

PENRITH CITY COUNCIL

MAJOR ASSESSMENT REPORT

Application number:	DA16/1106
Proposed development:	Shopfront Alterations & Signage (Tenancy R4 - Bavarian Bier Cafe & Fratelli Famous Pizzeria)
Property address:	569 - 595 High Street, PENRITH NSW 2750
Property description:	Lot 1 DP 1137699
Date received:	21 October 2016
Assessing officer	Sufyan Nguyen
Zoning:	Zone B3 Commercial Core - LEP 2010
Class of building:	Class 6
Recommendations:	Approve

Executive Summary

Council is in receipt of a development application for shopfront alterations and signage for a Bavarian Bier Cafe and Fratelli Famous Pizzeria at Westfield Penrith, 569 - 595 High Street, Penrith. The subject site is zoned B3 Commercial Core under the *Penrith Local Environmental Plan 2010* and the proposed development is permissible with Council consent.

The key issue identified as part of the assessment of the proposal was in regard to the proliferation of signage. The proposed bi-fold fully glazed doors require decals under AS 1288 - Making Glass Visible (Manifestation). This is to ensure that glass is visible in order to reduce the risk of people walking into glass. Plans have been submitted which apply a Bavarian Bier Cafe "B" corporate logo on each glass door. The translucent design will reduce the visual prominence of the signage without comprising the safety of customers.

An assessment of the proposal under Section 79C of the *Environmental Planning and Assessment Act 1979* has been undertaken and the application is recommended for approval, subject to recommended conditions.

Site & Surrounds

The subject site is situated on the corner of Riley Street (eastern side) and Jane Street (southern side) in Penrith. The premises is known as Tenancy R4 wherein the ground floor shop occupies part of Westfield Penrith shopping centre. The premises has a street frontage of approximately 35m and has a slight arc which wraps around towards Jane Street. The southern boundary of the premises adjoins a pedestrian entry point to Westfield Penrith.

The site is within the heart of the Penrith City Centre which is characterised by a range commercial and retail land uses. Westfield Penrith makes provision for several hundred car parking spaces. Public transport modes are available via bus services 45m to the south-west of the site and the Penrith train station 200m to the north-east.

Proposal

The applicant seeks approval for external alterations and signage at Shop R4, 569 - 595 High Street, Penrith being the Westfield Penrith shopping centre.

The proposal involves the following:

- Building facade cladding including Trespa panels, timber and dry stone
- Installation of window frames and entry doors including bi-fold doors and windows
- Installation of brick barriers with timber ledging and landscaping in window boxes
- Associated Bavarian Bier Cafe and Fratelli Famous Pizzeria signage including illuminated signs

Plans that apply

- Local Environmental Plan 2010 (Amendment 4)
- Development Control Plan 2014
- Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

Planning Assessment

• Section 79C - Evaluation

The proposed development has been assessed in accordance with the matters for consideration under Section 79C of the *Environmental Planning and Assessment Act 1979*, and having regard to those matters, the following issues have been identified for further consideration.

Section 79C(1)(a)(i) The provisions of any environmental planning instrument

Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

An assessment has been undertaken of the application against relevant criteria within the *Sydney Regional Environmental Plan No 20—Hawkesbury-Nepean River* (No 2—1997) and the application is satisfactory subject to recommended conditions of consent.

Local Environmental Plan 2010 (Amendment 4)

Provision	Compliance
Clause 1.2 Aims of the plan	Complies - See discussion
Clause 2.3 Permissibility	Complies - See discussion
Clause 2.3 Zone objectives	Complies - See discussion
Clause 4.3 Height of buildings	Complies - See discussion
Clause 4.4 Floor Space Ratio	Complies - See discussion
Clause 7.8 Active street frontages	Complies - See discussion
Clause 8.1 Application of Part	Complies

Clause 1.2 Aims of the plan

The proposed development is ancillary to an approved (CDC) fit-out and use as a licensed restaurant/cafe. The development aims to attract customers and boost economic growth which is supportive of Penrith City's vision of achieving prosperous outcomes. Given the minor scale of works, there will be no adverse environmental, cultural or heritage impacts. The proposal therefore satisfies the aims of the plan.

Clause 2.3 Permissibility

The proposed commercial development is permissible with Council consent in the B3 Commercial Core zone under the *Penrith Local Environmental Plan 2010*.

Clause 2.3 Zone objectives

The proposed development is ancillary to an approved licensed restaurant/cafe. The premises is in close proximity to public transport which facilitates alternative transport modes. Given that the proposal will assist in strengthening the Penrith CBD, the objectives of the B3 Commercial Core zone are therefore satisfied.

Clause 4.3 Height of buildings

The proposal is for external alterations and signage only where the building height remains unaltered. The maximum 20m height of buildings provision applicable to the site is therefore satisfied.

