

# PENRITH CITY COUNCIL

## NOTICE OF DETERMINATION

### DESCRIPTION OF DEVELOPMENT

Application number:	DA14/0119.01
Description of development:	Industrial Development - Hire of Builders Equipment (Modification to Conditions 5 & 8)
Classification of development:	Class 5 , Class 7b

### DETAILS OF THE LAND TO BE DEVELOPED

Legal description:	Lot 45 DP 249986
Property address:	3 Peachtree Road, PENRITH NSW 2750

### DETAILS OF THE APPLICANT

Name & Address:	Turnball Planning International Suite 2301 Quattro Building 2 Level 3 Daydream Street WARRIEWOOD NSW 2102
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### DECISION OF CONSENT AUTHORITY

In accordance with Sections 81(1) (a) and 96 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	20 May 2014
Date the consent expires	20 May 2016
Date of this decision	16 May 2014 as amended on 21 July 2015 under Section 96 of the Environmental Planning and Assessment Act.

## POINT OF CONTACT

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

Assessing Officer:	Jane Hetherington
Contact telephone number:	(02) 4732 8078

## NOTES

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### **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 a Joint Regional 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.

### **Joint Regional Planning Panels**

If the application was decided by a Joint Regional Planning Panel, please refer to 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 Site Plan prepared by Turnbull Planning International Pty limited (ref: nor.pea3p\_Plan of Approximate Storage Location) dated June 2015 and the supporting information stamped and approved by Council, except as may be amended in red on the attached plans and by the following conditions.

***As amended on 21 July 2015 under Section 96 of the Environmental Planning and Assessment Act 1979.***

- 2 **The development shall not be used or occupied until an Occupation Certificate has been issued.**
- 3 The building shall not be used under any circumstances for any commercial or habitable residential activity.
- 4 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 Penrith Development Control Plan-Advertising Signs.
- 5 The operating hours are from 6:00am to 6:00pm Mondays to Sunday.

***As amended on 21 July 2015 under Section 96 of the Environmental Planning and Assessment Act 1979.***

- 6 No retail sale of goods shall be conducted from the subject premises.
- 7 No motor vehicles are to be displayed for sale on the subject premises.
- 8 All materials and goods associated with the use shall be contained within the boundaries of the property at all times.

***As amended on 21 July 2015 under Section 96 of the Environmental Planning and Assessment Act 1979.***

- 9 The provision of exterior lighting shall be located and directed in such a manner so as not to create a nuisance to surrounding landuses. The lighting shall be the minimum level of illumination necessary for safe operation. The lighting shall be in accordance with AS 4282 "Control of the obtrusive effects of outdoor lighting" (1997).
- 10 The finishes of all structures and buildings are to be maintained at all times and any graffiti or vandalism immediately removed/repaired.
- 11 Mechanical repairs of vehicles is not permitted to occur on the subject site. No storage of goods and materials associated with mechanical repairs is to occur.
- 12 No effluent generated from the use of the portaloo shall be stored onsite within the portaloo or any other location. All effluent generated from the use of the portaloo shall be disposed of offsite at a suitably licensed waste facility prior to the return and storage of any hire portaloo equipment on the site.

- 13 The operation of the premises and associated equipment shall be in accordance with the *Plan of Management for the Proposed Builders Hire Equipment Storage Facility - 3 Peachtree Road PENRITH - prepared by Turnbull Planning International PTY LIMITED - dated March 2014.*
- 14 The wastewater holding tank located onsite shall be emptied on a regular basis of at least once a week or as required to prevent overflow. All wastes and liquid wastes are to be disposed of in accordance with the requirements of the Protection of the Environment Operations Act 1997.

## Demolition

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

## Environmental Matters

- 16 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.
- 17 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.
- 18 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.
- 19 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.
- 20 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.

## BCA Issues

- 21 Access for persons with disabilities is to be provided and maintained in accordance with the requirements of the Building Code of Australia and AS 1428 "Design for Access and Mobility".
- 22 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.
- 23 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

- 24 All materials stored on the site shall be located to minimise the risk of damage to such materials in the event of a flood. Flood sensitive equipment (including electric motors and switches) shall also be located above RL 26.1m AHD (standard flood level + 0.5m) where practicable.

Any materials stored below RL 26.1m AHD (standard flood level + 0.5m) shall be secured to minimise damage during a flood where practicable.

## Utility Services

25 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](http://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.

## Engineering

26 A total of 7 off-street parking spaces are to be provided, linemarked and maintained for the development, generally in accordance with the approved site plan. The parking space dimensions and manoeuvring areas are to comply with AS2890.1 and AS2890.2 the Building Code of Australia and the Commonwealth Disability Discrimination Act.

## Landscaping

27 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 Landscape Development Control Plan.

28 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.

29 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.

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

31 The provision of landscape species for the small landscape bed forward of the building (as identified on the stamped approved site plan) shall comprise of locally endemic species which are consistent with the landscape character of the surrounding area.

**Prior to the issue of a Final Occupation Certificate**, evidence shall be provided to Penrith City Council demonstrating the landscaping has been established on the site, in accordance with the stamped approved plan.

## Payment of Fees

32 All roadworks, dedications and drainage works are to be carried out at the applicant’s cost.

33 Prior to the commencement of any works on site, all fees associated with Penrith City Council-owned land and infrastructure shall be paid to Council. These fees include Road Opening fees and Infrastructure Restoration fees.

## Certification

34 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/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.

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.

## SIGNATURE

Name:	Jane Hetherington
Signature:	

For the Development Services Manager