

DETERMINATION OF DEVELOPMENT APPLICATION

P E N R I T H C I T Y C O U N C I L

DESCRIPTION OF DEVELOPMENT

DA No.	DA12/0894
Description of development	Relocation of Existing Kiosk (EK03) & Related Works
Classification of development	The classification of the building(s) forming part of this consent is as follows: <ul style="list-style-type: none">▪ Class 6

DETAILS OF THE APPLICANT

Name & Address	Westfield Ltd Suite 707, 159-175 Church Street PARRAMATTA NSW 2150
----------------	--

NOTES

1. Your attention is drawn to the attached conditions of consent in Attachment 1.
2. You should also check if this type of development requires a Construction Certificate in addition to this development consent.
3. It is recommended that you read the Advisory Note enclosed with this consent.

DETAILS OF THE LAND TO BE DEVELOPED

Legal Description: Lot 1 DP 1137699
Property Address: Westfield Penrith, 569-595 High Street, PENRITH NSW 2750

DECISION OF CONSENT AUTHORITY

In accordance with Section 81(1)(a) of the Environmental Planning and Assessment Act 1979, consent is granted subject to implementation of the conditions in Attachment 1.

Date from which consent operates 12 December 2012
Date consent expires 12 December 2014
Date of decision 30 November 2012

Please note that this consent will lapse on the expiry date unless the development has commenced in that time.

REVIEW OF DETERMINATION & RIGHTS OF APPEAL

1. The applicant may request Council to review its determination pursuant to Section 82A of the Environmental Planning and Assessment Act 1979 within six (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.

2. 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.

3. If a written objection was made in respect to an application for Designated Development, the objector can appeal against Council's 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 Council's decision, the 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.

REASONS

The conditions in the attached schedule have been imposed for the following reasons:

- To ensure compliance with the terms of the relevant Planning Instrument.
- To ensure that no injury is caused to the existing and likely future amenity of the neighbourhood.
- Due to the circumstances of the case and the public interest.
- To ensure the structural integrity of the development.
- To ensure the protection of the health and safety of the occupants of the development.

POINT OF CONTACT

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

Assessing officer	Kate Smith Trainee Environmental Planner
Contact telephone number	(02) 4732 7705

SIGNATURE

Name	Robert Craig Principal Planner
Signature	

For the Development Services Manager

ATTACHMENT 1: CONDITIONS OF CONSENT

GENERAL

- 1 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 attached plans and by the following conditions.

Drawing Title	Plan No.	Issue	Prepared By	Dated
Location Plan	-	-	Westfield Design and Construction	December 2009
Kiosk EK03 Relocation	SKEK03-2	1	Westfield Design and Construction	02/11/12
Furniture Plan	MB-A3-02	B	Foster and Associates	Nov 12
Extent of Proposed Treatment to Internal Face of Glass (Photo)	-	-	-	-

- 2 **The development shall not be used or occupied until an Occupation Certificate has been issued.**
- 3 A separate development application for the erection of a sign or advertising structure, other than an advertisement listed as exempt development, is to be lodged with Penrith City Council for consideration, complying with the requirements of Penrith Development Control Plan-Advertising Signs.
- 4 A **Construction Certificate** shall be obtained prior to commencement of any building works.
- 5 No approval is granted or shall be implied in relation to any modifications to the external elevations of the Riley Street bridge platform, other than works as shown on the stamped approved plans.
- 6 The internal glazing treatment provided shall only be permitted to the panels as indicated on the stamped approved plans. The glazing treatment shall be fixed internally to the entire window panel contained within the aluminium framing. The glazing treatment shall be of a suitable colour and reflectively to ensure that the glazing panels when viewed from Riley Street result in a seamless junction between existing untreated panels.
- 7 To ensure that important vistas to and from Riley Street are unobstructed and maintained from within the Riley Street bridge walkway, no hanging elements other than light fittings shall be permitted over the casual seating zone.
- 8 No joinery or partition walls shall obstruct views to and from Riley Street from the internal bridge walkway area other than those as shown on the stamped approved plans.
- 9 The use of the kiosk shall remain as a cafe/restaurant. Should a new use be proposed a development application shall be lodged with Penrith City Council for consideration.
- 10 All blockwork walls as marked in red on the stamped approved plans shall be finished in a light coloured material such as glazed white tiles or similar.

- 11 No approval is granted or shall be implied in relation to the selling or consumption of liquor requiring a Liquor Licence.
- 12 All fit-out works are to be in accordance with the terms of the positive covenant relating to the Riley Street bridge platform, other than those works as shown on the stamped approved plans.
- 13 All seating associated with the use of the kiosk shall be provided in accordance with stamped approved plans.
- 14 The use of the café/restaurant shall not extend into the internal bridge walkway over Riley Street.
- 15 Dust suppression techniques are to be employed during construction to reduce any potential nuisances to surrounding premises.

ENVIRONMENTAL MATTERS

- 16 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

- 17 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.

- 18 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

- 19 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.**

- 20 **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 the 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.

- 21 Construction works or subdivision 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 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.

CERTIFICATION

- 22 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 abovementioned documents shall be submitted to Penrith City Council, if Council is not the Principal Certifying Authority.

- 23 **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.

Robert Craig

Signature

For the Development Services Manager