

PENRITH CITY COUNCIL

NOTICE OF DETERMINATION

DESCRIPTION OF DEVELOPMENT

Application number:	DA21/0418
Description of development:	Minor Alterations to Joan Sutherland Performing Arts Centre including Relocation of Box Office & Conversion of Bar to Cafe including Related Dining Areas & Installation of Sliding Doors
Classification of development:	N/A

DETAILS OF THE LAND TO BE DEVELOPED

Legal description:	Lot 1033 DP 849297
Property address:	597 - 599 High Street, PENRITH NSW 2750

DETAILS OF THE APPLICANT

Name & Address:	Penrith City Council 601 High Street PENRITH NSW 2750
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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 September 2021
Date the consent expires	9 September 2026
Date of this decision	8 September 2021

POINT OF CONTACT

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

Assessing Officer:	Wendy Connell
Contact telephone number:	+612 4732 7908

NOTES

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 implemented 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 approved plans and by the following conditions.

Plan/Document Name	Plan No. & Revision No.	Prepared By	Dated
Location & Key Plan	MP137 – A101 Rev. C	Penrith City Council	18/05/2021
Ground Floor Plan - Existing	MP137 – A201 Rev. C	Penrith City Council	18/05/2021
Ground Floor Plan - Demolition	MP137 – A202 Rev. B	Penrith City Council	18/05/2021
Ground Floor Plan - Proposed	MP137 – A203 Rev. B	Penrith City Council	18/05/2021
Ground Floor Plan - Areas	MP137 – A204 Rev. C	Penrith City Council	18/05/2021
Proposed - Circulation Plan	MP137 – A205 Rev. C	Penrith City Council	18/05/2021
Ground Floor - Reflected Ceiling Plan	MP137 – A221 Rev. B	Penrith City Council	18/05/2021
Box Office Plans - Sheet 1 of 3	MP137 – A241 Rev. B	Penrith City Council	18/05/2021
Box Office Plans - Sheet 2 of 3	MP137 – A242 Rev. B	Penrith City Council	18/05/2021
Box Office Plans - Sheet 3 of 3	MP137 – A243 Rev. B	Penrith City Council	18/05/2021
Store Area - Sheet 1 of 2	MP137 – A251 Rev. C	Penrith City Council	18/05/2021
Store Area - Sheet 2 of 2	MP137 – A252 Rev. B	Penrith City Council	18/05/2021
Plan - Café - Existing & Demolition	MP137 – A261 Rev. B	Penrith City Council	18/05/2021
Plan - Café - Proposed	MP137 – A262 Rev. B	Penrith City Council	18/05/2021
Section & Elevation - Existing Cafe	MP137 – A263 Rev. B	Penrith City Council	18/05/2021
Section & Elevation - Demolition - Cafe	MP137 – A264 Rev. B	Penrith City Council	18/05/2021
Elevation & Sections - Café - Sheet 1	MP137 – A265 Rev. A	Penrith City Council	18/05/2021
Elevation & Sections - Café - Sheet 2	MP137 – A266 Rev. B	Penrith City Council	18/05/2021
Section - Outdoor Dining - Proposed - Sheet 1 of 2	MP137 – A501 Rev. B	Penrith City Council	18/05/2021
Section - Outdoor Dining - Proposed - Sheet 2 of 2	MP137 – A502 Rev. B	Penrith City Council	18/05/2021
Elevation - Outdoor Dining - Demolition	MP137 – A601 Rev. B	Penrith City Council	18/05/2021
Elevation - Outdoor Dining - Proposed	MP137 – A602 Rev. B	Penrith City Council	18/05/2021
Elevations & Sections - Internal Sheet 1 of 2	MP137 – A710 Rev. B	Penrith City Council	18/05/2021
Elevations & Sections - Internal Sheet 2 of 2	MP137 – A711 Rev. C	Penrith City Council	18/05/2021
Details - Internal Elevation - Sheet 1 of 2	MP137 – A721 Rev. B	Penrith City Council	18/05/2021
Details - Internal Elevation - Sheet 2 of 2	MP137 – A722 Rev. C	Penrith City Council	18/05/2021
Box Office Elevations	MP137 – A244	Penrith City Council	21/05/2021

Statement of Environmental Effects	-	Think Planners	05/06/2021
Plan of Management	-	Think Planners	05/06/2021
Waste Management Plan	-	Think Planners	01/06/2021

2 **The development shall not be used or occupied until an Occupation Certificate has been issued.**

3 The approved cafe operating hours are from 7am to 9pm, Sunday to Wednesday, and 7am to 11pm, Thursday to Saturday.

4 The finishes of all structures and the building are to be maintained at all times and any graffiti or vandalism immediately removed/repaired.