Clause 4.4 Floor Space Ratio

The proposal does not involve the creation of additional floor space and therefore satisfies the floor space ratio provision applicable to the site.

Clause 7.8 Active street frontages

The proposal incorporates a mix of materials, neutral colours and glazing. The glass bi-fold doors are similar in design to surrounding restaurants/cafes. The clear glazing and signage will provide high visibility to pedestrians travelling along Riley Street which will promote and make use of pedestrian traffic. The proposal therefore satisfies the objectives of this clause.

Section 79C(1)(a)(iii) The provisions of any development control plan**Development Control Plan 2014**

Provision	Compliance
DCP Principles	Complies - see Appendix - Development Control Plan Compliance
C1 Site Planning and Design Principles	Complies
C2 Vegetation Management	N/A
C3 Water Management	N/A
C4 Land Management	N/A
C5 Waste Management	Complies
C6 Landscape Design	N/A
C7 Culture and Heritage	N/A
C8 Public Domain	N/A
C9 Advertising and Signage	Complies - see Appendix - Development Control Plan Compliance
C10 Transport, Access and Parking	N/A
C11 Subdivision	N/A
C12 Noise and Vibration	N/A
C13 Infrastructure and Services	N/A
D3.1. Bulky Good Retailing	N/A
D3.2. Sex Services Premises	N/A
D3.3. Restricted Premises	N/A
E11 Penrith	Complies - see Appendix - Development Control Plan Compliance

Section 79C(1)(a)(iia) The provisions of any planning agreement

There are no planning agreements applying to this proposal.

Section 79C(1)(a)(iv) The provisions of the regulations

The relevant prescribed conditions of the Regulations, such as the requirement for compliance with the Building Code of Australia and fire safety, will be imposed as conditions of consent where applicable. Subject to the recommended conditions of consent, the proposed development complies with the requirements of the Environmental Planning and Assessment Regulation 2000.

Section 79C(1)(b) The likely impacts of the development

Context and Setting

The proposed external materials and finishes and signage will complement Westfield Penrith's dining precinct. Riley Street accommodates a number of restaurants which incorporate a variety of designs including bi-fold glass doors and windows which will ensure the proposal is compatible with the context of the locality.

Access and Transport

There will be minimal impact on local traffic and parking conditions given that Westfield Penrith makes provision for several hundred on-site parking spaces. Commuter parking is located 80m north of the site on Jane Street and public transport is in close proximity to the site.

Environmental Impacts

The proposal is for minor works only. There will be no major impacts on water resources or soil quality and the development does not require the removal of any significant biodiversity or threatened species. The amounts of waste to be generated are considered to be manageable.

Noise and Vibration

To maintain the acoustic privacy and amenity of the surrounding area, a standard condition restricting construction work hours is recommended.

Socio-Economic Impacts

The proposal will promote the associated commercial premises and assist in stimulating socio-economic activity in the Penrith CBD. The architectural design will complement the visual amenity of the surrounding dining precinct and the proposal is unlikely to adversely impact on local businesses. The proposal is therefore aligned with Penrith City's vision of achieving a sustainable and prosperous region.

Section 79C(1)(c) The suitability of the site for the development

The proposal is compatible with the context of Riley Street's dining precinct. The proposed signage is conservative and is unlikely to generate traffic hazards or put pedestrian safety at risk. The minor works will not result in any adverse impacts on the surrounding environment and there are no hazardous land uses in close proximity to the site. The site is therefore suitable for the proposed development.

Section 79C(1)(d) Any Submissions

Community Consultation

In accordance with Appendix F4 of the *Penrith Development Control Plan 2014*, notification of the proposed development was not required.

Referrals

The application was referred to the following stakeholders and their comments have formed part of the assessment:

Referral Body	Comments Received
Building Surveyor	No objections - subject to conditions

Section 79C(1)(e)The public interest

Given the nature and scale of the proposed development, the proposal will not generate any significant issues of public interest.

Conclusion

In assessing this application against the relevant environmental planning policies, being *Penrith Local Environmental Plan 2010* and *Penrith Development Control Plan 2014*, the proposal satisfies the aims, objectives and provisions of these policies. The proposal does not contravene any development standards and is unlikely to have any significant impacts on the natural, social or economic environments. The site is suitable for the development and the proposal is in the public interest. Therefore, the application is worthy of support and is recommended for approval subject to recommended conditions.

Recommendation

That DA16/1106 for shopfront alterations and signage for a Bavarian Bier Cafe and Fratelli Famous Pizzeria at Westfield Penrith, 569 - 595 High Street, Penrith be approved subject to the attached conditions.

