

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.	DA12/0648.02
Description of development	Shop Front & Fit-Out Works & Signage - Kingston & Co (Shop 154)
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	Egg Studio Pty Ltd 7 St Marys Street CAMPERDOWN NSW 2050
----------------	--

NOTES

1. Your attention is drawn to the attached conditions of consent in Attachment 1.
2. You should also check if the modification of the development requires a Construction Certificate to reflect the modification to the development consent subsequently issued by Council.
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 Sections 81(1)(a) and Section 96(1A) of the Environmental Planning and Assessment Act 1979, consent is granted subject to the conditions listed in Attachment 1.

Date from which consent operates	25 September 2012
Date consent expires	25 September 2014
Date of decision	25 September 2012, as amended on 5 November 2012 under Section 96(1A) of the Environmental Planning and Assessment Act 1979.

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

RIGHT OF APPEAL

1. 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.

2. 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, 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	Job No.	Drawing No.	Issue	Prepared By	Dated
Location Plan	1208	03	-	Egg Studio P/L	06.07.12
Floor Plan	1208	04	-	Egg Studio P/L	06.07.12
Ceiling Plan	1208	08	-	Egg Studio P/L	06.07.12
Elevations	1208	09	-	Egg Studio P/L	06.07.12
Shopfront Elevation	1208	11	-	Egg Studio P/L	06.07.12
Shopfront Elevation	1208	12	-	Egg Studio P/L	06.07.12

- 2 The proprietor of the food business shall ensure that the requirements of the Food Act 2003 and Food Regulation 2010 are met at all times. All food shop construction works shall be carried out in accordance with the requirements of AS 4674-2004 "Design, Construction and Fitout of Food Premises," the Food Act 2003 and Food Regulation 2010.
- 3 **The development shall not be used or occupied until an Occupation Certificate has been issued.**
- 4 The approved operating hours are:
- 9am to 5.30pm Mondays, Tuesdays & Wednesdays
 - 9am to 9pm Thursdays, and
 - 9am to 12 midnight Fridays, Saturdays & Sundays

As amended on 5 November 2012 under Section 96(1A) of the Environmental Planning and Assessment Act 1979.

- 5 All materials and goods associated with the use shall be contained within the building at all times.
- 6 The finishes of all structures and buildings are to be maintained at all times and any graffiti or vandalism immediately removed/repared.
- 7 A **Construction Certificate** shall be obtained prior to commencement of any building works.

DEMOLITION

- 8 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.**

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

ENVIRONMENTAL MATTERS

- 10 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.

- 11 All excavated material and other 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.

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

BCA ISSUES

- 13 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". Details of compliance are to be provided in the relevant plans and specifications accompanying the Construction Certificate application.

- 14 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.

- 15 The sprinkler system and the fire safety services are not to be compromised as part of the new works. Should the sprinkler system need to be altered to comply with the AS2118, then this work must be completed. **Prior to the issue of an Occupation**

Certificate for the shops, you are required to submit a certificate from a suitably qualified hydraulic consultant attesting to the adequacy and compliance of the sprinkler system within these new shops.

HEALTH MATTERS

- 16 All food shop construction works shall be carried out in accordance with the requirements of AS 4674-2004 Design Construction and Fitout of Food Premises, the Food Act 2003 and Food Regulation 2010.

Detailed plans and specifications for the construction of the premises and installation of fittings, furnishings and equipment to all food preparation and storage areas are to be submitted with the Construction Certificate application regarding the fitout of the food shop. Particular attention is drawn to:

- A cleaner's sink or hot and cold hose connections must be provided to the food premises as required by AS 4674-2004.
- All floor, wall and ceiling finishes throughout the premises must comply with AS 4674-2004. Drop in panel or false-ceilings are not permitted in food preparation or food storage areas. This includes areas where food is on display for sale.
- Adequate pest proofing must be provided to the front entrances to prevent entry of flying insects.

Prior to the issue of an Occupation Certificate, an inspection from Council's Environmental Health Department will be required prior to operation of the business. The applicant is to contact Council to organise an appointment.

- 17 Cooking appliances which exceed a total maximum power input of 8kw for electrical, or a total gas input of 29MJ/h for a gas appliance are required to have a kitchen exhaust system installed in accordance with Clause F4.12 of the Building Code of Australia and Australian Standard AS1668 Parts 1 & 2.

Details of the installation of the kitchen exhaust system shall be submitted with the Construction Certificate application.

The kitchen exhaust system must be designed to prevent or minimise air pollution including the emission of odours, vapours and oils in accordance with the Protection of the Environment Operations Act 1997.

Prior to the issue of an Occupation Certificate, the installer of the kitchen exhaust system (either the individual person or the Company who installed the exhaust system) shall certify or submit appropriate documentation (as instructed by the Principal Certifying Authority) that all practical pollution control measures have been installed to achieve the requirements of the Protection of the Environment Operations Act 1997.

CONSTRUCTION

- 18 **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) All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with the appropriate professional standards. All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.

(c) If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made:

- must preserve and protect the building from damage, and
- if necessary, must underpin and support the building in an approved manner, and
- must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished. The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this condition, whether carried out on the allotment of land being excavated or on the adjoining allotment of land, (includes a public road and any other public place).

(d) 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.

19 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

20 **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.

- 21 An Occupation Certificate is to be obtained from the Principal Certifying Authority on completion of all works and **prior to the use of the tenancy commencing.**

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.

Robert Craig

Signature

For the Development Services Manager