5 A **Construction Certificate** shall be obtained prior to commencement of any building works.

6 Any signage associated with the cafe shall be subject to a separate development application.

7 An appropriate liquor licence (or amendment to the existing licence) is to be obtained, if needed.

Demolition

8 All demolition works are to be conducted in accordance with the provisions of AS 2601-2001 "The Demolition of Structures". **Prior to demolition**, all services shall be suitably disconnected and capped off or sealed to the satisfaction of the relevant service authority requirements.

All demolition and excavated material shall be disposed of at a Council approved site or waste facility. Details of the proposed disposal location(s) of all excavated material from the development site shall be provided to the Principal Certifying Authority **prior to commencement of demolition**.

Environmental Matters

9 All waste materials stored on-site during works are to be contained within a designated area such as a waste bay or bin to ensure that no waste materials are allowed to enter the stormwater system or neighbouring properties. The designated waste storage areas shall provide at least two waste bays / bins so as to allow for the separation of wastes, and the areas are to be fully enclosed when the site is unattended.

- 10 All wastes generated as a result of the development are to be re-used, recycled or disposed of in accordance with the approved waste management plan.

Waste materials not specified in the approved waste management plan are to be disposed of at a lawful waste management facility. Where the disposal location or waste materials have not been identified in the waste management plan, details shall be provided to the Certifying Authority as part of the waste management documentation accompanying the Construction Certificate application.

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

- 11 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).
- 12 **Prior to the issue of an Occupation Certificate**, the electrical / communications cupboard located in the cafe is to be upgraded to comply with the requirements of Clause D2.7 of the Building Code of Australia.

Health Matters and OSSM installations

- 13 A satisfactory inspection from an authorised officer of Council's Environmental Health Department is required prior to the issue of an Occupation Certificate. The occupier is to contact the Environmental Health Department to organise an appointment at least 72 hours prior to the requested inspection time.
- 14 The food business is to be registered with Council's Environmental Health Department by completing the "Registration of Premises" form. This form is to be returned to Council prior to the issue of an Occupation Certificate and operation of the business.
- 15 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 AS 4674-2004 *Design, Construction and Fitout of Food Premises*.
- 16 Cooking appliances which exceed a total maximum power input of 8kw for electrical, or a total gas input of 29MJ/h for a gas appliance, are required to have a kitchen exhaust system installed in accordance with Clause F4.12 of the Building Code of Australia and Australian Standard AS 1668, Parts 1 & 2.

Detailed plans together with calculations for the system must be provided as part of the Construction Certificate application.

The exhaust hood must completely cover the equipment to be ventilated and extended at least 200mm beyond the perimeter of the equipment. The exhaust hood must be provided with a condensation gutter around its base. The gutter must be at least 50mm wide by 25mm deep. Where abutting walls are located, the hood must be constructed so as to finish flat against the wall surface.

The low edge of a canopy type exhaust hood must be at least 2000mm above floor level.

Prior to the issue of an Occupation Certificate, and operation of the business, the exhaust system shall be certified by an appropriately qualified person to comply with the Building Code of Australia and Australian Standard AS 1668, Parts 1 & 2. A copy of the certification and supporting documentation must be provided to Council's Environmental Health Department if Council is not the Principal Certifying Authority.

- 17 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. Where sensor taps are installed, the basin must not be more than 6 metres from the hot water system. Disposable paper hand towels and soap must be provided and serviced from a dispenser adjacent to each hand basin.
- 18 Hot water services must be positioned at least 75mm clear of the adjacent wall surfaces, and mounted at a minimum 150mm above the floor level on a non-corrosive metal stand. The hot water system must be sized to meet the demands of the food business during peak operating and cleaning periods and be able to provide sufficient hot water throughout the working day. Discharge from the hot water system must enter the sewer through a tongue dish in accordance with Sydney Water's requirements.
- 19 The floor of the food premises must be finished in an approved non-absorbent material, evenly laid, or graded and drained to a trapped floor waste. All floor wastes in the food preparation, service and scullery area must be fitted with a sump removable basket and grate, a minimum 200mm in diameter, and finished in all stainless steel.
- 20 Approved, recessed coving must be provided at all intersections of the floor with the walls within all food preparation, service, storage and scullery areas. 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.
- 21 The walls of the food preparation 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.
- 22 The walls at the rear of cooking appliances must be surfaced with an impervious material, such as stainless steel, which extends from the canopy to the floor. Where a cooking appliance is sealed to the wall, the material must be lapped over the top edge of the appliance to provide a grease and vermin proof seal. Cooking appliances must only be sealed to walls made of a non-combustible material.
- 23 The ceiling in the preparation, service and scullery areas must be constructed with a rigid, non-absorbent, smooth faced material free from open joints, cracks and crevices and be painted with a light coloured washable paint. The intersection of the walls and ceiling must be tight jointed, sealed and dust proofed. Drop-in panel style ceilings are not permitted.
- 24 Service pipes, electrical conduits and 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 25mm clearance from the adjacent wall and 100mm 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.

