



Statement of Environmental Effects

3/222 Queen Street, St Marys, NSW, 2760



Change of use from a dance studio to restricted premises (Sex shop) and entertainment facility with theatre room

Prepared by: Strategic Approvals
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1.0 Report Purpose

This Statement of Environmental Effects accompanies the Development Application for the Change of use from a dance studio to restricted premises (Sex shop) and entertainment facility with theatre room located at 3/222 Queen Street, St Marys, NSW, 2760. The premises is located on the first floor of the building with the ground floor to remain as existing. The purpose of this report is to analyse the planning compliance in relation to the relevant LEP and DCP.

2.0 Applicable Legislation and Controls

- Environmental Planning and Assessment Act 1979 referred to as EP&A (1979).
- Environmental Planning and Assessment Regulation 2000 referred to as EP&R (2000).
- Standard Instrument—Principal Local Environmental Plan referred to as the Standard Instrument.
- Penrith Local Environmental Plan 2010 referred to as PLEP (2011)
- Penrith Development Control Plan 2014 referred to as PDCP (2014)

3.0 Document Schedule

3.1 Architectural Plans

Drawings Prepared by:	Ausju Design & Build	
Drawing Title / Number	Revision	Date
A.01.1, A.01.2, A.01.3, A.01.4 & A.01.5	-	30 October 2021

3.3 Acoustic Report

Prepared By	Reference Number	Revision	Date
Koikas Acoustics Pty Ltd	4981R20210910mjs	-	13 September 2021



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4.0 Site Location

The subject site is located at 3/222 Queen Street, St Marys, NSW, 2760. The property is legally identified as Lot 3/SP 33718 and consists of a semi-regular shaped land parcel that has an approximate lot size of 200m².



Image 1: Locality map showing the subject site and its general surroundings (Near Maps, 2021).

5.0 Description of Development Proposal and Context

The development proposal consists of the following elements:

- Change of use from a dance studio to a sex shop and entertainment facility
- Internal fit out associated with the proposed retail premises and theatre room
-

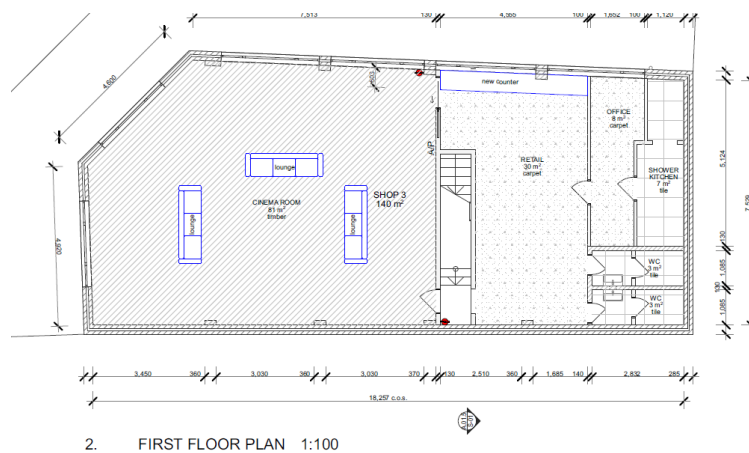


Image 2: Extract of the architectural plans showing the proposed layout



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6.2 – Heritage Status

The subject site is not located in a heritage conservation area nor is considered a heritage item.

