

# PENRITH CITY COUNCIL

## NOTICE OF DETERMINATION

### DESCRIPTION OF DEVELOPMENT

Application number:	DA17/0263
Description of development:	Temporary Circus Involving Installation of 2 x Tents
Classification of development:	N/A

### DETAILS OF THE LAND TO BE DEVELOPED

Legal description:	Lot 2 DP 851152
Property address:	2 Charles Hackett Drive, ST MARYS NSW 2760

### DETAILS OF THE APPLICANT

Name & Address:	Loritz Circus Pty Ltd C/- Maryann Schulz PO Box 501 ORMEAU QLD 4208
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### DECISION OF CONSENT AUTHORITY

In accordance with Section 81(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	25 May 2017
Date the consent expires	25 May 2019
Date of this decision	23 May 2017

## POINT OF CONTACT

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

Assessing Officer:	Nicholas Gunn
Contact telephone number:	+612 4732 7413

## NOTES

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### **Reasons**

The conditions in the attached schedule have been imposed in accordance with Section 80A 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 Section 82A of the Environmental Planning and Assessment Act 1979 within 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 or if the application was decided by Sydney West Planning Panel.

### **Appeals in the Land and Environment Court**

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.

An appeal to the Land and Environment Court is made by lodging an application to the Court in accordance with the Rules of the Court.

### **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. The objector cannot appeal if a Commission of Inquiry was held.

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 West Planning Panels**

If the application was decided by the Sydney West Planning Panel, please refer to Section 18 of the Greater Sydney Commission Act 2015 and Section 23H 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 Site Plan, Waste Management Plan, Risk Management Plan, Statement of Environmental Effects and approved plans by Council, except as may be amended in red on the attached plans and by the following conditions:
  
- 2 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 Penrith Development Control Plan-Advertising Signs.
  
- 3 A hotline to receive complaints shall be established for the duration of the event. The hotline phone number(s) shall be provided to Penrith City Council with a contact name. The applicant shall address the complaints and amend any practice in consultation with Penrith City Council.
  
- 4 The circus is only permitted to operate between 29 June 2017 to 16 July 2017. The site is to be vacated on 17 July 2017 with setup commencing on the 26 June 2017.
  
- 5 A sign is to be displayed in a prominent position in the tent that specifies the following:
  - i. The maximum number of persons as specified in the development consent, that are permitted in the tent as a place of public entertainment;
  
  - ii. The name, address and telephone number of the council of the area in which the building is located.  
Penrith City Council Civic Centre  
601 High Street  
Penrith NSW 2750  
(02) 4732 7777
  
- 6 The circus is to abide by the National Consultative Committee for Animal Welfare (NCCAW) Position Statement No. 26 "Recommended National Circus Standards".
  
- 7 Dust suppression and minimisation strategies must be employed to manage potential dust nuisance within the sites. This is to apply to parking areas, access roads and with the event site.
  
- 8 This consent permits a maximum of **550 patrons** on the site at any give time; this includes patrons within the tent structure.
  
- 9 The following CPTED requirements are to be complied with:

## Lighting

- Temporary lighting must be provided to illuminate key areas, including entry and exit points, toilets, the car park and designated access routes around the site. All areas intended to be used at night should allow appropriate levels of visibility.
- Lighting should have a wide beam of illumination, which reaches to the beam of the next light, or the perimeter of the site or area being traversed.

### **Building Security & Access Control**

- Access control measures should be in place to restrict public access to designated areas only (e.g. security/staff at entrances to backstage and performance areas; mobile homes, caravans and trailers well secured).
- Office and ticket sales areas should be secure and accessible to staff only, with appropriate cash-handling procedures in place to avoid large amounts of cash being kept in office areas.
- After hours security patrols or a static guard are recommended to reduce opportunities for unauthorised access to the site and enhance property security.

### **Way Finding/Finding Help**

- Internal and external signage shall be large and legible with strong colours, standard symbols (e.g. for toilets and entrances/exits) and simple graphics.
- Signs will assist with way-finding and indicate where to go for help or assistance.
- Signage should be erected to denote areas not intended for public access.

### **Amenities**

- Toilets should be clearly visible and signposted.
- Entrances to toilets should be clear of all screening to allow surveillance by the public and staff. This increases patrons' sense of safety and decreases the likelihood of inappropriate activities occurring in the toilets.
- Doors should also have spring-opening hinges to allow doors to remain open when not in use.

### **Graffiti/Vandalism**

- Bins will need to be stored within a secure position and not at risk of vandalism or graffiti.
- Graffiti to circus structures must be promptly removed.

10 **The operating hours of the circus is restricted to:**

Wednesday - Sunday from 11:00am - 9:30pm;

11 The subject site is not to be used for car parking by patrons.

12 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.

13 The area to the west of the pathway running from The Kingsway to Charles Hackett Drive **is not to be used for any purpose including car parking, storage of equipment or stabling.**

14 All structures associated with the circus must be removed from the site in a safe manner at the conclusion of the event. The site shall be free of all structures and be returned to its original condition (free of all rubbish and debree) with grass cover established prior to the last day of use.

15 The site shall be rehabilitated at the cessation of occupancy to the satisfaction of Council.

16 Access and parking areas are to be managed to reduce any potential nuisances to surrounding properties. Soil, dirt or other material from these areas is not to be disposed on the road.

