

14 November 2017

Mr Alan Stoneham
General Manager
Penrith City Council
PO Box 60
Penrith NSW 2751

Dear Sir

**DEVELOPMENT APPLICATION FOR FITOUT OF THE EXISTING HERITAGE ITEM FOR A RESTAURANT WITH 117 SEATS, TRADING HOURS OF 6.00AM TO 5.00PM MONDAY TO SUNDAY AND A NEW SHIPPING CONTAINER TO THE REAR OF THE BUILDING FOR TAKE AWAY COFFEE SERVICE
146 STATION STREET, PENRITH (LOT 11 DP 715161)**

We refer to the above site and submit a development application (DA) to Penrith City Council (Council) for fitout of the existing heritage item for a restaurant with 117 seats, trading hours of 6.00am to 5.00pm Monday to Sunday and a new shipping container to the rear of the building for takeaway coffee service located at 146 Station Street, Penrith (the site). This DA has been prepared for the proposed tenants, Market Café, by Milestone (AUST) Pty Limited (Milestone).

Included with this DA is the following:

- Completed Council Development Application Form and DA Lodgement Checklist;
- Land Owners Consent to lodge the DA;
- Payment of Council's DA lodgement fee of \$1,760.00 (based on Council fee estimate prepared by Elizabeth Condon, received on 30 October 2017);
- This Statement of Environmental Effects prepared by Milestone including:
 - Architectural Plans (A3) prepared by Matt Woods Design, Issue C, dated 9 November 2017 (**Appendix A**), including:
 - Location Plan and Drawing Schedule, Drawing No. 00;
 - Site Plan, Drawing No. 01;
 - Existing Floor Plan, Drawing No. 02;
 - Demolition Floor Plan, Drawing No. 03;
 - Proposed Floor Plan, Drawing No. 04;
 - Detail Plans, Drawing No. 09;
 - Architectural Elevations, Drawing No. 11;
 - Architectural Elevations, Drawing No. 12;
 - Interior Elevations, Drawing No. 21;
 - Proposed Signage, Drawing No. 31; and
 - Architectural Finishes, Drawing No. 91.
 - Heritage Impact Statement prepared by Modern Heritage Matters dated November 2017 (**Appendix B**).
 - State Environmental Planning Policy No 64 – Advertising and Signage Assessment prepared by Milestone dated October 2017 (**Appendix C**).
 - Waste Management Plan (**Appendix D**).
 - Survey prepared by Wumara Group dated 1 October 2017 (**Appendix E**).
- 1 x USB containing copies of DA lodgement material.

This submission identifies the site and its context, describes the proposed development and provides an assessment of the likely impacts in terms of the matters for consideration contained in Section 79C(1) of the Environmental Planning and Assessment Act 1979 (Act), as amended.

STATEMENT OF ENVIRONMENTAL EFFECTS

1. THE SITE AND BACKGROUND

1.1 Site Description and Context

The site is located at 146 Station Street, Penrith and comprises a single lot legally described as Lot 11 DP 715161. The site is regular in shape with a frontage of 23m, a depth of 51m and a total site area of approximately 1,150m². The site is bound by Station Street to the north with Nepean Village car park to the south and east. To the west are food and drink premises. Opposite the site is Penrith Paceway.

The site is a local heritage item under the Penrith Local Environmental Plan 2010 (LEP 2010).

The subject building is a single storey building originally constructed as a dwelling and now approved for use as a restaurant. At the rear of the site is a building occupied by a Gloria Jeans café and a shipping container.



Figure 1: Site Map
Source: Land and Property Information, SIX Maps 2017



Figure 2: Site Context Map
Source: Land and Property Information, SIX Maps 2017

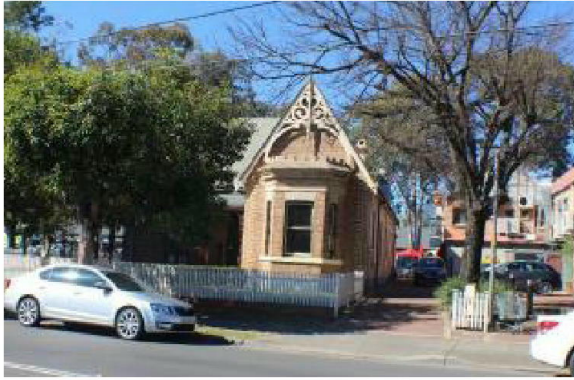


Photo 1: The front façade



Photo 2: The front facade



Photo 3: The enclosed verandah at the rear of the building



Photo 4: The rear façade of the building

1.2 Background

The dwelling 'Kentucky' was constructed in the 1890's and modified around 1940. Detailed information is contained within the Heritage Impact Statement prepared by Modern Heritage Matters and held at **Appendix B**.