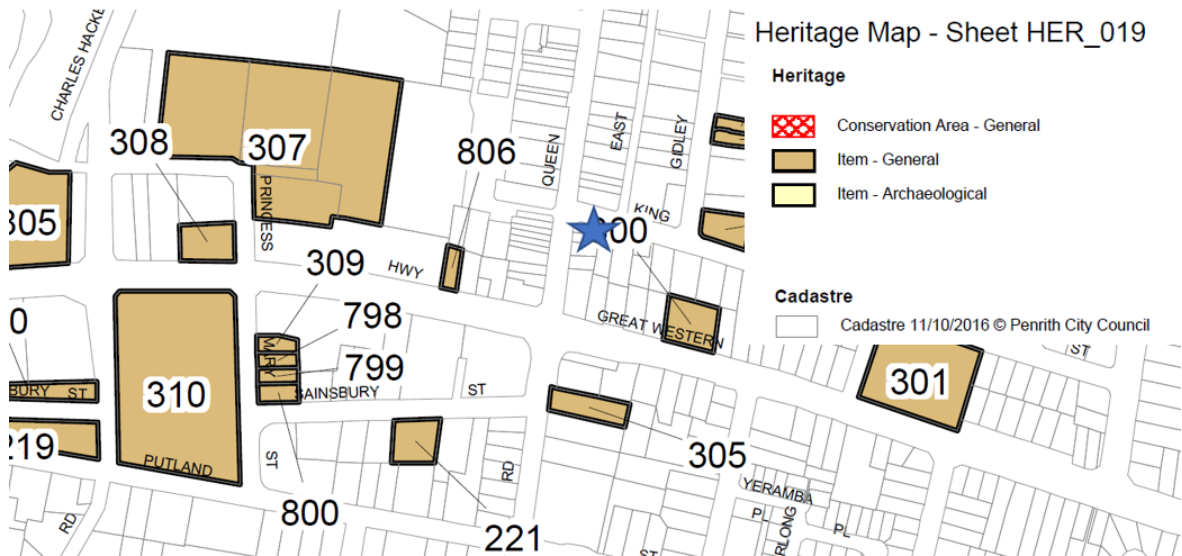


Image 4: PLEP (2011) Heritage Map. (Source: Penrith Local Environmental Plan 2010)

6.3 – Floor Space Ratio

The maximum FSR is 2.5, however, this application does not propose any amendments to the existing floorplate of the premises and therefore the GFA and FSR remains as existing.

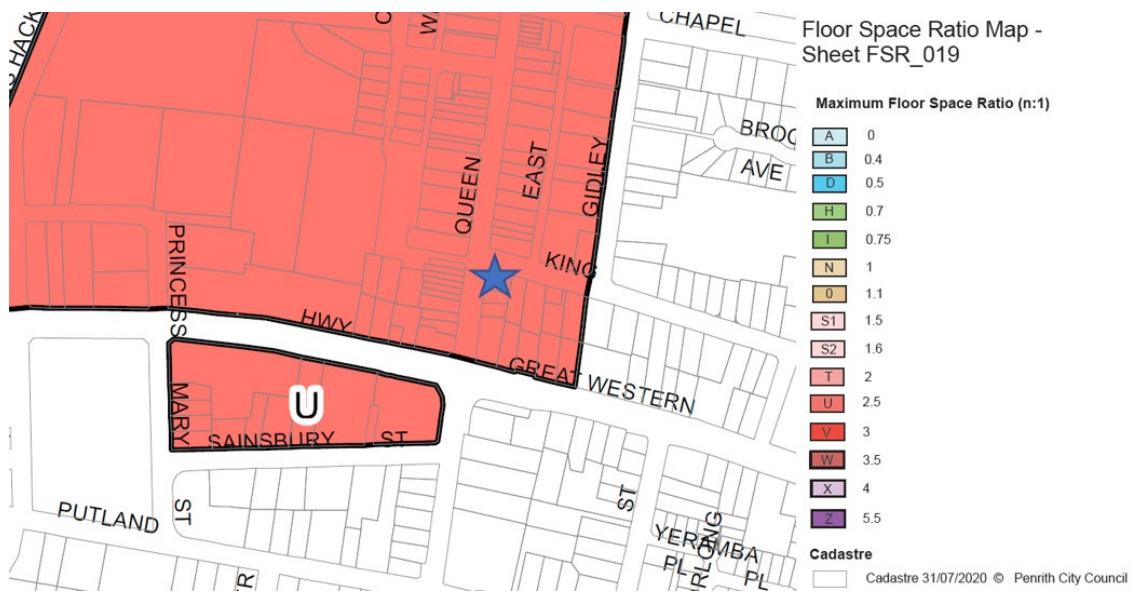


Image 5: PLEP (2011) FSR Map. (Source: Penrith Local Environmental Plan 2010)



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6.4 – Maximum Building Height

The maximum Building Height is 24m, this application does not propose any additions to the existing base building and therefore the existing building height remains as existing.

