

PENRITH CITY COUNCIL

NOTICE OF DETERMINATION

DESCRIPTION OF DEVELOPMENT

Application number:	DA13/0655.01
Description of development:	Section 4.55(2) Modification to Relocate Part of Buried Landfill Gas Pipeline
Classification of development:	N/A

DETAILS OF THE LAND TO BE DEVELOPED

Legal description:	Lot B DP 154739 Lot 10 DP 229784 Lot 12 DP 229784 Lot 1 DP 84578 Lot 6 DP 1124329 Lot 103 DP 1143935 Lot 11 DP 1178389 Lot 4 DP 1094504
Property address:	0 Sarah Andrews Close, ERSKINE PARK NSW 2759 Quarry Road, ERSKINE PARK NSW 2759 Quarry Road, ERSKINE PARK NSW 2759 2 - 18 Aldington Road, KEMPS CREEK NSW 2178 650 e Mamre Road, KEMPS CREEK NSW 2178

DETAILS OF THE APPLICANT

Name & Address:	The Austral Brick Company Pty Ltd 738-780 Wallgrove Road HORSLEY PARK NSW 2175
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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.

Date from which consent operates	18 July 2014
Date the consent expires	18 July 2016
Date of this decision	15 July 2014 as amended on 31 July 2020 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:	Wendy Connell
Contact telephone number:	+612 4732 7908

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.

OTHER APPROVALS

APPROVAL BODIES

APPROVAL BODY NAME	DATE OF GENERAL TERMS OF APPROVAL	REF. NO.	NO. OF PAGES	RELEVANT LEGISLATION
NSW EPA	11- Nov - 2014	1517961	4	Protection of the Environment Operation Act 1997
NSW Office of Water	30 July 2014	10ERM2013/0559	3	Water Management Act 2000

The approval bodies listed above have provided General Terms of Approval for this development in accordance with the relevant legislation. A copy of these General Terms of Approval is provided with this development consent notice. Compliance with the relevant State Government departments' General Terms of Approval are required in conjunction with the following conditions listed in Attachment 1: Conditions of Consent issued by Penrith City Council.

CONCURRENCE AUTHORITIES

CONCURRENCE AUTHORITY	DATE OF CONCURRENCE	REF. NO.	NO. OF PAGES	RELEVANT LEGISLATION
Sydney Catchment Authority	22/08/2013	D2013/65821	2	Sydney Catchment Management Act 1998
Roads & Maritime Services	5 August 2013	SYD13/00793	1	Roads Act 1993

ATTACHMENT 1: CONDITIONS OF CONSENT

General

1 The development must be implemented substantially in accordance with the plans and commitments contained in the Statement of Environmental Effects for the Erskine Park Landfill Gas Project prepared by R.W. CORKERY & CO. PTY. LIMITED and dated June 2013, as amended by the Statement of Environmental Effects for the Erskine Park Landfill - Relocation of Landfill Gas Pipeline prepared by EME Advisory and dated May 2020.

As amended on 31 July 2020 in accordance with Section 4.55(2) of the Environmental Planning and Assessment Act 1979.

2 The proponent shall comply with the General Terms of Approval (GTAs) of the Department of Primary Industries and the Environment Protection Authority. The GTAs are attached at the end of this development consent.

3 Mud and soil from vehicular movements to and from the site must not be deposited on the road.

4 Dust suppression techniques are to be employed during all earth works or/and demolition to reduce any potential nuisances to surrounding properties.

5 Adjustments to any public utilities necessitated by the development are to be completed in accordance with the requirements of the relevant Authority. Any utility costs are to be at no cost to Council.

6 All trenches shall be backfilled and compacted to a minimum 100% standard compaction. Compaction Certificate shall be submitted to Council on completion of the works.

7 There is to be no construction equipment, trucks, etc to be parked at the end of Quarry Road's cul-de-sac so that there is no inconvenience caused to the traffic movement within the Quarry Road cul-de-sac area.

8 The Proponent shall:

a) ensure that the Works do not damage the Sydney Catchment Authority's water supply infrastructure or reduce the safety of the operation of the infrastructure; and

b) repair, or pay all reasonable costs associated with repairing Sydney Catchment Authority infrastructure that is damaged by the project;.

