

PENRITH CITY COUNCIL

MAJOR ASSESSMENT REPORT

Application number:	DA19/0631
Proposed development:	Recreation Facility (Indoor) - Unit 4 - ThrowAxe
Property address:	2 Abel Street, JAMISONTOWN NSW 2750
Property description:	Lot 3 DP 735039
Date received:	11 September 2019
Assessing officer	Wendy Connell
Zoning:	Zone B5 Business Development - LEP 2010
Class of building:	N/A
Recommendations:	Approve

Executive Summary

Council is in receipt of a development application for a fit-out and use as an indoor recreation facility (Axe Throw) at 2 Abel Street, Jamisontown. The subject site is zoned B5 Business Development and the proposal is defined as a *recreation facility (indoor)* under *Penrith Local Environmental Plan 2010*. The proposed development is permissible with Council consent.

The key issue identified and addressed as part of the assessment of the proposal was in regard to provision for adequate on-site car parking spaces. The applicant has provided owner's consent from business operators of the two other premises within the unit complex for the use of their parking spaces outside of normal business hours. There are 4 units within the complex with a total of 14 car parking spaces available. The car parking spaces are not formally allocated to each unit, however there is sign posting on site allocating car parking. It is assessed, having regard to the nature of the proposal that the car parking on-site is deemed satisfactory to accommodate the proposed use during its peak activity periods.

An assessment of the proposal under Section 4.15 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 known as 2 Abel Street, Jamisontown and is legally described as Lot 3 DP 735039. The site is situated on the southern corner of Abel Street and York Road. The subject lot has an area of 2373m² and is rectangular in shape. The site consists of 4 units with a 14 space car parking area.

The surrounding area accommodates a range of businesses. Opposite is Jamison Park which provides a vast area of green open space and recreational activities. The broader road network includes the intersection of York Road and Jamison Road approximately 520m northwards and the intersection of the York Road and Batt Street approximately 250m southwards.

Proposal

The applicant seeks approval for a fit-out and use as an indoor recreation facility (axe throwing) at 2 Abel Street, Jamisontown.

The proposal includes the following aspects:

- Three (3) axe throwing cages, one (1) warm up cage, storage, reception and seating areas
- Four (4) staff members
- A maximum of three groups with ten (10) participants at any one time
- Hours of operation between 10:00am to 9:00pm daily

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 4.15 - Evaluation

The development has been assessed in accordance with the matters for consideration under Section 4.15 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 proposal against relevant criteria within *Sydney Regional Environmental Plan No. 20—Hawkesbury-Nepean River (No. 2—1997)* and the proposal is satisfactory subject to recommended conditions of consent.

Local Environmental Plan 2010 (Amendment 4)

Provision	Compliance
Clause 1.2 Aims of the plan	Complies
Clause 2.3 Permissibility	Complies
Clause 2.3 Zone objectives	Complies

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

Annual Update Amendment Planning Proposal

It is noted that an Annual Update Amendment Planning Proposal is in the process of being created by Council. The Annual Update Amendment Planning Proposal has no relevance to the proposed development.

Draft Environmental SEPP

The Draft Environment SEPP was exhibited from 31 October 2017 to 31 January 2018. This consolidated SEPP proposes to simplify the planning rules for a number of water catchments, waterways, urban bushland, and Willandra Lakes World Heritage Property. Changes proposed include consolidating a total of seven existing SEPPs being:

- *State Environmental Planning Policy No. 19 – Bushland in Urban Areas*
- *State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011*
- *State Environmental Planning Policy No. 50 – Canal Estate Development*
- *Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment*
- *Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (No.2-1997)*
- *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005*
- *Willandra Lakes Regional Environmental Plan No. 1 – World Heritage Property.*

It is noted that the proposed changes to State Environmental Planning Policy No 19 – Bushland in Urban Areas (SEPP 19) are not considered to impact the proposed development. In addition, the amendments to Sydney Regional Environmental Plan No 20 – Hawkesbury – Nepean River (No. 2 – 1997) do not impact the proposed development. In this regard, the proposal is not inconsistent with the provisions of this Draft Instrument.

Section 79C(1)(a)(iii) The provisions of any development control plan

Development Control Plan 2014

Provision	Compliance
DCP Principles	Complies
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 - see Appendix - Development Control Plan Compliance
C6 Landscape Design	N/A
C7 Culture and Heritage	N/A
C8 Public Domain	N/A
C9 Advertising and Signage	N/A
C10 Transport, Access and Parking	Complies - see Appendix - Development Control Plan Compliance
C12 Noise and Vibration	Complies
C13 Infrastructure and Services	Complies

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

There are no planning agreements applying to the 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 requirements, 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 & Setting

The proposal is of a minor scale where the site is situated in an established business and industrial area. Given that the proposal is for a fit-out and change of use only, there will be negligible impacts on the surrounding area.

Site Design & Internal Design

Conditions requiring compliance with BCA requirements will ensure for health and safety of users of the premises.

Access, Transport & Traffic

The applicant has provided owner's consent from adjoining tenancy owners to permit the use of their car spaces outside of normal business hours, being the peak activity periods for the proposal. Additionally, bus services are available within a reasonable walking distance from the site. This will ensure that there will be minimal impacts on parking availability and traffic flows.

Utilities

Connections to existing facilities and services will provide adequate servicing for the proposal.

