

# PENRITH CITY COUNCIL

## MAJOR ASSESSMENT REPORT

|                              |  |
|------------------------------|--|
| <b>Application number:</b>   | DA16/0818                                      |
| <b>Proposed development:</b> | Home Industry - Cake Baking                    |
| <b>Property address:</b>     | 124 - 130 Caddens Road, ORCHARD HILLS NSW 2748 |
| <b>Property description:</b> | Lot 101 DP 700141                              |
| <b>Date received:</b>        | 10 August 2016                                 |
| <b>Assessing officer</b>     | Timothy Mahoney                                |
| <b>Zoning:</b>               | RU4 Primary Production Small Lots - LEP 2010   |
| <b>Class of building:</b>    | Class 1a                                       |
| <b>Recommendations:</b>      | Approve  |

### Executive Summary

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Council is in receipt of a development application for a Home Industry, which involves the use of the existing kitchen for a part time cake selling business.

The subject site is zoned RU4 Primary Production Small Lots and the proposal is a permissible land use in the zoning with council consent.

The application was notified to adjoining and adjacent properties as well as placed on public exhibition for a period of 14 days (24/8/16 - 7/9/16). No Submissions were received by council.

An assessment under the Section 79C of the Environmental Planning and Assessment Act 1979 has been undertaken and the application is recommended for approval, subject to recommended conditions.

### Site & Surrounds

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The subject site is located on the Southern Site of Caddens Road. The site has a total area of 19334 sq m with a 47m frontage to Caddens Road.

The site is currently occupied by a single storey dwelling and double garage. The surrounding area is characterised by low density residential development consisting of single storey dwellings, sharing similar characteristics and design features.

### Proposal

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Use of the existing dwelling house's kitchen to operate a cake making home industry.

### Plans that apply

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- Local Environmental Plan 2010 (Amendment 4)
- Development Control Plan 2014
- Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

- Section 79C - Evaluation

### Section 79C(1)(a)(i) The provisions of any environmental planning instrument

#### Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

##### Local Environmental Plan 2010 (Amendment 4)

| Provision  | Compliance                |
|--|---------------------------|
| Clause 2.3 Permissibility                                      | Complies                  |
| Clause 2.3 Zone objectives                                     | Complies                  |
| Clause 5.4 Controls relating to miscellaneous permissible uses | Complies - See discussion |

##### Clause 5.4 Controls relating to miscellaneous permissible uses

Under the Penrith Local Environment Plan 2010 (Amendment 4), the carrying on of the home industry must not involve the use of more than 50 square metres of floor area. The submitted plans indicate the use will be confined to the existing kitchen which is far less than the 50 sq m maximum.

##### Local Environmental Plan 2010 (Amendment 4)

| Provision | Compliance |
|-----------|------------|
|-----------|------------|

### Section 79C(1)(a)(iii) The provisions of any development control plan

#### Development Control Plan 2014

| Provision                              | Compliance  |
|--|---|
| DCP Principles                         | Complies  |
| C1 Site Planning and Design Principles | N/A   |
| C2 Vegetation Management               | N/A   |
| C3 Water Management                    | N/A   |
| C4 Land Management                     | N/A   |
| C5 Waste Management                    | N/A   |
| C6 Landscape Design                    | N/A   |
| C7 Culture and Heritage                | N/A   |
| C8 Public Domain                       | N/A   |
| C9 Advertising and Signage             | N/A   |
| C10 Transport, Access and Parking      | Complies - see Appendix - Development Control Plan Compliance |
| C11 Subdivision                        | N/A   |
| C12 Noise and Vibration                | N/A   |
| C13 Infrastructure and Services        | N/A   |
| D1.1. Rural Character                  | N/A   |
| D1.2. Rural Dwellings and Outbuildings | N/A   |
| D1.3. Farm buildings                   | N/A   |

|  |          |
|--|----------|
| D1.4 Agricultural Development                  | N/A      |
| D1.5. Non-Agricultural Development             | N/A      |
| D2.1 Single Dwellings                          | N/A      |
| D2.2. Dual Occupancies                         | N/A      |
| D2.3 Secondary Dwellings                       | N/A      |
| D2.4 Multi Dwelling Housing                    | N/A      |
| D2.5 Residential Flat Buildings                | N/A      |
| D2.6 Non Residential Developments              | N/A      |
| D3.1. Bulky Good Retailing                     | N/A      |
| D3.2. Sex Services Premises                    | N/A      |
| D3.3. Restricted Premises                      | N/A      |
| D4.1. Key Precincts                            | N/A      |
| D4.2. Building Height                          | N/A      |
| D4.3. Building Setbacks and Landscape          | N/A      |
| D4.4. Building Design                          | N/A      |
| D4.5. Storage of Materials and Chemicals       | N/A      |
| D4.6. Accessing and Servicing the Site         | N/A      |
| D4.7. Fencing                                  | N/A      |
| D4.8 Lighting                                  | N/A      |
| D5.1. Application of Certification System      | N/A      |
| D5.2. Child Care Centres                       | N/A      |
| D5.3. Health Consulting Rooms                  | N/A      |
| D5.4. Educational Establishments               | N/A      |
| D5.5 Parent Friendly Amenities                 | N/A      |
| D5.6. Places of Public Worship                 | N/A      |
| D5.7. Vehicle Repair Stations                  | N/A      |
| D5.8. Cemeteries, Crematoria and Funeral Homes | N/A      |
| D5.9. Extractive Industries                    | N/A      |
| D5.10 Telecommunication Facilities             | N/A      |
| E10 Orchard Hills controls                     | Complies |

### **Section 79C(1)(a)(iv) The provisions of the regulations**

The relevant prescribed conditions of the Regulations, such as the requirement for compliance with the BCA will be imposed as conditions of consent where applicable.

