

PENRITH CITY COUNCIL

MAJOR ASSESSMENT REPORT

Application number:	DA21/0354
Proposed development:	Circus (Temporary Event) & Erection of Circus Tent
Property address:	2 Charles Hackett Drive, ST MARYS NSW 2760 2 The Kingsway, ST MARYS NSW 2760 2 The Kingsway, ST MARYS NSW 2760
Property description:	Lot 2 DP 851152
Date received:	25 June 2021
Assessing officer	James Heathcote
Zoning:	E2 Environmental Conservation - LEP 2010 RE1 Public Recreation - LEP 2010
Class of building:	N/A
Recommendations:	Approve

Executive Summary

Council is in receipt of a development application for a Circus (Temporary Event) & Erection of Circus Tent at 2 Charles Hackett Drive, St Marys NSW 2760. The portion of the subject site where the circus is to be located is zoned RE1 Public Recreation under the provisions of the Penrith Local Environmental Plan 2010 (LEP 2010). Development consent can be granted for a circus in the RE1 zone pursuant to *Clause 2.8 Temporary use of land* of Penrith LEP 2010. The subject site is a well established location for circuses and other similar events, with several approvals for circuses and carnivals granted by Council over the past decade or so.

The subject application was referred to Council's Building team, Traffic Engineering team, Environmental Management team, Public Health team, Parks & Recreation team (for the booking reservation) and Property team (for owners consent), who all had no objections to the proposal subject to recommended conditions, most of which are similar to previous consent DA18/0422.

In accordance with Penrith Council's Community Engagement Strategy, the application was advertised and notified to 42 surrounding and neighbouring properties between 15 June and 29 June 2021. No submissions were received in response.

The subject site is Council owned land and the Local Planning Panel (the Panel) is usually the relevant determining authority where Council is the owner. However, the previous Circus development application approved on the subject site by the Panel on 13 June 2018 included the following in its notes for determination and statement of reasons, as follows:

- Pursuant to Section 2.20(8) of the Environmental Planning and Assessment Act 1979, the Panel delegates subsequent determination(s) of Development Applications or modification applications following this approval and related to a temporary circus use on this land to Council's Staff provided the measures listed in the below table are met:

Local Planning Panel Delegation Conditions	Commentary
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1. There are no more than 10 objections.	<p>In line with Council's Community Engagement Strategy, the application was advertised and notified to 42 surrounding and adjoining properties between 15 June and 29 June 2021. No submissions were received in response.</p> <p>Outcome: Point 1 satisfied as there are no more than 10 objections, with no submissions received.</p>
2. There are no objections from the NSW Police Service.	<p>Circus events have been regularly operating on this site, with Council consents being issued over the past decade or so. No complaints have been received by Council nor compliance action having occurred with relation to circus events operating on the subject site. Furthermore, previous applications for circus operations have been referred to the local police authority, who responded by stating that they did not wish to comment on such applications. Therefore, based on the above, no objections are noted from the NSW Police Service for the proposed development.</p> <p>Outcome: Point 2 satisfied as there are no objections from the NSW Police Service for circus operations on the subject site.</p>
3. The application includes a comprehensive plan of management.	<p>The application was supported by a Risk Management Plan, which addresses a number of matters and potential incidents, responsible parties and their details and the actions for responding to the above. The application was also supported by a COVID-19 Safety Plan that addresses requirements under the current COVID-19 situation in NSW. The above is considered to be suitable, subject to further recommended conditions of consent.</p> <p>Outcome: Point 3 satisfied as an overall comprehensive plan of management is provided through the documentation submitted with the application, which is further ensured through recommended conditions of consent.</p>
4. In making such a determination, Council staff shall have regard to the conditions of approval in DA18/0422, if approval is granted.	<p>Recommended conditions of consent include those conditions that are part of DA18/0422, with additional conditions recommended by Council's Building team to ensure up-to-date compliance with the Building Code of Australia.</p> <p>Outcome: Point 4 satisfied as the subject application has made regard to the conditions of approval for DA18/0422, in recommending an approval determination and recommended conditions for the application.</p>

The subject application satisfies the above criteria set by the Panel, and therefore can be determined by Council delegation.

An assessment under Section 4.15 of the Environmental Planning and Assessment Act 1979 has been undertaken and the application is recommended for approval, subject to recommended conditions.

Site & Surrounds

The site is located on the western side of Charles Hackett Drive, bounded by The Kingsway to the north and Great Western Highway to the south. St Marys Village Shopping Centre is located to the east and Ripples Leisure Centre is located to the northeast of the site. This area consists of a mix of open space/recreation, commercial and residential developments.

The subject site forms part of Lot 2 DP 851152, which has a total site area of approximately 15.89 hectares. The subject lot is divided by The Kingsway into two (2) portions, north and south. The proposed Circus is located on the southern portion, within the triangle shaped portion of the site between a pathway which runs in a north-south direction and the eastern corner of the site where Charles Hackett Drive and The Kingsway intersect.

The site is bushfire prone land (partly), flood affected (FA), and includes zones RE1 and E2.