The site has a history of use as a restaurant. The previous restaurant tenant operated the site as Sensational Thai restaurant. The subject tenancy has remained vacant since the previous operator ceased operation of the premise.

1.3 Site Approval History

DA 503/93 was approved in 1994 by Council for restoration and commercial use following a fire in 1991. The restoration works were completed in 1999.

2. PROPOSED DEVELOPMENT

2.1 Description of Proposed Works

Approval is sought from Council for the fitout and use for a licensed restaurant with 117 seats and trading hours 6.00am to 5.00pm Monday to Sunday including public holidays.

The key development statistics include:

Site Area:	1,150m ²
Proposed On-site car parking:	Nil (no change)
Proposed restaurant seating capacity – Indoors:	89 seats
Proposed restaurant seating capacity – Outdoors:	28 seats
Toilets:	4 toilets (includes one accessible WC)

The proposed works include the following:

- Demolition of some interior walls.

- New paint finishes to the exterior.
- Relocation of the existing power pole.
- Demolish the aluminium fence and backfill the well at the rear of the site.
- Various maintenance based on heritage advice.
- New water fountain within the front setback.
- Installation of a new 20 foot shipping container with awning for use for take away coffee service.
- Landscaping.

All proposed works have been shown on the Architectural Plans submitted with the DA held at **Appendix A**.

2.2 Hours of Operation

The restaurant will trade within the hours of 6am to 5pm Monday to Sunday.

Staff are required to be on-site one hour before and one hour after the proposed trading hours for essential restaurant operations such as accepting deliveries, restocking, preparation of food and drink items, cleaning and other tasks required for the day-to-day operation of the premises.

2.3 Number of Staff

There will be a maximum of 20 staff present on the site at any one time.

2.4 Proposed New Business Identification Signs

The proposed development includes the following new signs:

- 1 x painted wall sign on the eastern facade measuring 1,860mm (w) x 860mm (h). The artwork is under development and sample artwork only has been shown on submitted plans.
- 1 x painted wall sign on the shipping container measuring approximately 2m (w) x 1m (h). The artwork is under development and sample artwork only has been shown on submitted plans.
- 1 x pole sign in front of the site on the Station Street frontage measuring 3,200mm (h) x 1100mm (w). The artwork is under development and consent is sought for the structure only. The round sign is illuminated on the edge. A menu board display is also attached to the pole.

The proposed signage is essential to identify the proposed use of the building and to maximise visibility to passing pedestrian traffic. All existing signage will be removed from the exterior of the building.

2.5 Installation Works

Given the surrounding established mixed commercial and residential context, the minor scope of works and the mainly internal nature of the works, any acoustic impacts related to the installation works will be of low environmental impact.

Installation works are intended to be carried out during day time hours to minimise any potential noise impacts.

2.6 Waste Management

Contractors undertaking the installation works will ensure any waste will be removed from the site and disposed at a licensed waste facility.

Waste generated by the operation of the site as a restaurant will be stored in bins within the fenced area to the rear of the building and taken by staff daily to the waste storage area of the Nepean Village shopping centre and disposed of in accordance with the Waste Management Plan held at **Appendix D**.

2.7 Deliveries

Deliveries for the restaurant use will be made to the shared loading dock behind the site in the shopping centre car park.

Deliveries will generally occur five times daily and include fresh produce, drinks, pre-packaged food products and other items required for the operation of the restaurant.

3. STATUTORY PLANNING FRAMEWORK AND ENVIRONMENTAL ASSESSMENT

In accordance with Section 79C(1) of the Act the following section provides an appraisal of the proposed development having regard to the statutory planning instruments that apply to this site.

3.1 Environmental Planning Instruments

The planning instruments of relevance to the site and proposed development are outlined below.

3.1.1 State Environmental Planning Policy No 64 – Advertising and Signage

The aims and objectives of State Environmental Planning Policy No 64 – Advertising and Signage (SEPP 64) are set out at Clause 3(1)(a) as follows:

“(1) This Policy aims:

- (a) to ensure that signage (including advertising):*
- (i) is compatible with the desired amenity and visual character of an area, and*
 - (ii) provides effective communication in suitable locations, and*
 - (iii) is of high quality design and finish.”*

Clause 8 of SEPP 64 states that:

“A consent authority must not grant development consent to an application to display signage unless the consent authority is satisfied:

- (a) that the signage is consistent with the objectives of this Policy as set out in clause 3 (1) (a), and*
(b) that the signage the subject of the application satisfies the assessment criteria specified in Schedule 1.”

