

PENRITH CITY COUNCIL

MAJOR ASSESSMENT REPORT

Application number:	DA17/0272
Proposed development:	Shopfront Alterations & Signage (Tenancy 60A - Gelato Messina)
Property address:	569 - 595 High Street, PENRITH NSW 2750
Property description:	Lot 1 DP 1137699
Date received:	7 April 2017
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 Gelato Messina retail premises at Westfield Penrith, Shop 60A, 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 proposal provides a contemporary design and incorporates the use of timber, glazing and stone cladding. These features are consistent with surrounding building exteriors in the Riley Street dining precinct. The proposed illuminated "Messina" corporate logo signs are conservative and do not raise any safety concerns for pedestrians or motorists.

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 premises is known as Shop 60A, Westfield Penrith, 569 - 595 High Street, Penrith. The site is legally described as Lot 1 DP 1137699. The premises is situated on the western side of Riley Street, Penrith. The ground floor shop occupies Westfield Penrith (Penrith Plaza) shopping centre and is located between Henry Street (southward) and Jane Street (northward). The shopping centre accommodates a range of retail and commercial land uses and makes provision for several hundred car parking spaces.

The broader road network includes Jane Street approximately 115m to the north of the premises, the intersections of the Great Western Highway/High Street and Mulgoa Road 589km to the west, Mulgoa Road and Jamison Road 1.35km to the south-east and Mulgoa Road and the M4 Motorway a further 1.85km south-east (3.2km to the south-east). Available public transport modes include the nearest bus stop 15m to the north and bus services and the Penrith Railway Station 280m to the north-east.

Proposal

The applicant seeks approval for shopfront alterations and signage for a Gelato Messina retail premises at Shop 60A, Westfield Penrith, 569 - 595 High Street, Penrith. The proposed development includes the following aspects:

- Glazed panels (slightly angled)
- A protruding timber mullion with fixed glazed panels along the north-eastern corner elevation
- Illuminated "Messina" corporate logo shopfront sign measuring 360mm (H) x1500mm (W)
- illuminated "Messina" corporate internal wall sign measuring 435mm (H) x 3000mm (W)
- Stone cladding along the bottom shopfront elevations 600mm high and to a portion of the northern elevation (entry point via Westfield Penrith)

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 proposal against relevant criteria within the *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 - See discussion
Clause 2.3 Permissibility	Complies - See discussion
Clause 2.3 Zone objectives	Complies - See discussion
Clause 2.7 Demolition requires development consent	Complies
Clause 4.3 Height of buildings	Complies - See discussion
Clause 4.4 Floor Space Ratio	Complies - See discussion
Clause 5.9 Preservation of trees or vegetation	N/A
Clause 5.10 Heritage conservation	N/A
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 a CDC approved fit-out and use as a food and drink premises. The development aims to attract customers and boost economic growth which is supportive of Penrith City's vision of achieving a sustainable city. Given that the works are of a minor scale, there will be no adverse environmental, cultural or heritage impacts. The aims of the plan are therefore satisfied.

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 a food and drink premises. The proposed development aims to market the Gelato Messino shop. The premises is in close proximity to public transport which facilitates alternative transport modes. Given that the proposal will assist in strengthening the socio-economic activity of the Penrith City Centre, 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 any additional floor space. The maximum 1:1.5 floor space ratio standard applicable to the site therefore remains satisfied.

Clause 7.8 Active street frontages

The proposal incorporates a mix of materials, neutral colours and glazing. The glazing and use of timber and stone cladding is 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 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 and Setting

The proposed building exterior and signage will complement Westfield Penrith's dining precinct. Riley Street accommodates a number of food and drink premises which incorporate a variety of designs including the use of timber, glazing and cladding. 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 125m north of the site on Jane Street and public transport modes are within walking distance to the site.

Environmental Impacts

The proposal is for minor works only and does not involve any earthworks. There are no significant land and water resources in close proximity to the site. The proposal does not require the removal of any significant biodiversity or threatened species. The amount of waste to be generated by the proposal is 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 retail premises and assist in boosting socio-economic growth in the Penrith City Centre. The materials and finishes will complement the visual quality of the surrounding dining precinct and the proposal is unlikely to adversely impact on local businesses.

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

The site is located within Riley Street's dining precinct which accommodates a range of exterior designs and signage. The proposed signage is conservative and is unlikely to generate traffic hazards or put pedestrian safety at risk. The proposed minor works will have no 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 proposal, in addition to the proposal being 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 including the *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 DA17/0272 for shopfront alterations and signage for a Gelato Messino retail premises at Shop 60A, 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 stamped approved plans and by the following conditions.

Drawing Title	Prepared By	Reference No.	Dated	Revision
Materials & Lighting Schedule	Vie Studio	A-001	16/03/2017	D
Shopfront Elevations	Vie Studio	A-201	16/03/2017	D
Section 01-02	Vie Studio	A-202	16/03/2017	D
Section 03-04	Vie Studio	A-203	16/03/2017	D
Section 05-06	Vie Studio	A-204	16/03/2017	D
Shopfront Detail 01	Vie Studio	A-301	16/03/2017	D
Shopfront Detail 02	Vie Studio	A-302	16/03/2017	D
Waste Management Plan	-	-	31/03/2017	-

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

6 A Special (BLANK)

The approved signage shall not be fitted with any flashing or moving lights or elements and shall not distract passing motorists or impact on visual amenity.

Demolition

7 B002 - AS FOR DEMOLITION AND DISPOSAL TO APPROVED LANDFILL SITE

All demolition works are to be conducted in accordance with the provisions of AS 2601-1991 "The Demolition of Structures". **Prior to demolition**, all services shall be suitably disconnected and capped off or sealed to the satisfaction of the relevant service authority requirements.

All demolition and excavated material shall be disposed of at a Council approved site or waste facility. Details of the proposed disposal location(s) of all excavated material from the development site shall be provided to the Principal Certifying Authority **prior to commencement of demolition**.

8 B003 - ASBESTOS

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 Environment Protection Authority to receive asbestos wastes.

9 **B004 - Dust**

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

10 **B005 - Mud/Soil**

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

11 **B006 - Hours of work**

Demolition works 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 demolition work is permitted on Sundays and Public Holidays.

In the event that the demolition relates to works inside the building and does not involve external walls or the roof, and does 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

12 **D009 - Covering of waste storage area**

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.

13 **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

14 **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.

15 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

16 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.

17 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.

18 [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

19 [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*.

20 [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 a Gelato Messina retail store which will provide a commercial activity and stimulate socio-economic activity in the locality. The proposal will contribute to economic growth which is essential for long term security, and given that the proposal is in association with a social benefit, the proposal meets the principles of sustainable development. Furthermore, the minor works will have minimal impacts on the surrounding built and natural environments. The proposed development therefore satisfies the DCP principles.

Part C - City-wide Controls

C9 Advertising and Signage

The proposal includes two (2) illuminated "Messina" corporate logo signs. The minimal signage will ensure the proposal will not result in the proliferation of signage and it is not considered to raise any safety concerns for pedestrians or motorists. Given the context of the Riley Street dining area, the signage is compatible with the signage theme of Westfield Penrith.

E11 Penrith

E11 Part A - Penrith City Centre

E11.3.6 Building Exteriors

The proposed external modifications are of a contemporary design. The slightly angled glazed panels and timber mullion along the north-eastern corner elevation provides a high quality appearance and will contribute to the visual quality of the streetscape. The design incorporates the use of timber and stone cladding which is consistent with surrounding building exteriors. Overall, the articulation and neutral colours provide an effective design and a balanced amount of visual prominence.