

# PENRITH CITY COUNCIL

## NOTICE OF DETERMINATION

### DESCRIPTION OF DEVELOPMENT

Application number:	DA18/0491
Description of development:	Use and Internal Fit-out of an Existing Industrial Unit as a Vehicle Tyre Workshop
Classification of development:	Class 8

### DETAILS OF THE LAND TO BE DEVELOPED

Legal description:	Lot 301 DP 860777
Property address:	137 Coreen Avenue, PENRITH NSW 2750

### DETAILS OF THE APPLICANT

Name & Address:	Arkexpress 92a The Avenue CANLEY VALE NSW 2166
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### DECISION OF CONSENT AUTHORITY

In accordance with Section 81(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	28 August 2018
Date the consent expires	28 August 2020
Date of this decision	23 August 2018

## 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 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 Sydney West 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.

### **Sydney West Planning Panels**

If the application was decided by the Sydney West Planning Panel, please refer to Section 18 of the Greater Sydney Commission Act 2015 and Section 23H 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**

# ATTACHMENT 1: CONDITIONS OF CONSENT

## General

- 1 The development must be implemented substantially in accordance with the stamped approved plans, 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.

Title	Reference	Issue	Author	Date
Construction, Site & Waste Management Plan	Job no. 18256	B 001	ArkExpress	15 July 2018
Existing Overall Elevations	Job no. 18256	B 201	ArkExpress	15 July 2018
Existing Overall Sections	Job no. 18256	B 202	ArkExpress	15 July 2018
Area 5 - Existing Ground Floor & Demolition Plan	Job no. 18256	B A5-101	ArkExpress	15 July 2018
Area 5 - Proposed Ground Floor	Job no. 18256	B A5-102	ArkExpress	15 July 2018
Signage	CIM No.36368, Job no. 36405	1-Revision 2	Rondell Johnson	5 July 2018
Colour Schedule	CIM No.36368, Job no. 37309	1-Revision (Option 1)	Rondell Johnson	30 July 2018

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

- 3 Operating hours for the development are limited between 8:00am to 5:00pm Mondays to Fridays, and 8:00am to 1:00pm Saturdays. No operation is to take place on Sundays and public Holidays. Delivery and service vehicles generated by the development are also limited to these hours.

- 4 All materials and goods associated with the use shall be contained within the building at all times.

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

- 6 The development shall be carried out in accordance with the requirements of the NSW Fire Safety Guideline for Storage of Rubber Tyres.

- 7 The development subject of this application shall contain a maximum five (5) vehicle hoists.

8 No signage is to be illuminated.

**Prior to the issue of an Occupation Certificate**, details of the dimensions of the sign fronting Coreen Avenue (identified as 4A on the plan referenced CIM No.36368 dated 5 July 2018) shall be provided to Penrith City Council for review and approval.

## Demolition

9 You should read Council's Fact Sheet titled "Handling and Disposal of Fibrous Cement Products" **before any demolition works commence on the site.**

**Prior to commencement of demolition works on site**, a portaloo with appropriate washing facilities shall be located on the site and the Principal Certifying Authority is to be satisfied that:

- Measures are in place so as to comply with the WorkCover Authority's "Short Guide to Working with Asbestos Cement" and
- The person employed to undertake the works is a licensed asbestos removal contractor and is holder of a current WorkCover Asbestos Licence.

Any demolition works involving the removal of all asbestos shall only be carried out by a licensed asbestos removal contractor who has a current WorkCover Asbestos Licence.

All asbestos laden waste, including asbestos cement flat and corrugated sheeting must be disposed of at a tipping facility licensed by the Environmental Protection Authority to receive asbestos wastes.

10 Dust suppression techniques are to be employed during demolition to reduce any potential nuisances to surrounding properties.

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

12 Demolition and construction works will be restricted to the following hours in accordance with the NSW Environment Protection Authority Noise Control Guidelines:

- Mondays to Fridays, 7:00am to 6:00pm
- Saturdays, 7:00am to 1:00pm (if inaudible on neighbouring residential premises), otherwise 8:00am to 1:00pm
- No demolition or construction work is permitted on Sundays and Public Holidays."

In the event that the demolition relates to works inside the building and do not involve external walls or the roof, and do not involve the use of equipment that emits noise then the demolition works are not restricted to the hours stated above.

The provisions of the Protection of the Environment Operations Act, 1997 in regulating offensive noise also

apply to all construction works.

## **Environmental Matters**

13 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.

14 The operating noise level of plant and equipment shall not exceed 5dB(A) above the background noise level when measured at the nearest affected premises. The provisions of the Protection of the Environment Operations Act 1997 apply to the development, in terms of regulating offensive noise.

15 All mechanical repairs shall be conducted within the workshop area which shall be provided with suitable pollution control devices that removes grease, oil, petroleum products and grime prior to discharge to the sewer system in accordance with the requirements of Sydney Water.

No mechanical work including the painting of vehicles and preparation of vehicles for painting such as rubbing back and washing shall be carried out in open driveways or car parking areas.

16 The stormwater drainage system shall not be altered or new lines directed into the system without the prior approval of Penrith City Council.

17 All manufacture and assembly associated with the use shall be conducted within the confines of the building at all times.

18 Where an intruder alarm is installed on the premises it shall be fitted with a timing device in accordance with the requirements of the Protection of the Environment Operations Act 1997.

19 In the event that Council receives a complaint regarding excessive noise, Council may require the proponent to arrange for an acoustic investigation to be carried out by a suitably qualified person, at the cost of the proponent. In this instance, a report shall be submitted to Council for approval, specifying the measures to minimise noise levels generated by the development.

20 Signs shall be displayed adjacent to all stormwater drains on the premises indicating that only rain water is allowed to enter these drains. Examples of possible signage include: 'Clean Rainwater Only' , 'Rain water only - NO waste'.

- 21 The business is to be operated in a manner so that no contaminants from the workshop are permitted to enter the stormwater drainage system by the washing down of work areas or the disposal of waste and spills.

## **BCA Issues**

- 22 Access and sanitary facilities for persons with disabilities are to be provided and maintained in accordance with the requirements of the Building Code of Australia and AS 1428 "Design for Access and Mobility". Details of compliance are to be provided in the relevant plans and specifications accompanying the Construction Certificate application.

- 23 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.

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.
- 24 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.



## Engineering

- 25 All roadworks, stormwater drainage works, associated civil works and dedications, required to effect the consented development shall be undertaken at no cost to Penrith City Council.
- 26 An Infrastructure Restoration Bond is to be lodged with Penrith City Council for development involving works around Penrith City Council's Public Infrastructure Assets. The bond is to be lodged with Penrith City Council prior to commencement of any works on site or prior to the issue of any Construction Certificate, whichever occurs first. The bond and applicable fees are in accordance with Council's adopted Fees and Charges.

An application form together with an information sheet and conditions are available on Council's website.

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

- 27 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.

*Note:*

- 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.

28 You are advised that Penrith City Council's current adopted flood level for this location is RL 25.4m AHD. Council's adopted Flood Planning Level is RL 25.9m AHD (Flood Planning Level = adopted flood level + 0.5m freeboard). The existing floor level of the building is at RL 25.91m AHD. Use of this development should reflect the flood risk.

## Landscaping

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

## Certification

30 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.

31 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 1979, 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 of 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

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Name:	Lucy Goldstein
Signature:	

For the Development Services Manager