The new signs proposed at the site meet the aims and objectives of SEPP 64 as set out at Clause 3(1)(a) and Clause 8. The proposed business identification signage serves to communicate the restaurant function of the site and to identify the operators of the restaurant. The proposed sign is of high quality construction and finish and has appropriate consideration to Station Street and the car park surrounding the site.

The proposed wall signs and pylon sign are for business identification purposes. The artwork will be provided by the future tenant and will advertise the restaurant offering at the premises. In this regard, we note the definition of Business Identification sign within SEPP 64, being a sign:

- “(a) that indicates:*
- (i) the name of the person, and*
 - (ii) the business carried on by the person, at the premises or place at which the sign is displayed, and;*
- (b) that may include the address of the premises or place and a logo or other symbol that identifies the business, but that does not include any advertising relating to a person who does not carry on business at the premises or place.”*

The proposed sign meets the overall objectives of SEPP 64. The proposed sign will complement the restaurant use and will utilise high quality materials. The proposed sign will present a contemporary construction and will not create visual clutter.

There is no impediment under SEPP 64 that prevents or restricts any element of the proposed signs. A full assessment of the proposed signs against the assessment criteria listed in Schedule 1 to SEPP 64 has been undertaken and is held at **Appendix C**.

3.1.2 Penrith Local Environmental Plan 2010

Penrith Local Environmental Plan 2010 (LEP 2010) applies to the site.

Zoning and Permissibility

The site is zoned B4 Mixed Use under LEP 2010 (refer to **Figure 3**). The objectives of the B4 Zone are:

- *“To provide a mixture of compatible land uses.*
- *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*
- *To minimise conflict between land uses within the zone and land uses within adjoining zones.*

- To create opportunities to improve public amenity.
- To provide a wide range of retail, business, office, residential, community and other suitable land uses.”

The proposed use is defined as a restaurant under LEP 2010:

“restaurant or cafe means a building or place the principal purpose of which is the preparation and serving, on a retail basis, of food and drink to people for consumption on the premises, whether or not liquor, take away meals and drinks or entertainment are also provided.

Note. Restaurants or cafes are a type of food and drink premises—see the definition of that term in this Dictionary.”

A restaurant is a permissible use in the B4 Zone.

The proposed restaurant use is compatible with surrounding land uses and is in an accessible location, 140m from the nearest bus stops. The site is located approximately 1.2km from Penrith Railway Station situated to the north east of the site. The proposed restaurant use is compatible with adjoining zones and contributes to a wide range of land uses in the area.

