

PENRITH CITY COUNCIL

NOTICE OF DETERMINATION

DESCRIPTION OF DEVELOPMENT

SWCPP Ref. No.:	PPSSWC-108
Application number:	DA20/0589
Description of development:	Integrated Development - Alterations & Additions to an Existing Warehouse & Use of Premises as Waste Management Facility (Tyre Recycling Facility) Operating 24 Hours & 7 Days Per Week
Classification of development:	Class 7b , Class 8

DETAILS OF THE LAND TO BE DEVELOPED

Legal description:	Lot 4 DP 1253870
Property address:	1 - 21 Grady Crescent, ERSKINE PARK NSW 2759

DETAILS OF THE APPLICANT

Name & Address:	Tyrecycle Pty Ltd 30-56 Encore Avenue SOMERTON VIC 3062
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DECISION OF CONSENT AUTHORITY

In accordance with Section 2.12 and 4.18(1) (a) of the Environmental Planning and Assessment Act 1979 (as amended), consent is granted subject to the conditions implementation 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	21 December 2020
Date the consent expires	21 December 2025
Date of this decision	18 December 2020

POINT OF CONTACT

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

Assessing Officer:	Kathryn Saunders
Contact telephone number:	+612 4732 8567

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
Transport for NSW	1 December 2020	SYD20/01317/01	1	State Environmental Planning Policy (Infrastructure) 2007
Environmental Protection Authority	3 December 2020	1603615	14	Protection of the Environment Operations Act 1997, Schedule 1

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.

ATTACHMENT 1: CONDITIONS OF CONSENT

General

- 1 The development must be consistent with the drawings stamped approved by Council and the documents listed below:

Document Name	Author	Plan No.	Revision	Date
Statement of Environmental Effects	Element Environmental		1	16 September 2020
Site Plan	SBA Architects	DA-02	Q	01 December 2020
Roof Plan	SBA Architects	DA-03	L	01 December 2020
Proposed Basement and Ground Floor Plans	SBA Architects	DA-04	J	01 December 2020
Proposed Elevations	SBA Architects	DA-05	L	01 December 2020
Proposed Sections	SBA Architects	DA-06	H	01 December 2020
Warehouse External Lighting	SBA Architects	GCE-015	A	15 December 2013
Traffic Impact Assessment	PTC		4	10 September 2020
BCA Compliance Statement	Blackett Maguire Goldsmith	-	-	08 October 2020
Todoroski Air Sciences	Air Quality Assessment			29 October 2020
Todoroski Air Sciences	Further Information on Air Quality			18 November 2020

as well as 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.

- 2 The site operator and beneficiary of the consent is to ensure compliance with the General Terms of Approval as set out in the General Terms of Approval document, Notice No. 1603615 and attached letter dated 03 December 2020 issued by the NSW Environment Protection Authority (EPA) or as may be amended by the EPA through the issue of updated or amended General Terms of Approval.
- 3 The relevant Construction Certificate plans are to include a minimum 99kw roof top solar system to improve the net environmental performance of the facility as a whole. The system is to be operational within 12 months of the issue of any Occupation Certificate.

Once installed and operational, written confirmation that the system has been installed and is operational is to be submitted to the Manager of Development Services at Penrith City Council.

- 4 All activities related to the approved waste or recourse recovery operations including loading, unloading,

receipt, storage, processing and transport of tyres and any ancillary used batteries, used oil drums, used oil filters and the like, are to be undertaken within the warehouse building.

No approval is granted for external storage of tyres or other materials or for the placing of storage containers, including shipping containers in the external areas of the site.

- 5 The approved hours of operation are 24 hours, every day.
- 6 The development is to remain compliant with the Fire & Rescue NSW Fire safety guideline: *Fire management in waste facilities 2020*, and the *NSW Rural Fire Service Guidelines for Bulk Storage of Rubber Tyres 2014*.
- 7 **The development shall not be used or occupied until an Occupation Certificate has been issued.**
- 8 To ensure that the development does not exceed the threshold for designated development the proposed operation of a tyre processing facility (waste management facility) with ancillary storage and transfer of oil filters, oil drums and car batteries, is limited to a maximum handling capacity of no more than 30,000 tonnes per year of waste metal and rubber. Handling capacity includes the sorting, consolidating or temporary storage or material recycling of waste materials.

The approved activities at the site must not exceed the tonnages specified within the approved documentation, and as per the issued General Terms of Approval and related Environmental Protection License issued by the Environmental Protection Authority (EPA). A log book or similar record containing evidence of total material tonnage received and stored per annum, is to be kept at the site and is to be made available for the EPA or Council inspection, upon request.
- 9 A separate development application for the erection of a sign or advertising structure, other than signage or advertising structure that are listed as exempt or complying development (under State Environmental Planning Policy (Exempt and Complying Development Codes 2008)), is to be submitted to Penrith City Council.
- 10 No retail sale of goods shall be conducted from the subject premises.
- 11 All materials and goods associated with the use shall be contained within the building at all times.
- 12 The finishes of all structures and buildings are to be maintained at all times and any graffiti or vandalism immediately removed/repaired.
- 13 A **Construction Certificate** shall be obtained prior to commencement of any building works.
- 14 Prior to the commencement of operations, a copy of the Environment Protection Licence issued by the NSW Environment Protection Authority under the *Protection of the Environment Operations Act 1997* is to be submitted to Penrith City Council.

