

Request for Variation

File No: VAR17007-1

Date: 24 February 2017

Site

Pt Lot 42 DP 242654
129 Coreen Avenue Penrith

Proposal

Recreation Facility (Indoor), Gymnasium for Fitness Classes

The Control	The Proposal
Clause C10.5.1 of Penrith Development Control Plan, 2014 Car Parking This clause requires that parking be provided at the rate of 7 spaces per 100m ² of GFA. This development has an area of 404m ² and a requirement for 29 spaces.	The land has 27 spaces that are shared with a nearby car repair facility.

Basis of Request under the Planning Principle in Whebe v Pittwater Council (2007) NSWLEC 827

The objectives of the control are achieved notwithstanding the non-compliance.

Justification

The objective of the control is to ensure safe and efficient parking for developments so that the public street remains serviceable.

In the first instance we submit that requiring 29 spaces for a development that will have no more than 20 patrons on site is excessive and onerous. This is the result of the floor area and storage space being included in the calculation because the DCP has no provisions to exclude such areas. If these areas were excluded the requirement would be $2.78 \times 7 = 20$ spaces, which corresponds to the number of patrons proposed.

Consequently, we consider that the actual demand for parking from the development is for 20 and not 29 spaces. We then submit that if there are 20

spaces available onsite then the development is consistent with the underlying objective of the control.

We have reviewed Development Consent No. DA01/3641 issued by Penrith Council on 5 February 2002. This consent authorises the car repair station on the land that shares parking with the subject site. It is subject to Condition 9 which limits the hours of operation as tabulated below along with the hours proposed by the current development application for a gymnasium:

Development	Car Repair Station	Gymnasium
Weekday	7am to 6pm	5:00am to 8:30am & 5:00pm to 9:30pm
Saturday	7am to 4pm	5:00am to 10:30am
Sunday	Closed	7:00am to 10:00am
Public Holidays	Closed	Closed

There appears to be little overlap between the uses and so we consider it reasonable to assume that 20 spaces will be available for the gymnasium and that the development meets the underlying intent of the control.

The application of the control is, therefore, unreasonable and unnecessary in the circumstances of this case.

Execution and Limitations

This report is prepared in good faith based on a review of relevant documentation and instruction from the proponents of the development. It is intended to be used by Council in assessing a development application.

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Town Planner and Environmental Scientist

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