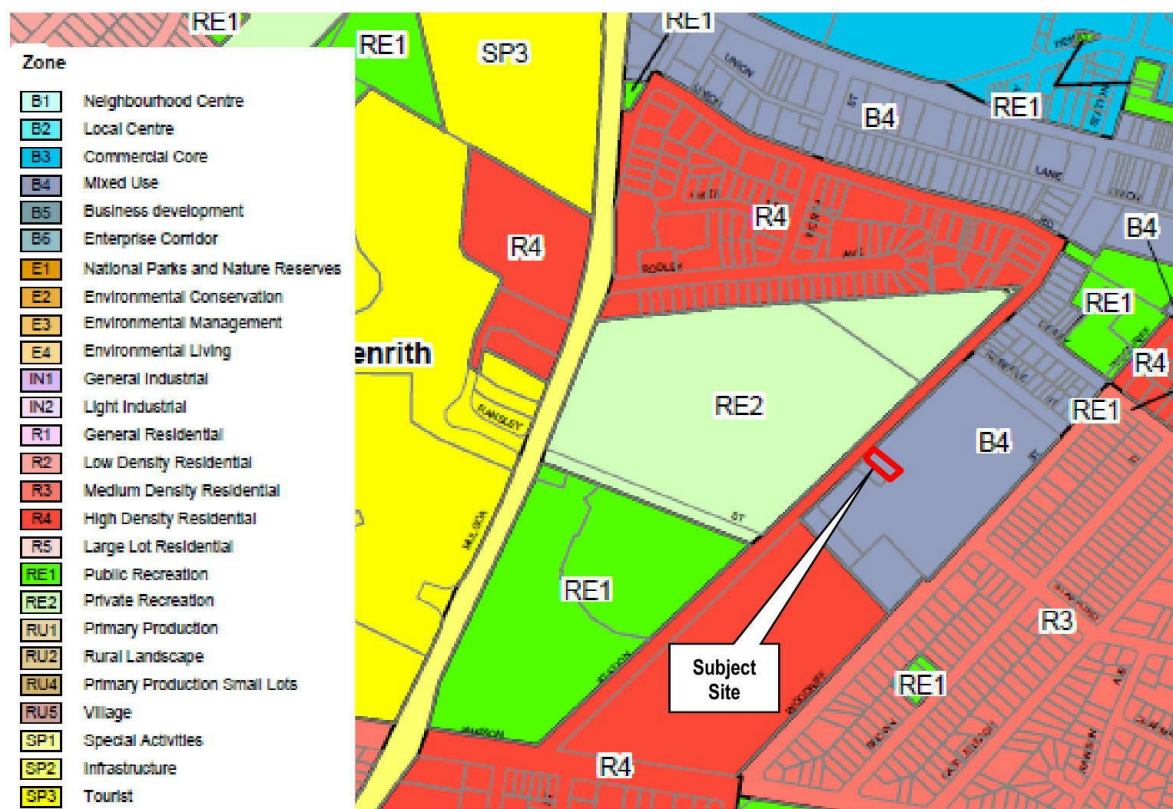


Figure 3: Land Zoning Map
Source: LEP 2010

Height of Buildings

The site has a maximum permitted building height of 20m pursuant to Clause 4.3 of LEP 2010. The proposal will not breach the 20m height limit or increase the maximum building height.

Floor Space Ratio

The site has a maximum permitted floor space ratio (FSR) of 1.5:1 pursuant to Clause 4.4 of LEP 2010. The proposal will not alter the existing FSR.

Heritage

The site is a local heritage item No. 216 “Kentucky” villa’ under LEP 2010. The adjoining site to the west at 148 Station Street is local heritage item No. 217 ‘Victorian House’ under LEP 2010. Refer to **Figure 4** below.

A Heritage Impact Assessment has been prepared by Modern Heritage Matters and is held at **Appendix B**.

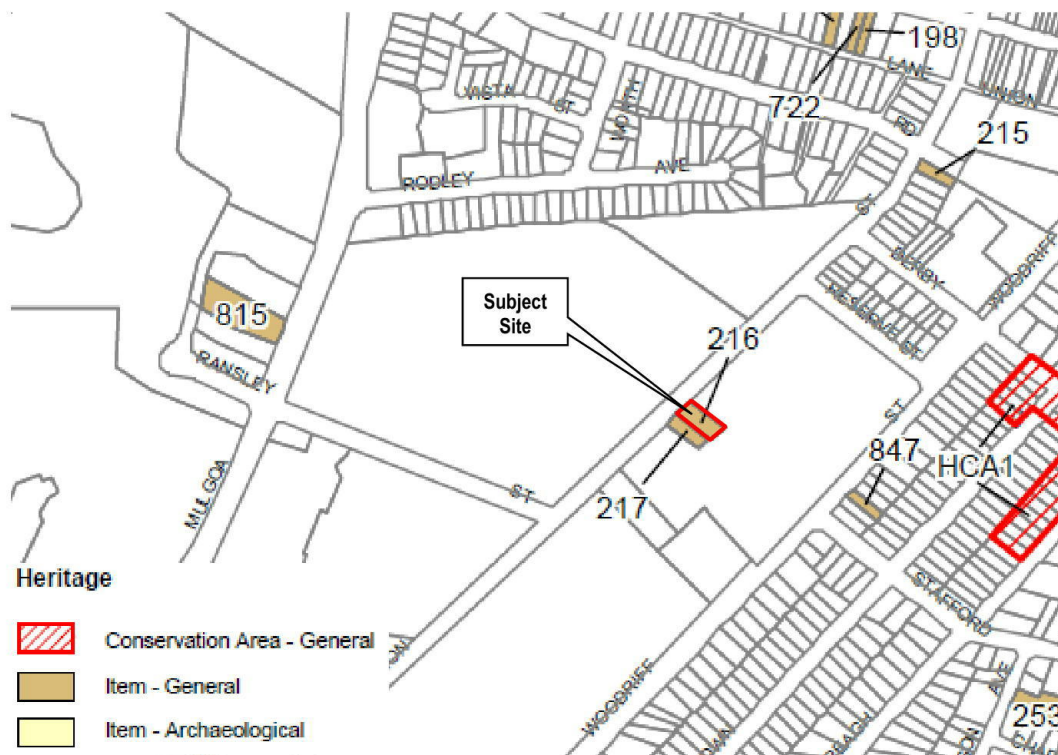


Figure 4: Heritage Map
Source: LEP 2010

3.2 Development Control Plans

3.2.1 Penrith Development Control Plan 2014

The Penrith Development Control Plan 2014 (DCP 2014) applies to the site. An assessment of the proposal against the relevant DCP 2014 provisions is undertaken below.

C6 Landscape Design

No trees are proposed for removal. The site will be landscaped with perimeter plantings and pot plants.