Activities on the premises must be carried out in accordance with this licence. Should this licence be revoked, suspended or surrendered, an application is to be submitted to Council for consideration of matters contained in the licence.

Demolition

- 15 Prior to the issue of the Construction Certificate the Principal Certifying Authority shall consider the requirements of Clause 143 of the Environmental Planning and Assessment Regulation 2000.

Additionally an updated "Performance Solution" is to be formulated and assessed as per the Building Code of Australia report prepared by;

BLACKETT
MAGUIRE +
GOLDSMITH dated 8th October 2020.

Environmental Matters

- 16 Erosion and sediment control measures shall be installed **prior to the commencement of any works on site** which include disturbance of the soil and include approved vegetation clearing or tree removal or planting. The erosion and sediment control measures are to be maintained in accordance with the approved erosion and sediment control plan(s) for the development and the Department of Housing's "Managing Urban Stormwater: Soils and Construction" 2004.

(Note: To obtain a copy of the publication, you should contact Landcom on (02) 98418600).

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

The approved sediment and erosion control measures are to be installed **prior to and are to be maintained throughout the construction phase of the development until and soil disturbing works have been completed for the development, and the area that was subject to the works, has been stabilized 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 and that soil and sediment from activities undertaken, does not enter the waterways.

- 17 The operating noise level of plant and equipment shall not exceed 5dB(A) above the background noise level when measured at the boundaries of the premises. The provisions of the Protection of the Environment Operations Act 1997 apply to the development, in terms of regulating offensive noise.
- 18 A plan detailing spill prevention, contingency and emergency clean-up procedures for the development shall be submitted for approval prior to construction works commencing. The approved procedures plan shall be implemented in the event of a spill or emergency.
- 19 Any fuel storage tanks shall be installed on a concrete surface and protected by a grated drainage system to a dead-end sump or by a bund. The storage capacity of the bund or sump shall be equal to 110% of the volume of the tank.

- 20 All vehicle washing, engine degreasing and steam cleaning shall be conducted in a wash bay approved, installed and connected to the sewer in accordance with Sydney Water's requirements.

Details of any vehicle wash bay area is to be included in the Section 73 Certificate issued by Sydney Water for the discharge of trade waste from the premises, and shall be submitted to the Principal Certifying Authority before the wash bay/area can be installed.

- 21 Waste oil shall be stored in a covered and bunded area and regularly removed to a waste oil recycle operation.
- 22 All works and storage areas where spillages are likely to occur shall be bunded. The size of the area to be bunded shall be calculated as being equal to 10% of the total volume of containers stored, or 110% of the largest container stored, whichever is the greater. All bunded areas shall be graded to a blind sump so as to facilitate emptying and cleaning. Details are to accompany the application for a Construction Certificate.
- 23 Prior to the issue of a Construction Certificate, details of any pre-treatment facilities as required by Sydney Water and, if required a Section 73 Certificate issued by Sydney Water for the said development, are to be submitted to the Certifying Authority.
- 24 Only clean and unpolluted water is to be discharged into Penrith City Council's stormwater drainage system. Liquid wastes suitable for discharge to the mains sewer are to be discharged in accordance with Sydney Water requirements.

If mains sewer is not available or if Sydney Water will not allow disposal to the sewer then a licensed waste contractor is to remove the liquid waste from the premises to an appropriate waste facility.

The waste contractor and waste facility are to hold the relevant licenses issued by the NSW Environment Protection Authority.

- 25 The stormwater drainage system shall not be altered or new lines directed into the system without the prior approval of Penrith City Council.
- 26 Any liquid discharge from any installed air handling systems, resulting from operation, maintenance and/or cleaning operations, is to be disposed of into the sewer system. Discharge into the stormwater disposal system is not permitted.

BCA Issues

- 27 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.

Utility Services

28 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.

Construction

29 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.

30 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.

31 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

- 32 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.
- 33 Prior to the issue of any Construction Certificate the Principal Certifying Authority shall ensure that a Loading Dock Management Plan is in place to ensure that only three (3) trucks are parked in the loading bay and the other three (3) truck spaces are vacant during times when B-Double trucks access the site.

Landscaping

- 34 **Prior to the issue of an Occupation Certificate**, the Principal Certifying Authority is to ensure that a minimum of one Spotted Gum tree having a minimum pot size of 100L or greater is planted within the landscaped front setback of the site and that the tree is well maintained and in good health.
- 35 All plant material associated with the construction of approved landscaping is to be planted in accordance with the Tree Planting Specification prescribed in Penrith Council's Development Control Plan - Technical Specifications Section.
- 36 Existing landscaping is to be retained and maintained at all times.

Payment of Fees

- 37 All roadworks, dedications and drainage works are to be carried out at the applicant's cost.

Certification

- 38 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.

39 An Occupation Certificate is to be obtained from the Principal Certifying Authority on completion of all works and prior to the occupation of the building.

The Certificate shall not be issued if any conditions of this consent, but not the conditions relating to the operation of the development, are outstanding. A copy of the Occupation Certificate and all necessary documentation supporting the issue of the Certificate is to be submitted to Penrith City Council, if Council is not the Principal Certifying Authority.

SIGNATURE

Name:	Kathryn Saunders
Signature:	

For the Development Services Manager