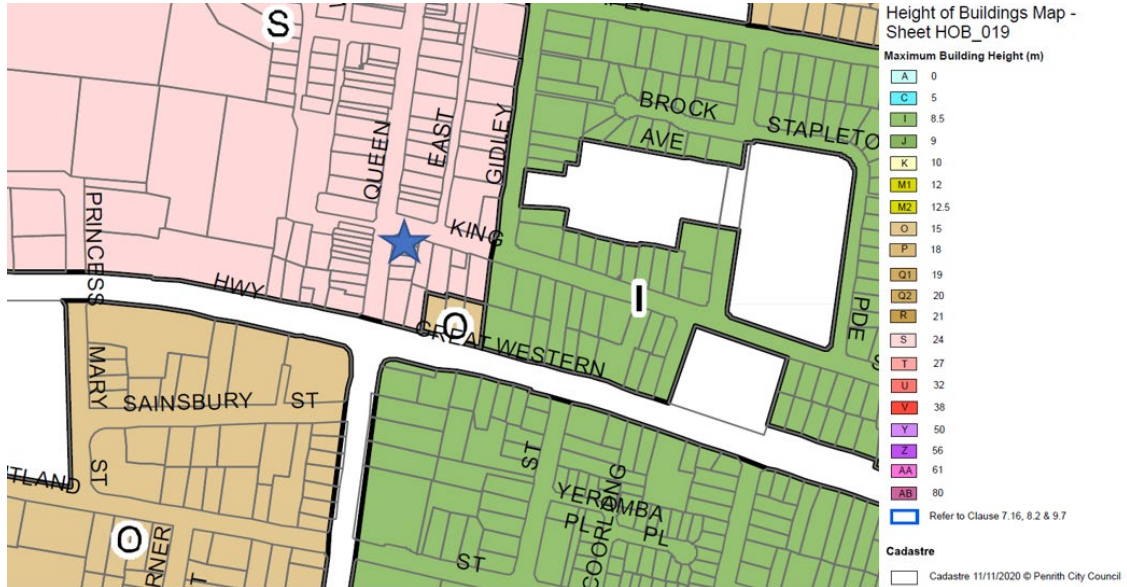


Image 6: PLEP (2011) MBH Map. (Source: Penrith Local Environmental Plan 2010)

7.0 Penrith Development Control Plan 2014 Analysis.

C10 Transport, Access and Parking

Relevant provision in DCP	Development Standard	Compliance Comment
Objective (a)	To integrate transport planning and land use to promote sustainable development and greater use of public transport systems;	Not applicable. This application seeks a change of use and associated fit out of a premises and this clause is therefore not relevant within the given context.
Objective (b)	To minimise the impacts of traffic generating developments and manage road safety issues;	Complies. Despite being a restricted premises a main component of the proposed premises is a retail premises. Queen Street, being a main road, consists of a plethora of retail and commercial premises. As a result, off street parking is constrained, however, this is common with commercial centres and the proposed development does not generate additional significant traffic.
Objective (c)	To ensure that access paths and driveways are integrated in the design of developments and minimise impacts on road systems;	Not applicable. This application seeks a change of use and associated fit out of a premises and this clause is



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		therefore not relevant within the given context.
Objective (d)	To provide appropriate parking for all development whilst promoting more sustainable transport use;	Not applicable. The application does not propose any off-street parking.
Objective (e)	To facilitate connections and accessibility for those using non vehicle transport by providing appropriate facilities to improve amenity and safety;	Not applicable.
Objective (f)	To facilitate bicycle connections and provide appropriate bicycle facilities to improve amenity and safety; and	Not applicable.
Objective (g)	To ensure that access is provided for all people with diverse abilities.	Not applicable. The premises is located on the first floor of an existing building and is a single tenancy within a multi tenanted building. The <i>Disability (Access to Premises – Buildings) Standards 2010</i> therefore, does not apply to the proposed premises or development.

10.2 Traffic Management and Safety

Relevant provision in DCP	Development Standard	Compliance Comment
Control (1)	Traffic studies may be required for some developments. Check with Council about whether a traffic report is required to support your proposal. <ul style="list-style-type: none"> a) Development applications for major development proposals should be accompanied by an appropriate Traffic Report (see Appendix F3 – Submission Requirements for further details). The Traffic Report should detail the assessed impact of projected pedestrian and vehicular traffic associated with the proposal, with recommendations on the extent and nature of the traffic facilities necessary to preserve or improve the safety and efficiency of the adjacent road system. 	Not applicable. As discussed with the council duty planner, given that the proposed use is appropriate within the given context and is not classified as major development, no traffic study is required.