C7 Culture and Heritage

The site is a local heritage item listed in LEP 2010. A Heritage Impact Statement prepared by Modern Heritage Matters is held at **Appendix B**.

C9 Advertising and Signage

The relevant signage controls are considered in Table 1 below.

Table 1: Advertising and Signage

Control	Comment
General	
a) Signs are to be designed and located to: i) relate to the use of the building; ii) be visually interesting and exhibit a high level of design quality; iii) be constructed of high quality, durable materials; iv) be wholly contained within the property; v) have only a minimal projection from the building;	Complies The proposed signs relate to the use of the building, are visually interesting and are constructed of high quality durable materials. No signs project from the building. The wall sign utilises the gable of the building and is compatible with the architecture of the building. The signs are

vi) be integrated and achieve a high degree of compatibility with the architectural design of the supporting building having regard to its composition, fenestration, materials, finishes and colours, and ensure that architectural features of the building are not obscured; vii) have regard to the view of the sign and any supporting structure, cabling and conduit from all angles, including visibility from the street level and nearby higher buildings and against the skyline; and viii) be sympathetic to the existing character of the area and the particular architectural/urban design utilised in any improvements scheme.	sympathetic to the mixed use character of the surrounding area.
b) Signs that contain additional advertising promoting products or services not related to the approved use of the premises or site (such as the logos or brands of products; e.g. soft drinks, brewers, photographic film, etc) are not permitted.	Complies No logos or brands of products sold on site are proposed.
c) Signs painted or applied on the roof are prohibited;	Not Applicable
d) Corporate colours, logos and other graphics are encouraged to achieve a very high degree of compatibility with the architecture, materials, finishes and colours of the building and the streetscape.	Complies The signage is designed to be compatible with the heritage status of the site.
e) Flat standing signs are only permissible where the main building is set back 3 metres or more from the street alignment.	Not Applicable
f) In considering applications for new signs, Council must have regard to the number of existing signs on the site and in its vicinity; whether that signage is consistent with the provisions of this section; and whether the cumulative impact gives rise to visual clutter.	Complies All existing signage is to be removed from the building. The site is adjacent to a shopping centre where signage is characteristic. The proposed three signs will not give rise to visual clutter.
g) Signs must not involve damage, removal or pruning to trees or other vegetation and must not result in pruning or removal for visibility purposes.	Complies Removal or pruning of vegetation is not required to accommodate the proposed sign.
h) The dominant design of any sign must relate to business identification rather than product advertising.	Complies The proposed signs are business identification signs and do not advertise other products.
Signs and Road Safety	
a) Signs are regarded as prejudicial to the safety of the travelling public and are therefore prohibited if they: i) Obscure or interfere with road traffic signs and signals or with the view of oncoming vehicles or pedestrians; ii) Obscure or interfere with the view of a road hazard or an obstruction which should be visible to drivers or other road users; iii) Give instructions to traffic by use of the word 'stop' or other directions, which could be confused with traffic signs; iv) Include variable messages or intensity of lighting sufficient to impair drivers' vision or distract drivers' attention; or v) Are located in places where drivers' require greater concentration, such as at major intersections or merging and diverging lanes.	Complies The proposed signs do not obscure or interfere with roads or traffic signs. The signs cannot be confused with traffic signs, do not include variable messages and are not in places where greater attention is required from drivers. The proposed illumination is not of a level sufficient to impair or distract drivers.
Inappropriate Signs	
a) Council will not support an application for an advertisement of a form, type or size described below (see Figure C9.1 for example illustrations): i) Roof signs;	Does Not Comply. Acceptable on Merit. The application proposes a sign suspended on a pole which also includes a menu board. The sign is of a small

