

PENRITH CITY COUNCIL

NOTICE OF DETERMINATION

DESCRIPTION OF DEVELOPMENT

Application number:	DA20/0117
Description of development:	Fit-Out & Use as Restaurant - Tella Balls Dessert Bar (Tenancy T5)
Classification of development:	Class 6

DETAILS OF THE LAND TO BE DEVELOPED

Legal description:	Lot 3 DP 30354
Property address:	78 - 88 Tench Avenue, JAMISONTOWN NSW 2750

DETAILS OF THE APPLICANT

Name & Address:	S Kappatos C/- Tellaballs Enterprises Pty Ltd 316 Princes Highway SYLVANIA HEIGHTS NSW 2224
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DECISION OF CONSENT AUTHORITY

In accordance with Section 4.18(1) (a) of the Environmental Planning and Assessment Act 1979, consent is granted subject to the conditions listed in attachment 1.

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

Date from which consent operates	1 May 2020
Date the consent expires	1 May 2025
Date of this decision	30 April 2020

POINT OF CONTACT

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

Assessing Officer:	Sufyan Nguyen
Contact telephone number:	+612 4732 8568

NOTES

Reasons

The conditions in the attached schedule have been imposed in accordance with Section 4.17 of the Environmental Planning and Assessment Act 1979 as amended.

Conditions

Your attention is drawn to the attached conditions of consent in attachment 1.

Certification and advisory notes

You should also check if this type of development requires a construction certificate in addition to this development consent.

It is recommended that you read any Advisory Note enclosed with this notice of determination.

Review of determination

The applicant may request Council to review its determination pursuant to Division 8.2 of the Environmental Planning and Assessment Act 1979 within six months of receiving this Notice of Determination.

These provisions do not apply to designated development, complying development or crown development pursuant to Section 8.2(2) of the Environmental Planning and Assessment Act 1979.

Appeals in the Land and Environment Court

The applicant can appeal against this decision in the Land and Environment Court within six months of receiving this Notice of Determination.

There is no right of appeal to a decision of the Independent Planning Commission or matters relating to a complying development certificate pursuant to clause 8.6(3) of the Environmental Planning and Assessment Act 1979.

Designated development

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.

If the applicant appeals against this decision, 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.

Sydney Western City Planning Panels

If the application was decided by the Sydney Western City Planning Panel, please refer to Section 2.16 of the Environmental Planning and Assessment Act, 1979 (as amended) for any further regulations.

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 stamped approved plans and by the following conditions.

Drawing Title	Prepared By	Sheet No.	Dated	Revision
Location Plan (Overall GA Plan- Ground Level)	Morson Group Pty Ltd	A101	07-09-18	11
Legend - Part 1 of 3	AGC Catering Equipment	A-2.1	10-12-19	–
Legend - Part 2 of 3	AGC Catering Equipment	A-2.2	24-02-20	–
Legend - Part 3 of 3	AGC Catering Equipment	A-2.3	24-02-20	–
Floor Plan	AGC Catering Equipment	B-1.1	24-02-20	–
Plan Dimensioned	AGC Catering Equipment	B-2.1	24-02-20	–
Plan Ceiling	AGC Catering Equipment	B-3.1	24-02-20	–
Plan Finishes	AGC Catering Equipment	B-4.1	24-02-20	–
Plan - Power and Data	AGC Catering Equipment	B-5.1	24-02-20	–
Plan - Plumbing	AGC Catering Equipment	B-6.1	24-02-20	–
Shopfront Elevation	AGC Catering Equipment	C-1.1	24-02-20	–
Sections	AGC Catering Equipment	C-2.1	24-02-20	–
Detail - Signage	AGC Catering Equipment	D-1.1	24-02-20	–

Documents:

- Waste Management Plan prepared by Simon Kappatos, dated 6 March 2020.

- 2 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.
- 3 **An Occupation Certificate for the development must be issued within 60 days from the date of this notice of determination.**
- 4 The approved operating hours for the site are limited between 7am to 1am, Monday to Sunday. Delivery and service vehicles generated by the development shall be limited to 7am to 5pm, Monday to Friday.
- 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 the premises are to be maintained at all times and any graffiti or vandalism immediately removed/repaired.
- 7 Outdoor furniture shall be provided in a location that does not obstruct pedestrians utilising the pedestrian accessway.
- 8 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.
- 9 "The intensity of the signage illumination and any obtrusive effects of outdoor lighting shall be controlled in accordance with AS 4282 - 1997, "Control of the obtrusive effects of outdoor lighting".

Environmental Matters

- 10 All waste materials stored onsite 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 the areas are to be fully enclosed when the site is unattended.

- 11 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.

- 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.
- 13 Only clean and unpolluted water is to be discharged into Penrith City Council's stormwater drainage system. Liquid wastes suitable for discharge to the mains sewer are to be discharged in accordance with Sydney Water requirements.

If mains sewer is not available or if Sydney Water will not allow disposal to the sewer then a licensed waste contractor is to remove the liquid waste from the premises to an appropriate waste facility.

The waste contractor and waste facility are to hold the relevant licenses issued by the NSW Environment Protection Authority.

- 14 Any liquid discharge from the air handling system, resulting from operation, maintenance and/or cleaning operations, are to be disposed of into the sewer system. Discharge into the stormwater disposal system is not permitted.

BCA Issues

- 15 Access and sanitary facilities 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".
- 16 Toilet facilities for staff and patrons are to be provided in accordance with Table F2.3 of the Building Code of Australia.
- 17 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.

Health Matters and OSSM installations

18 The construction, fit-out and finishes of the food premises must comply with Standard 3.2.3 of the Australian and New Zealand Food Standards Code, and AS 4674-2004 *Design, Construction and Fit-out of Food Premises*. Shelving associated with food storage and storage of packaging must be sealed, smooth and impervious.

19 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 AS 1668 Parts 1 & 2.

The exhaust hood must completely cover the equipment to be ventilation and extended at least 200mm beyond the perimeter of the equipment. The exhaust hood must be provided with a condensation gutter around its base. The gutter must be at least 50mm wide by 25mm deep. Where abutting walls are located the hood must be constructed so as to finish flat against the wall surface.

The low edge of a canopy type exhaust hood must be at least 2000mm above floor level.

Prior to the issue of an Occupation Certificate, the exhaust system shall be certified by an appropriately qualified person to comply with the Building Code of Australia and AS 1668 Parts 1 & 2. A copy of the certification and supporting documentation must be provided to Penrith City Council's Environmental Health Team if Council is not the Principal Certifying Authority.

Note: Additional ventilation will be required for ventilation of cooking equipment or the dishwasher should routine inspections by Penrith City Council's Environmental Health Officers identify issues with condensation or an accumulation of fats, oil, and grease above appliances.

20 A Food Safety Supervisor, with a current Food Safety Supervisor Certificate recognised by the NSW Food Authority, must be appointed by the business at all times.

21 Staff belongings and other items not associated with the business shall be kept completely separate to food storage and food activities and equipment and maintained in a clean condition.

Certification

22 An Occupation Certificate is to be obtained from the Principal Certifying Authority on completion of all works and prior to the occupation/use of the development.

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.

SIGNATURE

Name:	Sufyan Nguyen
Signature:	

For the Development Services Manager