D3 Commercial and Retail Development

3.3 Restricted Premises

A. Background

Restricted premises are premises that, due to their nature, restrict access to customers over 18 years of age, and include sex shops and similar premises.

The impact of restricted premises can vary in relation to their nature and scale. The nature of these uses means that specific controls are required to minimise potential impacts on the community and ensure separation from sensitive land uses such as residences, schools, parks and playgrounds, churches and other places that children may attend for recreational, educational or cultural activities.



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The controls in this section seek to reduce negative impacts while at the same time allow premises to operate in suitable locations and at a suitable scale.

Relevant provision in DCP	Development Standard	Compliance Comment
Objective (a)	To ensure that the design and location of restricted premises does not adversely impact on the amenity of the area or neighbouring properties, in particular, land uses that are frequented by children;	<p>Complies. The proposed premises achieves this objective through the following:</p> <ol style="list-style-type: none"> 1. The premises does not directly adjoin and premises that are specifically targeted towards children. 2. The premises is located on the first floor of an existing building which therefore minimises the viewing impacts to the streetscape and public domain. The elevated premises adds to discretion as it can only be viewed from particular vantage points along Queen Street. 3. The premises does not include any overt signage or insignia that would create additional attention drawn towards the premises from casual pedestrians.
Objective (b)	To ensure that the interior of restricted premises or any restricted material / sex-related products associated with the premises are not visible from the public domain;	Complies. The internal portions of the premises will be screened from the public domain.
Objective (c)	To ensure that restricted premises are accessible to all adult members of the community;	Complies.
Objective (d)	To ensure that consideration is given to all aspects of the development, including its operation, and in particular those aspects associated with preserving the amenity of neighbouring premises, and ensuring the safety and security of staff and visitors.	Complies.
Objective (e)	To ensure that underage persons are unable to enter restricted premises.	Compliance readily achievable. Refer to operational plan of management.
1) Locational and Access Controls		
Control (a)	The primary entrance of restricted premises must not be located: <ol style="list-style-type: none"> i) Adjacent to or directly opposite to (including elevation) a sensitive land use unless separated by at least another non-sensitive land use, including a road at least 30 metres wide; or ii) On the same floor or level of a building that contains a dwelling; or iii) In a mixed use development where the primary access to the premises is the same access to the residential floor(s)/ level(s) in that development. 	Complies. The entry does not contravene any requirements of this clause.
Control (b)	Restricted premises must not be located within a radius of 75 metres from an existing, approved sex services premises or	Complies.



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restricted premises, including adult entertainment premises. The radius must be measured from the centre of the primary access to the proposed adult entertainment premises or sex services premises.

Adult entertainment premises: is a form of restricted premises that provides entertainment such as strip club premises or premises which sells or displays restricted material but Introduction does not include hotel accommodation, a pub, home occupation (sex services) or sex services premises.

Below is an analysis of the nearest adult premises:

The nearest brothel is located 300mm away from the subject premises and therefore falls outside of 75m radius:

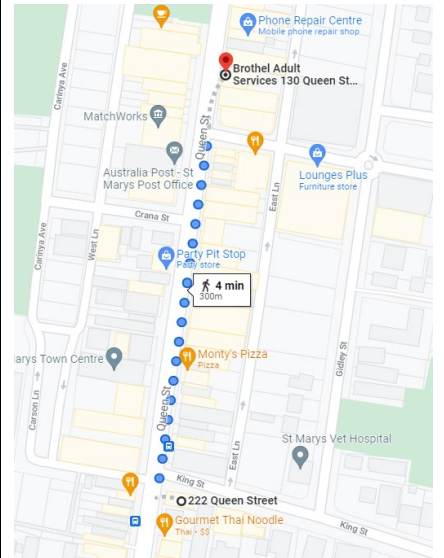


Image 7: Extract of google maps showing the proximity to nearby restricted premises.

The nearest sex shop is located approximately 43km away from the subject premises.