<p>ii) Sky signs controlled from the land; iii) Signs painted on or applied on the roof; iv) Flashing signs; v) Signs made of canvas, calico or the like (other than a temporary sign); vi) Signs displayed on an awning blind or external window blind; vii) Hoardings (excluding those required during construction); viii) Billboards; ix) Bulletin boards; x) Signs in the nature of posters attached directly onto walls, roof surfaces or any street furniture; xi) Signs mounted on parked or stationary motor vehicles, trailers (both registered and unregistered) where the principal purpose of the vehicle or trailer is not for the transportation of goods or people but is parked in a location and position as an advertising medium; xii) A-frame or sandwich board signs (except where specific controls have been prepared and adopted by Council); xiii) Pole or pylon signs, except for industrial, business park, service station or shopping centre uses which are permitted one pole or pylon signs with the maximum height not in excess of 7.0m; xiv) Signs that are located on land which advertises businesses that are not being conducted on that land; xv) Vertical or horizontal projecting signs; xvi) Fin signs; and xvii) Above awning signs.</p>	<p>scale with a height of 3.2m and is acceptable in the context of the site located on a main road in a mixed use area.</p>
Desirable Signage Design	
<p>a) The following signs are permitted by Council (see Figure C9.2 for example illustrations): i) Fascia signs; ii) Under awning signs; iii) Flush wall signs; iv) Top hamper signs; v) Painted window signs; and vi) Advertising panel signs.</p>	<p>Complies</p> <p>The proposed signs are of types permitted by Council being a flush wall sign and an advertising panel sign.</p>
Signs in the Vicinity of Heritage Items	
<p>1) Applicants intending to erect a sign should consult Penrith LEP 2010 (Schedule 5 Environmental Heritage) to determine whether or not the property is a heritage item, or in a heritage conservation area, or in the vicinity of a heritage item ('In the vicinity' is defined in Appendix F1 – Definitions of this Plan). If the proposed signage is on or in the vicinity of a heritage item, or in a heritage conservation area, the impact must be addressed in the application. In some cases, Council may require a <i>Heritage Impact Statement</i> (see the Culture and Heritage Section of this Plan).</p>	<p>Complies</p> <p>A Heritage Impact Statement is held at Appendix B.</p>
<p>2) A sign, generally, should not be fixed to a heritage item unless the building had traditionally displayed an advertisement.</p>	<p>Does Not Comply. Acceptable on Merit.</p> <p>A painted wall sign is proposed on the rear gable of the heritage item. In this instance a variation is considered acceptable for the following reasons:</p> <ul style="list-style-type: none"> • The sign is located on the rear of the building. • The sign is only visible from within the car park of Nepean Village shopping centre.

	<ul style="list-style-type: none"> The appearance of the sign is minimised by painting directly onto the building. The rear of the building has already been modified by construction of an extension and the bin enclosure is directly behind the rear elevation. The appearance of the rear has been heavily modified from the original.
3) Any sign shall be appropriately designed and located to ensure that the architectural details of the building and/or the heritage character of the site are not obscured or diminished.	<p>Complies</p> <p>The wall sign does not obstruct architectural features of the building and utilises the gable to display the advertisement.</p> <p>The pole sign is separate from the building and is constructed of timber in respect to the heritage character of the site.</p>
Commercial, Mixed Use and Industrial Zones	
1) Applicants intending to erect a sign (advertisement) should first consult the relevant environmental planning instrument applying to the subject property to determine whether or not an advertisement requires development consent.	<p>Complies</p> <p>Development consent is required as the site is a heritage item.</p>
2) All advertising is to be – a) constructed of high quality, durable materials; b) considered in conjunction with design and construction of buildings; c) restricted to one sign identifying the name of the occupants and/or products manufactured or produced on the site; and d) contained wholly within the site.	<p>Does Not Comply. Acceptable on Merit.</p> <p>The signage is of high quality, durable materials, considered in conjunction with the building design and contained wholly within the site.</p> <p>Three signs are proposed that will identify the occupants of the site. The pole sign is proposed on the Station Street elevation, one wall sign is on the rear elevation facing the car park and one wall sign is on the shipping container. As there are three elevations of the building visible from public areas it is considered reasonable to provide two signs for the site.</p>
3) Signs should generally be confined to the ground level of the building, awning or fascia, unless it can be demonstrated that the building is of a scale, architectural style and in a location that would be enhanced by signage at different elevations (see Figure C9.3 below).	<p>Complies</p> <p>The pole sign is at ground level with a maximum height of 3.2m.</p> <p>The painted wall sign is above ground floor level on the gable of the building. The location of the proposed signage is proposed due to the visibility from the Nepean Village Shopping Centre car park. The existing architectural feature of the building is used to display the advertisement and the signage enhances an otherwise blank façade.</p>
4) The sign is to be contained fully within the confines of the wall or awning to which it is mounted.	<p>Complies</p> <p>The painted wall sign is contained fully within the existing wall.</p>
5) In the case of multiple occupancy of a building or site: a) Each development should have a single directory board listing each occupant of the building or site (see Figure C9.4 below). Multiple freestanding signs will not be supported; b) Only one sign is to be placed on the face of each premises either located on or over the door of the shop, unit, office, suite, etc.; c) One under awning sign shall be permitted for each shop, unit, office, suite, etc. (see Figure C9.5). In the case where the shop, office, suite etc. has more than one street	<p>Not Applicable</p>

