

# PENRITH CITY COUNCIL

## NOTICE OF DETERMINATION

### DESCRIPTION OF DEVELOPMENT

|                                |   |
|--------------------------------|---|
| Application number:            | DA19/0782   |
| Description of development:    | Modification of Licensed Premises Area for Existing Hotel to include Portion of First Floor |
| Classification of development: | Class 9b  |

### DETAILS OF THE LAND TO BE DEVELOPED

|                    |                                   |
|--------------------|-----------------------------------|
| Legal description: | Lot 2 DP 513015                   |
| Property address:  | 359 High Street, PENRITH NSW 2750 |

### DETAILS OF THE APPLICANT

|                 |  |
|-----------------|--|
| Name & Address: | Australian Arms Hotel<br>359 High Street<br>PENRITH NSW 2750 |
|-----------------|--|

### 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 | 9 December 2020 |
| Date the consent expires         | 9 December 2025 |
| Date of this decision            | 9 December 2020 |

## POINT OF CONTACT

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

|                           |                    |
|---------------------------|--------------------|
| Assessing Officer:        | Jacqueline Klincke |
| Contact telephone number: | +612 4732 8391     |

## NOTES

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### **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 twelve 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 twelve 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 56 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 56 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 substantially in accordance with the following plans and documents 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          | Drawing No.  | Revision | Prepared By    | Dated     |
|------------------------|--------------|----------|----------------|-----------|
| Licensed Areas Plan    | 1186 DA.03/C | C        | N. F. Billyard | 2/10/2020 |
| Stair/Handrail Plans   | 1186 DA.04/A | A        | N. F. Billyard | 2/10/2020 |
| Stair/Handrail Details | 1186 DA.05/A | A        | N. F. Billyard | 2/10/2020 |

- Heritage Impact Statement, prepared by Damian O'Toole, dated October 2020
- 2 The work must be carried out in accordance with the requirements of the Building Code of Australia.
  - 3 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.
  - 4 **The development shall not be used or occupied until an Occupation Certificate has been issued.**
  - 5 The operating hours are to be in accordance with the approved existing hours of operation.
  - 6 A **Construction Certificate** shall be obtained prior to commencement of any building works.
  - 7 The design and upgrade works to the staircase (i.e. toughened glass and additional handrail) shall be a separate and completely detached structure from the existing historic handrail and balustrades. Any upgrade works cannot come into direct contact with the original ironwork of the balustrades and handrail of the staircase.
  - 8 The development shall comply with the relevant requirements outlined within the *Liquor Act 2007* and *Liquor Regulation 2018*.

## Environmental Matters

- 9 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.

- 10 Noise associated with the use of the facility, including the use of music and public address systems, is not to be audible at the boundaries of the property.

The provisions of the Protection of the Environment Operations Act 1997 apply to the development, in terms of regulating offensive noise.

- 11 Doors and windows of the facility are to remain closed and adequately sealed within the stated operational hours so as to minimise noise emitted from the facility. All external doors are to be adequately sealed when closed to minimise the escape of noise.

The provisions of the Protection of the Environment Operations Act 1997 apply to the development, in terms of regulating offensive noise.

## BCA Issues

- 12 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.

- 13 The following are to be completed **prior to the issue of an Occupation Certificate** for the development:

- The carpet to the part of the building that is the subject of the development consent is to be certified as complying with the requirements of Clause C1.10 of the Building Code of Australia (BCA) or, alternately, is to be replaced with complying carpet. Certification is to be provided to the Principal Certifier.

- The door leading to the lounge area from the first floor balcony is to be made to comply with Clause D2.21 of the BCA.

- The ducted air conditioning system is to be configured to shut down on the detection of smoke in accordance with NSW Table E2.2b of the BCA.

- Additional exit and direction signs are to be provided to the first floor balcony, lounge and common area in accordance with the requirements of Clauses E4.5, E4.6 and E4.8 of the BCA.

## Health Matters and OSSM installations

- 14 The construction, fit out and finishes of the bar must comply with Standard 3.2.3 of the Australian and New Zealand Food Standards Code, and AS4674-2004 *Design, Construction and Fitout of Food Premises*. All surfaces must be smooth and impervious and easily cleaned. As a minimum two sinks must be provided, including (1) a hand basin and (2) a separate general glass/cleaning sink.
- 15 Hand basins must be freestanding, serviced with hot and cold water through a single outlet, able to be mixed at a temperature of at least 40°C and fitted with a hands free operation. Disposable paper hand towels and soap must be provided and serviced from a dispenser adjacent to each hand basin.
- 16 The hand basins within the toilets used by bar staff must be freestanding, serviced with hot and cold water through a single outlet, able to be mixed at a temperature of at least 40°C and fitted with a hands free operation. Disposable paper hand towels and soap must be provided and serviced from a dispenser adjacent to each hand basin.
- 17 The floor of the bar must be finished in an approved non absorbent material, evenly laid, or graded and drained to a trapped floor waste.
- 18 Approved, recessed coving must be provided at all intersections of the floor with the walls within the bar area. All coving must have a minimum concave radius of 25mm and be installed so as to be integral to the surface finish of both floor and wall in such a manner as to form a continuous, uninterrupted surface.
- 19 The walls of the bar area must be of solid construction and finished with glazed ceramic tiles or other approved material to a height of 2 metres. The intersection of tiles and render must have a flush finish, or be splayed at a 45 degree angle to eliminate a ledge that would allow dust and grease to accumulate.
- 20 Service pipes, electrical conduits, refrigeration condensate pipes shall be enclosed or chased into walls, floors or plinths. Where it can be demonstrated that this is not feasible pipes and conduits fixed on brackets, providing a minimum of 25 mm clearance from the adjacent wall and 100 mm from the floor or adjacent horizontal surface, can be used. All openings in walls, floors and ceilings, through which service pipes and conduits pass, must be vermin proof.
- 21 Food is not to be prepared at the bar and the bar is only to be used for service of alcohol and other drinks.

## Certification

22 Prior to the commencement of any works on site, the proponent is to:

(a) employ a Principal Certifier to oversee that the said works carried out on the site are in accordance with the development consent 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 Certifier shall submit to Council an "Appointment of Principal Certifier" in accordance with Section 6.6 of the Environmental Planning and Assessment Act 1979.

### **Information to accompany the Notice of Commencement**

Two (2) days before any works are to commence on site, the proponent shall submit a "Notice of Commencement" to Council in accordance with Section 6.6 of the Environmental Planning and Assessment Act 1979.

23 An Occupation Certificate is to be obtained from the Principal Certifying Authority on completion of all works and prior to the use of the licensed area on the first floor

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:      | Jacqueline Klincke |
| Signature: |                    |

For the Development Services Manager