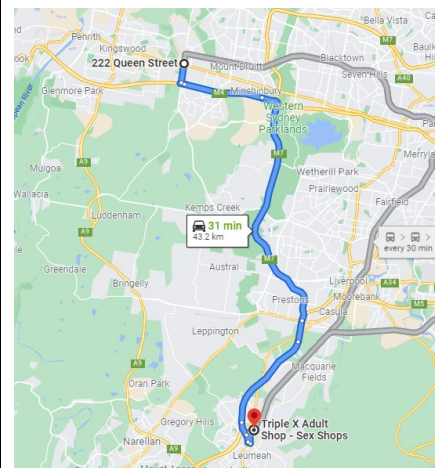


Image 8: Extract of google maps showing the proximity to nearby restricted premises.

Control (c)

Access to and within restricted premises is to be provided in accordance with the Building Code of Australia and the Commonwealth's Disability Discrimination Act 1992 to ensure that the premises is accessible to all adult members of the

Compliance is not required.

The premises is located on the first floor of an existing building and is a single tenancy within a multi tenanted



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	community. In this regard, access arrangements must demonstrate: i) Major entrances to the premises, to which the public are entitled to enter, must be designed and constructed to provide equitable treatment of staff and visitors; and ii) Compliance with the minimum standards of grade, doorway, width and connectivity in accordance with the Disability Discrimination Act 1992.	building. The <i>Disability (Access to Premises — Buildings) Standards 2010</i> therefore, does not apply to the proposed premises or development. In this regard disabled access is not required, however, this will be determined by the chosen certifier at Construction Certificate stage.
2) External and Internal Design of Premises		
Control (a)	The external appearance of restricted premises should respect the architectural character of the streetscape so that the premises does not become a prominent feature of the street.	Complies. The application does not propose any alterations to the external materials or colours and the premises therefore remains incognito and is not a prominent site.
Control (b)	The premises must be clearly numbered, with the number clearly visible from the street/foyer.	Compliance readily achievable.
Control (c)	Restricted premises, including the signage, must not display any restricted material including sex-related products or toys, images considered by Council to be sexually explicit, lewd or offensive, from windows, doors or outside of the premises. Details of any proposed signage associated with the restricted premises, including location and design/wording, are to accompany the development application for the use/activity. Restricted material means publications classified Category 1 restricted, Category 2 restricted or RC (Refused Classification) under the Commonwealth's Classification (Publications, Films and Computer Games) Act 1995.	Compliance readily achievable. No proposed signage is to display any profanity or inappropriate sexual material.
Control (d)	Adequate design measures ensuring the safety and security of staff and visitors to the restricted premises must be provided and, where appropriate, should include: i) Reception/counter area that incorporates design measures and management procedures to ensure the safety and security of staff and visitors; ii) Minimisation of alcoves and entrapment spaces in its floor layout; and iii) Adequate safety and surveillance systems.	Complies. A 24/7 surveillance system is to be implemented to ensure the protection of all patrons and the surrounding neighbourhood is maximised.
Control (e)	The interior of restricted premises must not be visible from outside of the premises, including the footpath.	Complies. All openings will be obscured from the public view.
Control (f)	Where the interior of the restricted premises may be visible from neighbouring buildings, adequate measures should be taken to screen the interior of the premises (e.g. window screens and blinds).	Complies.
Control (g)	If food handling and sales is proposed (including drinks), details of the bar and food handling and preparation area(s) must be shown on the plans accompanying the development application. These areas must comply with the Food Act 2003 and Food Regulation 2004, and AS4674-2004 Design, Construction and Fitout of Food Premises.	Not applicable. No food or drinks are to be served in the proposed premises.
Control (h)	If private viewing areas/booths or cinema rooms are proposed, there are potential health risks in the transfer of body fluids between customers utilising this facility. As a minimum:	Complies.