frontage, one under awning sign may be permitted to each street frontage; d) The minimum distance between under awning signs shall be 3m (see Figure C9.6); and e) Where possible, multiple tenancies in the same building should use consistent sign size, location and design to avoid visual clutter and promote business identification.	
6) Projecting wall signs, generally, will not be supported unless it can be demonstrated to be of an architectural style which is particularly suited to that building in relation to its design.	Not Applicable
7) Illuminated signs are not to detract from the architecture of the supporting building during daylight.	Complies The illuminated sign is not attached to the heritage item and does not detract from the architecture of the building during daylight.
8) Illumination (including cabling) of signs is to be: a) Concealed; or b) Integral with the sign; or c) Provided by means of carefully designed and located remote or spot lighting.	Complies The proposed illumination of the pole sign is concealed and integrated with the sign.
9) The ability to adjust the light intensity of illuminated signs is to be installed where Council considers it necessary.	Complies The illumination of the pole sign is minimal but can be adjusted if required.
10) A curfew may be imposed on the operation of illuminated signs where continuous illumination may impact adversely on the amenity of residential buildings, serviced apartments or other tourist and visitor accommodation, or have other adverse environmental effects.	Complies The sign is proposed to be illuminated only during trading hours from 6.00am to 5.00pm Monday to Sunday. There is no residential or other accommodation within the vicinity of the site.
11) Up-lighting of signs is prohibited. Any external lighting of signs is to be downward pointing and focused directly on the sign and is to prevent or minimise the escape of light beyond the sign.	Not Applicable No up-lighting is proposed.

C10 Transport, Access and Parking

DCP 2014 requires one car parking space per 6m² of seating area plus one space per employee. The site is part of the Nepean Village Shopping Centre and has the use of the adjoining car park. Customers are likely to visit the site before or after shopping and the site has an existing approval for use of the site as a restaurant. The number of additional trips and required car parking spaces generated solely by the restaurant is likely to be minimal.

C12 Noise and Vibration

There is no residential or other accommodation within the vicinity of the site. The operation of the premises will not result in any adverse amenity impact to any surrounding property.

D5 Other Land Uses

Parent Friendly Amenities

A baby change table is located in the accessible WC which complies with the requirements in Table D5.2.

E11 Penrith City Centre

The site is located in the Penrith City Centre. The controls in this section generally relate to new buildings and are not relevant to the proposed development.

F4 Notification and Advertising

In accordance with Table F4.1 all works to heritage items require notification for 14 days.

3.2.2 *Non Compliance with DCP 2014 – Amendment to the Environmental Planning and Assessment Act 1979 (Act) - Clause 79C(3A)*

On 1 March 2012 the Environmental Planning and Assessment Amendment Act 2012 (the Amendment Act) became effective. The Amendment Act includes changes to the Act to clarify that the provisions contained in a DCP are not statutory requirements and are for guidance purposes only. The Amendment Act applies to the determination of DAs made after 1 March 2012 and therefore applies to this DA.

Clause 79C(3A) states:

"If a development control plan contains provisions that relate to the development that is the subject of a development application, the consent authority:

- (a) if those provisions set standards with respect to an aspect of the development and the development application complies with those standards – is not to require more onerous standards with respect to that aspect of the development, and*
- (b) **if those provisions set standards with respect to an aspect of the development and the development application does not comply with those standards – is to be flexible in applying those provisions and allow reasonable alternative solution that achieve the objects of those standards for dealing with the aspect of the development, and***
- (c) may consider those provisions only in connection with the assessment of that development application."*

The proposed development achieves a high level of compliance with the DCP 2014 provisions that apply to the site. The proposed variations to the DCP 2014 development controls relate to the number of signs proposed and the placement of signs on a heritage item. The proposed variations are considered reasonable in this instance as the proposal maintains consistency with the relevant objectives of DCP 2014 as the signage does not result in an aesthetically adverse proliferation of inappropriate signage, all signage is appropriate to the heritage building and professionally designed.

Further, the signage is considered acceptable given the context of the site along a main road location, within a commercial precinct and also given the orientation of the existing building. The proposed signage is essential to advertise the cafe available on the site.

As stipulated in Clause 79C(3A) of the Act, Council is obligated to be flexible in applying the standards within the DCP 2012. In this regard the proposed signage will not result in significant adverse environmental impacts.

3.3 Section 79C(1) Assessment

Section 79C(1) of the Act requires the following matters be considered in the assessment of the proposed development.

3.3.1 *Impact of the development including the environmental impact of the development on both the natural and built environment and social and economic impacts on the locality.*

Social and Economic Impacts

The proposed development will have a positive economic impact by providing direct and indirect employment associated with the fitout and ongoing use of the subject tenancy as a restaurant. The proposal will activate a currently vacant building with good exposure to Station Street and will not result in an unreasonable intensification of the use of the site. There is ample car parking available in the Nepean Village car park.