General

1 [A001](#)

The development must be implemented substantially in accordance with the following plans stamped approved by Council, the application form and any supporting information received with the application, except as may be amended in red on the approved plans and by the following conditions.

Drawing Title	Reference No.	Revision	Prepared By	Dated
General Arrangement Plan	ID 100	D	Melissa Collision Design	13/10/2016
Dimension Plan	ID 101	B	Melissa Collision Design	13/10/2016
Overall Shop Front Elevation	ID 210	C	Melissa Collision Design	13/10/2016
Fratelli Famous Elevation	ID 211	C	Melissa Collision Design	13/10/2016
Overall Shop Front Elevation	ID 220	B	Melissa Collision Design	21/09/2016
Bavarian Elevation 1	ID 221	B	Melissa Collision Design	21/09/2016
Bavarian Elevation 2	ID 222	B	Melissa Collision Design	21/09/2016
Fratelli Elevation	ID 223	A	Melissa Collision Design	13/10/2016
Fratelli Shop Front Elevation	ID 230	A	Melissa Collision Design	21/09/2016
Shop Front Section 1.0	ID 240	B	Melissa Collision Design	13/10/2016
Shop Front Detail	ID 241 / ID 244	B	Melissa Collision Design	13/10/2016
Shop Front Section 2.0	ID 243	B	Melissa Collision Design	13/10/2016

2 [A019 - OCCUPATION CERTIFICATE \(ALWAYS APPLY\)](#)

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

3 [A039 - Graffiti](#)

The finishes of all structures and buildings are to be maintained at all times and any graffiti or vandalism immediately removed/repaired.

4 [A046 - Obtain Construction Certificate before commencement of works](#)

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

5 [A Special \(BLANK\)](#)

The installation of the approved signage must be carried out strictly in accordance with the manufacturer's specifications. Any wiring or installation fixtures associated with the signage or internal illumination must be contained wholly within the body of the signage and/or must not be visible from the public domain.

Environmental Matters

6 [D009 - Covering of waste storage area](#)

All waste materials stored on-site during construction works 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.

7 [D010 – Appropriate disposal of excavated or other waste](#)

All 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.

BCA Issues

8 E009 - Annual fire safety-essential fire safety (Class 2-9 buildings)

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.

9 E01A - BCA compliance for Class 2-9

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.

Construction

10 H001 - Stamped plans and erection of site notice

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.

11 H002 - All forms of construction

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 Council, or
- alternatively, any other sewage management facility approved by Council.

(b) 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.

12 H041 - Hours of work (other devt)

Construction 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 that 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.

Certification

13 Q01F - Notice of Commencement & Appointment of PCA2 (use for Fast Light only)

Prior to the commencement of any 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*.

14 Q05F - Occupation Certificate for Class10

An Occupation Certificate is to be obtained from the Principal Certifying Authority on completion of all works.

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.

Appendix - Development Control Plan Compliance

Development Control Plan 2014

Part B - DCP Principles

The proposal is ancillary to an approved licensed restaurant/cafe which will provide a commercial activity and boost the local economy. Given that economic growth is vital for achieving long term security and the proposal is in association with a social benefit, the proposal is aligned with sustainable principles. Furthermore, the minor works involved will have minimal impacts on the natural environment and built environment. The proposal therefore satisfies the DCP principles.

Part C - City-wide Controls

C9 Advertising and Signage

The proposed Bavarian Bier Cafe shopfront contains fully glazed sliding doors and sliding windows which span across the entire shopfront with the exception of two (2) columns. Under AS 1288 - Making Glass Visible (Manifestation), glass doors must contain a decal to ensure glass is visible which reduces the risk of people walking into glass. The proposal includes a single Bavarian Bier Cafe "B" corporate logo on each glass door and window. However, there were concerns in regard to the proliferation of signage and impacts on the visual amenity of the surrounding area given that the decals were black. Accordingly, amended plans were submitted which apply the "B" logo as a translucent design which reduces the visual prominence of the signage without comprising the safety of customers.

The proposal also includes graphic wording along the entire bottom section of the Bavarian Bier Cafe shopfront wall. Although this style of advertising may seem excessive, half of this section is within the entry point to Westfield Penrith and is of low visibility from Riley Street. Moreover, the theme is suitable for the surrounding area given that Riley Street is transitioning into an active restaurant precinct with a night lifestyle where numerous restaurants are available and dining is promoted.

E11 Penrith

E11.3.6 Building Exteriors

The proposed external modifications are of a contemporary design where the building facade contains a mix of brick cladding, dry stone cladding and accoya wood cladding. The proposal includes Fratelli Famous corporate "pipe style" lighting, a built-in Bavarian Bier Cafe shopfront planter box and bi-fold glazed doors and windows. The proposed development has adequate articulation where the neutral colours and overall design provides a balanced amount of visual prominence.