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	<p>i) A hand wash basin is to be provided adjacent to private viewing areas/booths or cinema rooms, and is available for customers to use at all times;</p> <p>ii) A safety and surveillance system is to be located at the entrance of these areas as an additional safety and security measure;</p> <p>iii) These areas must be cleaned on a daily basis with spot cleaning to occur as necessary; and</p> <p>iv) Waste receptacles are to be provided in all areas/booths or cinema rooms.</p>	<p>(i) There are multiple handwash facilities located directly adjoining the cinema room</p> <p>(ii) A surveillance system is proposed to be implemented throughout the proposed premises.</p> <p>(iii) As per the operational plan of management, the premises will be professionally cleaned on a daily basis.</p> <p>(iv) Waste receptacles are indicated on the plans as shown below:</p>
Control (i)	The use of the premises must not give rise to 'offensive noise' or transmission of vibration to any place of a different occupancy. Offensive noise is defined under the Protection of the Environment Operations Act 1997.	
3) Operational Matters		
Control (a)	<p>A Plan of Management must be submitted with the development application. The Plan of Management should include (but not limited to):</p> <p>i) Security and safety provisions, including ensuring that loitering around and adjacent to the entrance of the premises does not occur;</p> <p>ii) Any security staff, or other staff or contractor who may, as part of their responsibilities, enter the footpath or public domain;</p> <p>iii) Hours of operation, including noise;</p> <p>iv) Risk management and cleaning protocols in relation to private viewing areas/booths or cinema rooms; and</p> <p>v) Where appropriate, the management of the food / bar handling and preparation areas in accordance with relevant health guidelines and the NSW Liquor Act 1982.</p>	<p>Complies.</p> <p>The submitted operational plan of management contains all information required by this control.</p>
Control (b)	Spruikers are not permitted in association with the operation of restricted premises.	<p>Complies.</p> <p>No spruikers will be employed as a result of this application.</p>
Control (c)	The operator and management of the restricted premises must ensure compliance with the approved Plan of Management.	<p>Complies.</p>
4) Expansion or Intensification of Existing Premises		
Control (a)	In the event that an existing premises seeks to expand its operations or intensify its use, the provisions of this section, including the locational and access controls, will be applied.	<p>Not applicable.</p>



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8.0 Clause 4.15 Analysis

1 (a) (i) Environmental Planning Instruments

As discussed in Part 6 of this report, the proposal complies with the Penrith Local Environmental Plan 2010 and State Environmental Planning Policy (Affordable Rental Housing) 2009.

1 (a) (ii) Draft Environmental Planning Instruments

There are no known draft environmental planning instruments that are applicable to the subject site.

1 (a) (iii) Development Control Plan

As discussed in Part 7 of this report, the proposal generally complies with the Penrith Development Control Plan 2014.

1 (a) (iv) The Regulations

The proposal satisfies the relevant provisions of the Environmental Planning and Assessment Regulation 2000.

1 (a) (v) Coastal Zone Management Plan

Not applicable.

1 (b) Likely Impacts of Development

(i) *Impact on the Natural Environment:*

The proposed development will not result in any adverse impacts to the natural environment as the works are contained wholly within the premises.

(ii) *Impact on the Built Environment:*

There are no impacts to the built environment as the base building footprint remains as existing.

(iii) *Social and Economic Impacts in the Locality:*

The proposed development will have a positive social and economic impact on the area for the following reasons:

- It will result in increased employment opportunities.
- The premises provides a safe and inclusive outlet for members of the community to purchase sex products for private use.
- The premises provides a service to the community in a safe and controlled environment that would otherwise be managed in an unlawful or potentially dangerous manner.

1 (c) Suitability of the site for the proposed development

Having regard to the characteristics of the site and its location, the proposed development is considered to be appropriate in that:

- The land is zoned to permit the works;
- The nature and form of the proposed development is broadly consistent with the development controls which apply to the site.
- The proposed works are located internally to an existing premises.
- The site has access to all utility services to accommodate demand for water, electricity, gas and telecommunications.

1 (d) Any submission made

Penrith City Council will undertake a notification period in accordance with their policies.



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1 (e) The public interest

The proposed development is considered to be in the wider in the public interest for the following reasons:

- It is consistent with the objectives of the *Environmental Planning and Assessment Act 1979*, specifically because it represents the economic and orderly development of land.
- The proposal is in accordance with Penrith Local Environmental Plan 2010.
- The proposed works are of a minor nature and are non-obtrusive to neighbouring residences.
- The proposed premises provides employment opportunities to the public
- The proposed premises is discreet and causes no negative implications to the public domain.

9.0 Conclusion

From this statement it is concluded that the proposed development is appropriate within the given context responding to the streetscape character of the surrounding area. The amenity of the neighbouring dwellings is not adversely affected in any way by the proposed in terms of privacy, loss of view or overshadowing.

The proposal development is seen to comply with the relevant provisions of the Penrith Local Environmental Plan 2010 & the Penrith Development Control Plan 2014.

Having regard to the aforementioned assessments it is considered that the proposed development is acceptable and should be supported by council.