- 17 No noise generating activities are to occur on the site between 10:00pm and 9:00am.
- 18 All rubbish material is to be collected and stored in enclosed (lidded) bins and is to be disposed of to a licensed waste management facility. Waste bins are to be located in a secure position that is not at risk of vandalism.

## Environmental Matters

- 19 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.
- 20 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.

- 21 No rubbish materials are to enter the stormwater system or neighbouring properties.
- 22 Litter patrols are to be conducted after each performance in accordance with the waste management plan. The litter patrols are to include the circus site and the associated parks.
- 23 Animal manure is to be removed from the yards daily and disposed of to a licensed waste management facility.
- 24 All wastewater from mobile homes (including toilet, kitchen, laundry and shower water) is to be collected in a sanitary manner that does not create a nuisance or pollution event. All wastewater generated on site is to be removed from the site and disposed of at an authorised waste facility. No contaminated water is to enter the stormwater system or be discharged into any watercourse or onto land.
- 25 The portable toilets are to be cleaned and serviced regularly. All wastewater generated from the toilets is to be disposed of to an authorised waste facility. No contaminated water is to enter the stormwater system or be discharged into any watercourse or onto land.

## Construction

- 26 **Prior to issue of Occupation Certificate**, a detailed floor plan demonstrating compliance by showing the number and aggregate width of exits is to be provided in accordance with Table H102.4 of the Building Code of Australia.

- 27 **Prior to the issue of Occupation Certificate**, Disabled person's access shall be provided to the tent in accordance with Australian Standard AS1428.1-2009.
- 28 **Prior to the issue of Occupation Certificate**, Portable fire extinguishers shall be provided in the tent in accordance with Australian Standard AS 2444-2001 and fire blankets shall be provided in the kitchen, with certification submitted to Council prior to occupation.
- 29 **Prior to the issue of Occupation Certificate**, emergency lighting and illuminated exit signs shall be provided in the tent in accordance with Australian Standard AS 2293.1-2005, with certification submitted to Council prior to occupation
- 30 **Prior to issue of Occupation Certificate**, Structural Engineer's Certificate is to be submitted to Council, certifying the structural adequacy of the tent and seating platforms, prior to the structure being occupied.
- 31 The premises shall comply with the requirements of the WorkCover Authority of NSW, with documentation to indicate compliance being submitted to Council **prior to the commencement of the circus**.
- 32 The development shall comply with the Building Code of Australia at all times, with respect to smoke and flame index of materials, emergency lighting, exit signs and fire fighting facilities.
- 33 The seating in the tent shall comply with Clause NSW H102.10 of the Building Code of Australia.
- 34 Documentary evidence that the tent fabric has a flammability index less than 6, shall be submitted to Council **prior to issue of Occupation Certificate**.
- 35 All electrical services shall comply with Clause NSW H102.14 of the Building Code of Australia with certification submitted to Council **prior to the issue of an Occupation Certificate**.
- 36 **Prior to the issue of Occupation Certificate**, Temporary sanitary facilities are to be provided for the use by patrons and employees whilst the temporary tent structure is on site. The temporary sanitary facilities are to be provided in accordance with the Building Code of Australia 2008, Table F2.3 - Class 9(b) - public halls, function rooms or the like. In addition, a temporary disabled person's W.C. complying with Australian Standard AS1428.1-2001, shall also be provided for patron
- 37 The temporary tent structure and seating platforms, when erected, are to fully comply with Part B1 and NSW Part H102 of Volume 1 of the Building Code of Australia.
- 38 **Prior to the circus commencing operation**, the event structures and associated facilities are to be inspection by Penrith City Council **24 hours** before the event operates for the public.

Fees for inspection are to be paid, as detailed in Council's Fees and Charges, prior to the inspection being carried out. Please contact Penrith City Councils Development Services and Environmental Health Department to arrange the inspection (02) 4732 7991.

## Engineering

- 39 Appropriate signage and arrows are to be displayed to reinforce designated vehicle circulation and parking arrangements.

- 40 Temporary parking spaces for people with accessibility issues are to be made available.
- 41 Attendants are to supervise the use of the informal parking area and the surrounding grounds to ensure the orderly behaviour of customers and to ensure that customers do not park on the nature strips of the surrounding roads.
- 42 The applicant is to discuss overflow parking arrangements with surrounding businesses.

## Payment of Fees

- 43 An Infrastructure Restoration Bond is to be lodged with Penrith City Council for use of land around Council's Public Infrastructure Assets. The bond is to be lodged with Council **prior to the use of the site**. The bond is based upon the estimated value of the development at a rate of 0.5% of the total cost of the development.

The bond is refundable once a final inspection has been carried out by Council's Works Department and the use of the site has ceased. The bond may be used to repair or reinstate any damage that occurs to Council's Public Infrastructure Assets as a result of the development works.

Contact Council's City Works Department on 4732 7777 or visit website to obtain the form and request for final inspection.

- 44 The following fees are payable to Council **prior to use of the site** in accordance with Council's Schedule of Fees and Charges:-
- Cleaning bond (refundable)
  - Infrastructure (non refundable)
  - Casual Use (daily)
- For details on the amounts payable, you are requested to contact Council's Parks and Recreation Department.

## Certification

- 45 **Prior to the commencement of any 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.



**46 An Occupation Certificate is to be obtained from the Principal Certifying Authority prior to the commencement of the circus.**

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:	Gavin Cherry Development Assessment Coordinator
Signature:	

For the Development Services Manager