The proposal will minimise any environmental impacts to surrounding properties by continuing the use of the site as a restaurant that will be managed responsibly by an experienced operator.

Built Form, Neighbourhood Character and Visual Amenity

The proposed development maintains the bulk, scale and height of the subject building whilst updating the interior and exterior. External works are limited to cosmetic works and the installation of a shipping container at the rear of the site for take away service.

The proposal will not alter the existing built form of the subject building and will maintain the character of the site in the locality.

Building Code of Australia (BCA) Compliance

Subject to detailed design as part of the Construction Certificate process, the proposed development is capable of compliance with the relevant requirements of the BCA.

Utilities

Adequate utility services are available to the site and are able to meet the needs of the proposed development.

Noise

The previous use of the site was for a licensed restaurant. The proposed use will continue the use of the site for this purpose. The site sits within a mixed use zone with non-residential uses surrounding the site and will not result in an acoustic impact to any surrounding property.

Natural and Cultural Environmental Heritage

The proposed development will revitalise a vacant heritage item and underutilised site. A Heritage Impact Assessment report has been prepared which is held at **Appendix B**. This report concludes that the proposal will sit comfortably in the streetscape and will not pose any detrimental impact on the heritage item or adjoining heritage item.

Waste Management

Waste Management for the proposed development will implement a 'reduce, reuse and recycle' methodology for the demolition, construction and operational phases. Adequate storage is provided on-site for waste and recycling generated by the restaurant use to be removed to the shopping centre waste storage and disposed of by an independent commercial waste contractor as required.

A Waste Management Plan is held at **Appendix D**.

3.3.2 Suitability of the Site for the Development

The proposal will continue the existing use of the site for a restaurant or cafe. The site enjoys a high level of accessibility via road and public transport and is adjacent to a shopping centre with a substantial residential and employment catchment. The proposed development is of a style and character appropriate to the locality.

3.3.3 Any submissions made in accordance with the Act or Regulation

In accordance with Council's advertising and notification provisions in Part F4 of DCP 2014, the proposal will require public notification for 14 days as the site is a heritage item. The applicant will respond to any submissions received by Council during the public notification period.

3.3.4 The Public Interest

The proposal is for the continued use of the site as a restaurant including new internal and external works to facilitate the new restaurant. The site is located within Penrith which is well serviced by public transport.

The proposed development facilitates the orderly growth and development of land that is in a mixed use area well served by public transport and results in minimal environmental impacts on the surrounding properties. The proposal facilitates the use of a mixed use site and will operate to ensure a safe environment for staff and patrons.

The proposed development has been carefully designed to accord with State and local planning policies and can provide beneficial social, economic and safety outcomes. The proposed development is of a scale and intensity that is consistent with the character of the surrounding area. It is in the public interest to attract customers to a mixed use precinct and to promote investment, provide activation and passive surveillance and ensure a sense of community.

4. CONCLUSION

The proposal seeks Council's approval for the fitout and use of a local heritage item for a restaurant with 117 seats and trading hours 6.00am to 5.00pm Monday to Sunday including public holidays and a new shipping container to the rear of the building for take away coffee service located at 146 Station Street, Penrith. The proposed works do not alter the overall visual bulk and scale of the heritage building.

The proposal achieves a high level of compliance with the applicable provisions within the State Environmental Planning Policy No. 64 – Advertising and Signage, the Penrith Local Environmental Plan 2010, and the Penrith Development Control Plan 2014. The proposal will not result in any adverse environmental impacts as a result of the proposed development.

This comprehensive environmental assessment of the proposed development has demonstrated that overall the proposed development will have minimal adverse environmental impacts. The proposed development demonstrates high level environmental performance and provides significant social and economic benefits. In addition it:

1. Is environmentally sensitive, being designed to minimise any impact on the environment and amenity of the locality;
2. Contributes to the diversity of land uses within Penrith;
3. Is consistent with the aims, objectives and applicable development controls within the Penrith DCP 2014;
4. Will ensure the mixed use character of Penrith will continue to reflect community desires and development needs;
5. Respects the heritage status of the site and the adjoining site;
6. Will not increase the floor area or intensify the use of the site as a licensed restaurant and will not result in any adverse noise impacts on the locality;
7. Is an appropriate planning and urban design response; and
8. Is an equitable, efficient use of highly accessible commercial land and will contribute positively to the public domain and the evolving character of Penrith.

Based on the conclusions of the comprehensive assessment undertaken, Council's approval of the development application is sought.

Should you require further clarification regarding this matter, please do not hesitate to contact the undersigned.

Yours sincerely

Milestone (AUST) Pty Limited



Melissah Osland
Senior Planner

Encl.