- The gas pipeline shall be encased or installed within a lining for the section where it crosses the land owned by the Sydney Catchment Authority.
- Where the gas pipeline crosses the land owned by the Sydney Catchment Authority, the alignment of the gas pipeline shall be at least 5 metres from any support structure for the Warragamba to Prospect Pipelines.
- Entry onto the Warragamba to Prospect Pipelines corridor shall not be undertaken without access consent from the Sydney Catchment Authority.
- All incidents or near misses that have the potential to impact on the Warragamba - Prospect Pipelines shall be reported to the Sydney Catchment Authority (SCA) on the SCA's Incident Notification Number 1800 061 069 (24 hour service) as a matter of urgency.

- If any of the fencing along the Sydney Catchment Authority's (SCA) Warragamba to Prospect Pipelines corridor is damaged or requires replacement, or upgrading, then this shall be done to the SCA's requirements and with all reasonable costs met by the proponent.
- The Sydney Catchment Authority (SCA) requires the proponent of any new structures proposing to cross SCA lands to establish an easement or enter into a licence agreement with SCA.

Heritage/Archaeological relics

- 9 If any archaeological relics are uncovered during the course of the work no further work shall be undertaken until further directed by Penrith City Council or the NSW Heritage Office.

The applicant is advised that depending on the possible significance of the relics, an archaeological assessment and an excavation permit under the Heritage Act, 1977 may be required before any further work can be recommenced in that area of the site.

Environmental Matters

- 10 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).

The approved sediment and erosion control measures are to be installed **prior to and maintained throughout the construction phase of the development until [the landscaping, and 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.

- 11 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, considered and approved by Council. The Validation Certificate shall:
- state the legal property description of the fill material source site,
 - be prepared by an appropriately qualified person (as defined in Penrith Contaminated Land Development Control Plan) 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 of the fill material to be imported to the site in accordance with the Environment Protection Authority's "Environmental Guidelines: Assessment, Classification & Management of Non-Liquid Wastes" 1997, 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.

{Note: Penrith Contaminated Land Development Control Plan defines an appropriately qualified person as "a person who, in the opinion of Council, has a demonstrated experience, or access to experience in hydrology, environmental chemistry, soil science, eco-toxicology, 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."}.

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.

- 12 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.
- 13 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.

- 14 Should any "unexpected finds" occur during site excavation and earthworks including, but not limited to, the identification/finding of contaminated soils, buried building materials, asbestos, odour and/or staining, works are to cease immediately and Penrith City Council is to be notified. Any such "unexpected finds" shall be addressed by an appropriately qualified person.

All remediation works within the Penrith Local Government Area are considered to be Category 1 works under State Environmental Planning Policy 55-Remediation of Land. Should any contamination be found during development works and should remediation works be required, development consent is to be sought from Penrith City Council before the remediation works commence.

{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”.

BCA Issues

- 15 An easement shall be created on all lots subject to this consent that enables the construction of the pipeline as well as ensuring its long term maintenance. The easement shall be created and registered on the various Titles, and evidence submitted to Council prior to the commencement of any construction works for the gas pipeline.

As amended on 31 July 2020 in accordance with Section 4.55(2) of the Environmental Planning and Assessment Act 1979.

Construction

- 16 Stamped plans, specifications, a copy of the development consent, the Construction Certificate and any other Certificates to be relied upon shall be available on site at all times during construction.

The following details are to be displayed in a maximum of 2 signs to be erected on the site:

- the name of the Principal Certifying Authority, their address and telephone number,
- the name of the person in charge of the work site and telephone number at which that person may be contacted during work hours,
- that unauthorised entry to the work site is prohibited,
- the designated waste storage area must be covered when the site is unattended, and
- all sediment and erosion control measures shall be fully maintained until completion of the construction phase.

Signage but no more than 2 signs stating the above details is to be erected:

- at the commencement of, and for the full length of the, construction works onsite, and
- in a prominent position on the work site and in a manner that can be easily read by pedestrian traffic.

All construction signage is to be removed when the Occupation Certificate has been issued for the development.

17 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.

18 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.

Landscaping

19 No trees are to be removed, ringbarked, cut, topped or lopped or wilfully destroyed (other than those within the proposed building footprint 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.

Certification

20 **Prior to the commissioning of the pipeline**, the applicant is to provide a suitable certification/documentary evidence prepared by a qualified person to Council indicating that all associated works with respect to gas pipeline have been carried out in accordance with the engineering plans and specification and in accordance with the development consent and the relevant provisions of the Environmental Planning and Assessment Act and accompanying Regulation.

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:	Wendy Connell
Signature:	

For the Development Services Manager