Noise and Vibration

The nature and scale of the proposal is not considered likely to adversely impact on neighbouring tenancies in terms of noise and vibration.

Environmental Impacts

The proposed fit-out raises no concerns regarding any significant impacts on the surrounding natural environment.

Socio-Economic Impacts

The proposal will generate economic growth which will contribute to strengthening the locality. Given the minor scale of the proposal, it is not considered likely to result in any adverse impacts on surrounding land uses or property values.

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

The site is deemed suitable for the proposed development for the following reasons:

- The proposal is of a minor scale
- Sufficient services and facilities are available
- The proposal will have negligible impacts on the surrounding environment, including traffic flows

Section 79C(1)(d) Any Submissions

Community Consultation

In accordance with Appendix F4 of *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
Environmental - Public Health	No objections - subject to conditions
Traffic Engineer	No objection subject to conditions

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

Given the nature and scale of the proposal, in addition to the proposal being largely compliant with the applicable development controls, the proposed development 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*, *Penrith Development Control Plan 2014* and *Sydney Regional Environmental Plan No. 20 - Hawkesbury-Nepean River*, 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 DA19/0631 for a fit-out and use as an indoor recreation facility (axe throwing) at 2 Abel Street, Jamisontown 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 stamped approved plans and by the following conditions.

Drawing Title	Prepared By	Reference No.	Dated	Revision
Site Plan	Summit Drafting Services	296-01	31/08/19	A
Ground Floor Plan (as amended)	Summit Drafting Services	296-02	31/08/19	A
Section	Summit Drafting Services	296-03	31/08/19	A

2 A012 - Food Act

The proprietor of the food business shall ensure that the requirements of the NSW Food Act 2003, NSW Food Regulation 2010 and the Australian and New Zealand Food Standards Code are met at all times. Food shall not be prepared or sold from the business without further approval from Council.

Any external caterers used by the business must be registered with the NSW Food Authority or their local Council and all food provided by the caterer must be prepared in a commercial kitchen approved by the Council or NSW Food Authority.

3 A019 - OCCUPATION CERTIFICATE (ALWAYS APPLY)

The development shall not be used or occupied until a final inspection by Penrith City Council has been undertaken.

4 A026 - Advertising sign (not for residential)

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 Section C9 Advertising and Signage of *Penrith Development Control Plan 2014*.

5 A029 - HOURS OF OPERATION AND DELIVERY TIMES

The approved operating hours are from 10:00am to 9:00pm daily.

6 A030 - No retail sales

No retail sale of goods shall be conducted from the subject premises, except for the sale of non-alcoholic drinks for the immediate consumption by participants.

7 A032 - Goods in buildings

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

8 A038 - LIGHTING LOCATIONS

Suitable security lighting in the car park and at the entrance to the premises shall be installed **prior to the final inspection**.

9 A039 - Graffiti

The finishes of the site is to be maintained at all times and any graffiti or vandalism immediately removed/repared.

10 A Special (BLANK)

Use of the subject unit shall be restricted to a maximum of 30 participants and four staff members at any one time.

11 A Special (BLANK)

Group sessions shall be staggered by a minimum period of 15 minutes to reduce the impact on available on-site parking spaces.

12 A Special (BLANK)

The activity is to operate so as not to interfere with the operation of other businesses in the complex.

13 A Special (BLANK)

Council reserves the right to review parking arrangements for the use should issues of concern arise in the future.

14 A Special (BLANK)

All axes and axe throwing equipment shall be safely and securely stored within the premises when not in use.

15 A Special (BLANK)

Prior to the final inspection a Waste Management Plan is to be provided to Council demonstrating how the development will manage ongoing waste as part of the operation.

BCA Issues

16 **E003 - Structural alterations**

In accordance with the requirements of Clause 94 of the Environmental Planning and Assessment Regulation 2000, the following works are to be completed to ensure the fire safety of the unit;

- All required exits are to be fitted with latching devices that comply with Clause D2.21 of the Building Code of Australia (BCA).
- Portable fire extinguishers are to be provided in accordance with the requirements of the BCA.

17 **E006 - Disabled access and facilities**

Access 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".

18 **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.

Engineering

19 **K Special (BLANK)**

- Signage indicating the car spaces and times that parking spaces are available to Axe Throw customers are to be installed at every available parking space.

20 **K Special (BLANK)**

- All parking spaces are dedicated for the parking of vehicles only and not be used for storage of materials / products / waste materials etc.

Appendix - Development Control Plan Compliance

Development Control Plan 2014

Part C - City-wide Controls

C5 Waste Management

A condition of consent has been recommended for a Waste Management Plan to be submitted to Council ongoing waste management for the development. There is no demolition or construction waste associated with the proposal as it is for a change of use only.

C10 Transport, Parking and Access

A key issue identified and addressed as part of the assessment of the proposal was in regard to provision for adequate on-site car parking spaces. The applicant has provided owner's consent from business operators of the two (2) other premises within the unit complex for the use of their parking spaces outside of normal business hours. There is 4 units within the complex, and total of 14 car parking spaces. The car parking spaces are not formally allocated to each unit however there is sign posting on site. During the assessment period the proposal was modified from 5 axe throwing cages to 3 cages, reducing the maximum number of people on the site at any one time to 34 people (including staff). With peak hours for the proposal being outside of normal business hours and the reduction in cages, the on-site car parking available is deemed satisfactory to accommodate the proposed use.