

PENRITH CITY COUNCIL

NOTICE OF DETERMINATION

DESCRIPTION OF DEVELOPMENT

Application number:	DA21/0243
Description of development:	Construction of Farm Shed & Tree Removal
Classification of development:	Class 10a

DETAILS OF THE LAND TO BE DEVELOPED

Legal description:	Lot 22 DP 244610
Property address:	116 - 132 Chain-O-Ponds Road, MULGOA NSW 2745

DETAILS OF THE APPLICANT

Name & Address:	I Schvetz PO Box 767 RICHMOND NSW 2753
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DECISION OF CONSENT AUTHORITY

In accordance with Section 4.18(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 July 2021
Date the consent expires	15 July 2026
Date of this decision	15 July 2021

POINT OF CONTACT

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

Assessing Officer:	Luke Caruana
Contact telephone number:	+612 4732 7553

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.

ATTACHMENT 1: CONDITIONS OF CONSENT

General

1 The development must be implemented substantially in accordance with the plans prepared by I. Schvets of Abode Design, sheets 4415-1 to 4415-6 inclusive, issue A, dated 1.2.2021 and stamped approved by Council, 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 work must be carried out in accordance with the requirements of the Building Code of Australia. If the work relates to a residential building and is valued in excess of \$20,000, then a contract of insurance for the residential development shall be in force in accordance with Part 6 of the Home Building Act 1989.

{Note: Residential building includes alterations and additions to a dwelling, and structures associated with a dwelling house/dwelling such as a carport, garage, shed, rural shed, swimming pool and the like}.

3 **The development shall not be used or occupied until an Occupation Certificate has been issued.**

4 The building shall not be used under any circumstances for any commercial, industrial or habitable residential activity.

5 A **Construction Certificate** shall be obtained prior to commencement of any building works.

Environmental Matters

6

Retain fallen logs and debris

Where possible all fallen trees, logs, leaf litter, rocks and other debris are to be retained in situ on site as habitat and to maintain soil stability and structure.

Replace trees to be removed

Within 6 months from Approval, a total of 14 native trees are to be planted on the subject property to compensate for tree removal associated with DA21/0243 as per the approved plan prepared by Abode Design, 1/2/21. As well tree removal associated with compliance matter DC20/0891 - Alleged Unauthorised Work & Tree Removal.

A minimum of 3 different tree species for the replacement plantings must be selected from the following list:

Angophora Floribunda
 Angophora subvelutina
 Casuarina glauca
 Eucalyptus globulus
 Eucalyptus moluccana
 Eucalyptus tereticornis

Plants must be maintained and replaced where losses occur, for a period of 3 years or until they reach a height of 3.5 metres or more or a trunk diameter exceeding 100mm at 1400mm above ground level, whichever comes last.

- 8 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).

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 maintained throughout the construction phase of the development until the landscaping, driveway and on-site parking areas have been completed for the development. 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.

- 9 Cut and fill operations on the property are only permitted in conjunction with the building works as detailed on the approved plans and specifications, and shall not extend more than 2 metres past the defined building footprint.

Before any fill material is imported to site, a validation certificate issued by an appropriately qualified person is to be provided to the Principal Certifying Authority. The validation certificate must demonstrate that the fill material is free from contaminants and weeds, that it is suitable for its intended purpose and land use, and that it will not pose an unacceptable risk to human health or the environment.

If Penrith City Council is not the Principal Certifying Authority, a copy of the validation certificate is to be submitted to Council for their reference.

{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.”}

10

Tree Protection - Tree Protection Zone (TPZ)

No fill, machinery, or materials are to be placed or stored within the designated TPZ (as calculated using AS4970 – 2009, Protection of trees on development sites) of any tree that is to be retained. Tree protection measures are to be implemented as outlined in AS4970 – 2009, Protection of trees on development sites. Prior to the commencement of works, a compliance inspection of tree protection measures implemented within the site is to be undertaken by a Penrith Council Officer unless otherwise specified in an approved Site specific Tree Protection Plan (Specification) and Drawing.

BCA Issues

11 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).

Construction

- 12 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.

- 13 The building shall be set out by a registered surveyor. A Survey Certificate shall be undertaken and submitted to the Principal Certifying Authority when the building is constructed.

- 14 The roof of the structure is to be a dull, non-reflective surface and colour. The external finishes of the (development) is to compliment and blend with the established development on the subject lot.

- 15 Construction works or subdivision works that are carried out in accordance with 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

16 All land required for vehicular access to the garage/shed is to be provided with compacted gravel.

17 Stormwater drainage from the site shall be discharged to the proposed rubble drain or a level spreader system.

The stormwater drainage system shall be designed in accordance with Penrith City Council's Stormwater Drainage Specification for Building Developments. The design shall ensure that the development has 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 Certifier.

18 Prior to the issue of any Construction Certificate, the Certifier shall ensure that the proposed development will not concentrate, dam or divert overland flows onto adjoining properties. The proposed swale forming part of the driveway shall be designed to adequately convey floodwaters along the existing overland flow path for all design storms up and including the 1% AEP flood event.

To achieve this, the proposed swale within the driveway shall match the existing ground levels for the entire width of the overland flowpath.

Details prepared by a suitably qualified person shall form part of any Construction Certificate issued demonstrating compliance with these requirements.

Landscaping

19 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.

20 All trees that are required to be retained as part of the development are to be protected in accordance with the minimum tree protection standards prescribed in section F4 of Council's Landscape Development Control Plan.

21 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.

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

Payment of Fees

- 23 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

- 24 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.

- 25 An Occupation Certificate is to be obtained from the Principal Certifying Authority on completion of all works and prior to the occupation/use of the farm shed.

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:	Luke Caruana
Signature:	

For the Development Services Manager