### **Section 79C(1)(b) The likely impacts of the development**

The proposal is considered to be in keeping with the existing residential amenity of the area and will maintain a similar characteristics to neighbouring residential developments/ dwellings.

### **Section 79C(1)(c) The suitability of the site for the development**

The site is suitable for the development as it is zoned to permit the proposed use and no physical works are proposed which would alter the existing use of the site.

### **Section 79C(1)(d) Any Submissions**

## Community Consultation

The application was notified to adjoining and adjacent properties as well as placed on public exhibition for a period of 14 days (24/08/16-7/09/16). No Submissions were received by council.

## Referrals

The application was referred to the following stakeholders and their comments have formed part of the assessment:

| Referral Body                 | Comments Received                     |
|-------------------------------|---------------------------------------|
| Environmental - Public Health | No objections - subject to conditions |

## Section 79C(1)(e)The public interest

The proposed development will not generate any significant issues of public interest.

## Conclusion

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In assessing this application against the relevant environmental planning policies, being the Environmental Planning and Assessment Act 1979, Penrith Local Environment Plan 2010 (Ammendment 4), State Environmental Planning Policies and the Penrith Development Control Plan 2014, the proposal satisfies the aims, objectives and provisions of these policies. It does not contravene any development standards and will not incur any significant impacts on the surrounding/immediate natural, social or economic environments.

The site is suitable for the proposed development, the proposal is in the public interest, and there is unlikely to be negative impacts arising from the proposed development. Therefore, the application is worthy of support, subject to recommended conditions.

## Recommendation

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That DA16/0818 for a Home Industry for cake making at 124-130 Caddens Road Orchard Hills, be approved subject to the attached conditions.

# CONDITIONS

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## General

1 [A001](#)

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.

| Description | Dated    |
|-------------|----------|
| Site Plan   | 26/09/16 |
| Aerial View | 26/09/16 |
| Floor Plan  | 26/09/16 |

2 [A012 - Food Act](#)

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 [A021 - Business Registration](#)

The business is to be registered with Penrith City Council by completing the "Registration of Premises" form. This form is to be returned to Council prior to the issuing of the occupation certificate and operation of the business.

4 [A022 - Home Business](#)

The "home business" shall not involve:

- the employment of more than two persons at any one time in addition to the permanent residents; or
- the exhibition of an advertisement (other than an advertisement exhibited on that dwelling house or dwelling to indicate the name or occupation of the resident); or
- the interference with the amenity of the neighbourhood by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, or the like; or
- interference with the amenity of the neighbourhood due to the generation of vehicular traffic, the reduction of car parking in the vicinity of the site, visits by customers or clients, or the like; or
- exposure to view, from any adjacent premises or from any public place, of any unsightly matter; or
- the provision of any essential service main of a greater capacity than that available in the locality; or
- a brothel.

5 [A023 - Limit customers on site \(for home business\)](#)

Customer visits to the site shall be arranged on an appointment only basis so that:

- no more than 1 customer is being attended to by the business proprietor at any one time, and
- no more than 2 customer cars are parked on the site at any one time.

6 [A025 - Sign on Residential property](#)

No signs are to be displayed on the property other than a single, non-illuminated sign of maximum dimensions 1.2m x 0.6m attached to the front wall of the dwelling indicating only the name and occupation of the resident.

7 [A029 - HOURS OF OPERATION AND DELIVERY TIMES](#)

The operating hours are from 9 am to 5 pm Mondays to Fridays, 10am to 4 pm Saturdays, and 11 am to 3 pm Sundays. Delivery and service vehicles generated by the development are limited to within these approved operating hours.

8 [A032 - Goods in buildings](#)

All materials and goods associated with the use shall be contained within the building at all times.

9 [A Special \(BLANK\)](#)

The home industry is limited to a maximum of 50 sqm of floor area, as marked in red on the stamped approved plans.

10 [A Special \(BLANK\)](#)

A separate fridge must be provided for the food business and kept locked when not being accessed for business purposes.

11 [A Special \(BLANK\)](#)

All food packaging is to be sterilized in accordance with the food legislation.

12 [A Special \(BLANK\)](#)

All food for sale prepared on the premises is to comply with the labelling requirements for "Food for Retail sale" as outlined in chapter 1.2 of the Food Standards Code.

## Environmental Matters

13 **D010 – Appropriate disposal of excavated or other waste**

All excavated material and other wastes generated as a result of the development are to be re-used, recycled or disposed of at a lawful waste management facility.

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.

## **BCA Issues**

14 **E001 - BCA compliance**

All aspects of the building 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).

## **Health Matters and OSSM installations**

15 **F001 - General Fitout**

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 AS4674-2004 *Design, Construction and Fitout of Food Premises*.

16 **F025 - Food safety supervisor**

A Food Safety Supervisor, with a current Food Safety Supervisor Certificate recognised by the NSW Food Authority, must be appointed by the business prior to commencement of the business.

17 **F042 - Dishwasher**

Details of the dishwashing/glass washing machines must be submitted to Council and approved prior to installation. All utensils and equipment must undergo a washing, sanitising and rinsing cycle. The sanitising rinse cycle must achieve a water temperature of 80°C for 2 minutes or 75°C for 10 minutes.

18 **F066 - Home Business - Contamination**

The operator of the home business must ensure there is adequate protection from contamination from domestic activities and children, pets and furnishings. An authorised officer may enter and inspect any part of the premises used in relation to the home business during normal business hours.

# **Appendix - Development Control Plan Compliance**

## **Development Control Plan 2014**

### **Part C - City-wide Controls**

There are four parking spaces (two for the dwelling and two for the home industry) available onsite. As such there is adequate onsite parking provision which does not require the imposition of any additional special conditions in this regard.