures
- e) The placement of hoardings, structures, containers, waster skips, signs etc. in the road reserve
- f) Temporary construction access

All works shall be carried out in accordance with the Roads Act approval, the development consent, including the stamped approved plans, and Penrith City Council's specifications, guidelines and best engineering practice.

Contact Penrith City Council's City Works Department on (02) 4732 7777 or visit Penrith City Council's website for more information.

### *Notes:*

- Where Penrith City Council is the Certifying Authority for the development, the Roads Act approval for the above works may be issued concurrently with the Construction Certificate.
- Separate approvals may also be required from the Roads and Maritime Services for classified roads.
- All works associated with the Roads Act approval must be completed prior to the issue of any Occupation Certificate or Subdivision Certificate as applicable.
- On completion of any awning over the road reserve, a certificate from a practising structural engineer certifying the structural adequacy of the awning is to be submitted to Council before Council will inspect the works and issue its final approval under the Roads Act

## Landscaping

18 Existing landscaping on the site must be retained and is not be removed as a result of the works.

Any landscaping that is damaged as a result of the works is to be replaced with like-for-like planting **before the issue of an Occupation Certificate.**

## Payment of Fees

19 All works are to be carried out at the applicant's cost.

## Certification

- 20 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:	Lucy Goldstein
Signature:	

For the Development Services Manager