- 25 All wash sinks and food preparation sinks must be serviced with hot and cold water through a single outlet. Wash sinks must be supplied with water at a temperature of not less than 54°C for washing.
- 26 All fixtures, fittings and equipment must be provided with smooth and impervious surfaces, free from cracks and crevices to enable easy cleaning.

All fittings and fixtures must be built into the wall and floor so as to be free from joint, gaps and cavities to enable easy cleaning or alternatively, supported on one of the following:

- (a) Plinths – plinths must be an integral part of the floor, constructed of solid materials similar to the floor at least 75mm in height and covered at the intersection with the floor. All plinths must have a smooth and impervious finish. All fittings and fixtures must be properly sealed to the plinth so to be free from gaps, cracks and cavities.
- (b) Wheels or castors – fittings and fixtures can be supported on wheels or castors. The wheels and castors must be capable of supporting and easily moving a full loaded fitting. All wheels and castors must be provided with a restraining device.
- (c) Legs – fittings and fixtures can be supported on legs but must be constructed of a non-corrosive, smooth metal or moulded plastic. All legs must be free from cracks and crevices. All legs must have a clearance space between the floor and the underside of the fitting of at least 200mm.

Note: False bottoms under fittings are not permitted (AS 4674-2004 – Sections 4.2 and 4.3).

- 27 Shelves must be smooth and impervious; free from joints, cracks and crevices; and able to be easily cleaned. The lowest shelf must be at least 200mm off the floor to allow easy cleaning underneath. Approved materials must be used, such as galvanised piping, stainless steel or laminated plastic. Shelves are to be sealed to the wall or kept clear of walls to allow easy access for cleaning (>40 mm).

Construction

28 Stamped plans, specifications, a copy of the development consent, the Construction Certificate and any other Certificates to be relied upon shall be available on site at all times during construction.

The following details are to be displayed in a maximum of 2 signs to be erected on the site:

- the name of the Principal Certifying Authority, their address and telephone number,
- the name of the person in charge of the work site and telephone number at which that person may be contacted during work hours,
- that unauthorised entry to the work site is prohibited,
- the designated waste storage area must be covered when the site is unattended, and
- all sediment and erosion control measures shall be fully maintained until completion of the construction phase.

Signage but no more than 2 signs stating the above details is to be erected:

- at the commencement of, and for the full length of the, construction works on-site, and
- in a prominent position on the work site and in a manner that can be easily read by pedestrian traffic.

All construction signage is to be removed when the Occupation Certificate has been issued for the development.

29 Prior to the commencement of construction works:

(a) Toilet facilities at or in the vicinity of the work site shall be provided at the rate of one toilet for every 20 persons or part of 20 persons employed at the site. Each toilet provided must be:

- a standard flushing toilet connected to a public sewer, or
- if that is not practicable, an accredited sewage management facility approved by Council, or
- alternatively, any other sewage management facility approved by Council.

(b) If the work involved in the erection or demolition of a building is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or involves the enclosure of a public place, a hoarding or fence must be erected between the work site and the public place:

- if necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place,
- the work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place, and
- any such hoarding, fence or awning is to be removed when the work has been completed.

30 Construction and demolition works that are carried out in accordance with an approved consent that involve the use of heavy vehicles, heavy machinery and other equipment likely to cause offence to adjoining properties shall be restricted to the following hours in accordance with the NSW Environment Protection Authority Noise Control Guidelines:

- Mondays to Fridays, 7am to 6pm
- Saturdays, 7am to 1pm (if inaudible on neighbouring residential premises), otherwise 8am to 1pm
- No work is permitted on Sundays and Public Holidays.

Other construction works carried out inside a building/tenancy and that do not involve the use of equipment that emits noise are not restricted to the construction hours stated above.

The provisions of the Protection of the Environment Operations Act 1997 in regulating offensive noise also apply to all construction works.

Section 94

- 31 This condition is imposed in accordance with Penrith City Council's Development Contributions Plan for Non-Residential Development. Based on the current rates detailed in the accompanying schedule attached to this Notice, **\$4,450.00** is to be paid to Penrith City Council prior to a Construction Certificate being issued for this development (the rates are subject to quarterly reviews). If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted Section 7.12 plan.

The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule. Council should be contacted prior to payment to ascertain the rate for the current quarterly period. The Section 7.12 invoice accompanying this consent should accompany the contribution payment. The Section 7.12 Contributions Plan for Non-Residential Development may be inspected at Council's Civic Centre, 601 High Street, Penrith.

Certification

- 32 Prior to the commencement of any earthworks or construction 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 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 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 construction 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 6.6 of the Environmental Planning and Assessment Act 1979.

- 33 An Occupation Certificate is to be obtained from the Principal Certifying Authority on completion of all works.

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:	Wendy Connell
Signature:	

For the Development Services Manager