Site History:

The subject site has had a history of circus and other related events that have been approved by Council with a positive reception from the St Marys community, as listed with the following recently recorded applications below:

- DA21/0354 - **Subject application.**
- DA18/0503 - Erection of Circus Tents and Associated Use - **Approved**
- DA18/0422 - Circus (Temporary Event - 2 Years) - **Approved**
- DA17/0441 - Temporary Use of Site for Circus 9 October 2017 to 30 October 2017 - **Approved**
- DA17/0263 - Temporary Circus Involving Installation of 2 Tents - **Approved**
- DA16/0399 - Erection of Circus Big Top and Temporary seating for Circus performances between 25 July 2016 and 22 August 2016 - **Approved**
- DA16/0206 - Use of Land for a Temporary Carnival - **Approved**
- DA15/0278 - Erection of Circus Big Top & Temporary Seating for Circus Performances - **Approved**
- DA14/1157 - Circus (Temporary Event) and Erection of a Tent - **Approved**
- DA14/0153 - Family Carnival to Operate Between the 12th April 2014 to 27th April 2014 - **Approved**
- DA10/0828 - Erection of Tent for Circus Performance - **Approved**
- DA08/1131 - Erection of a temporary structure for the purposes of a circus and place of public entertainment - **Approved**
- DA08/0567 - Circus - **Approved**

Restrictions on the land (Lot 2 DP 851152):

- Deposited plan reviewed.
- Easements noted that do not impact the subject application.

Proposal

The proposed development includes a Circus (Temporary Event) & Erection of Circus Tent at the subject site, which involves the following:

- The erection of a Big Top round tent.
- The seating capacity for the Big Top Circus tent is for a maximum of 680 people. However, the applicant previously advised that the number of customers attending the site will range from 150- 600 people depending on the day of the week. The ongoing COVID-19 situation across NSW may reduce these numbers, noting that the applicant has submitted their COVID Safety Plan for reference.
- Shows include human and animal performances, which will run for approximately 1 hour 45 minutes per session, from Tuesday to Sunday. The operating days and hours are as follows:

Tuesday - 10:00am to 4:30pm;

Wednesday - 10:00am to 1:30pm;

Thursday - 10:00am to 1:30pm;

Friday - 6:00pm to 9:30pm (17/9) & 10:00am to 1:30pm, 6:00pm to 9:30pm (24/9)+(1/10);

Saturday - 1:00pm to 8:30pm;

Sunday - 10:00am to 4:30pm.

**See table below for the proposed performance date schedule*

Stardust Circus Performance Dates 2021 – 16 days total (non-consecutive)				
Fri 17th Sep	Sat 18th Sep	Sun 19th Sep	Tues 21st Sep	Wed 22nd Sep
Thurs 23rd Sep	Fri 24th Sep	Sat 25th Sep	Sun 26th Sep	Tues 28th Sep
Wed 29th Sep	Thurs 30th Sep	Friday 1st Oct	Sat 2nd Oct	Sun 3rd Oct
Mon 4th Oct				

*Note: 13th to 16th of September reserved for the Circus setup. 5th Oct includes Circus pack-up and leaving the site.

Whilst the above dates are requested by the applicant, the current 2021 COVID-19 situation in NSW is an developing situation where NSW Government mandated restrictions may limit the potential for the proposed operations to occur on the above dates. In the interest of providing flexibility in the current COVID-19 situation, a 12-month consent shall be issued where the proposed days of operation can occur in accordance with the requirements of Clause 2.8 of Penrith LEP 2010 and based on the trading hours presented.

It is noted that the subject site will also be occupied by the following:

- Small foyer tent located at the north boundary, with attached canteen and clown stall.
- Several Caravan and truck areas along the perimeter of the site.
- 1.8m high temporary fencing around the perimeter and on each side of the pathway.
- 1 x Animal enclosure.
- Amusements and jumping castle.
- Toilet facilities.

Plans that apply

- Local Environmental Plan 2010
- Development Control Plan 2014
- State Environmental Planning Policy No 55—Remediation of Land
- Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

- **Section 4.14 - Bushfire prone land assessment**

The subject site as a whole is bushfire prone land (partly), with the area of land chosen for the proposed use being within a section of bushfire prone land. However, given the temporary nature of the proposal land use (with only 16 days of circus events occurring), there are no requirements with regard to bushfire.

- **Section 4.15 - Evaluation**

The development has been assessed in accordance with the matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979, and having regard to those matters, the following issues have been identified for further consideration.

- **Section 7.12 - Developer Contributions**

Section 7.11 and 7.12 Development Contributions are not applicable for the subject application.

Section 4.15(1)(a)(i) The provisions of any environmental planning instrument

State Environmental Planning Policy No 55—Remediation of Land

State Environmental Planning Policy No 55 - Remediation of Land (SEPP 55) aims to provide a framework for the assessment, management and remediation of contaminated land throughout the state. Clause 7(1) of SEPP 55 requires a consent authority to be satisfied that the site is suitable for the proposed development, or can be made suitable prior to the determination of the application.

The site is vacant land owned by Council, with the proposed development being for a temporary commercial land use (16 days), which are unlikely to involve any contaminating activities (ensured through recommended conditions of consent). There is no history of contaminating activities occurring on the subject site.

As such, the proposal satisfies the requirements of SEPP 55.

Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

Sydney Regional Environmental Plan No. 20 - Hawkesbury-Nepean River (No 2 - 1997) applies to the subject land and stipulates that the consent authority shall not grant consent to the application unless it is of the opinion that the carrying out of the development is consistent with any relevant, general and specific aim of the plan.

The general aims and objectives of the plan are directed towards improving the amenity of the river and protecting the lands within the river valley, including scenic quality.

An assessment has been undertaken of the application against criteria with Sydney Regional Environmental Plan No 20 and the application is satisfactory subject to recommended conditions of consent.

Local Environmental Plan 2010

Provision	Compliance
Clause 1.2 Aims of the plan	Complies
Clause 2.3 Permissibility	Does not comply - See discussion
Clause 2.8 Are the temporary use of land requirements achieved?	Complies - See discussion
Clause 7.2 Flood planning	Complies
Clause 7.7 Servicing	Complies

Clause 2.3 Permissibility

The portion of the subject site where the circus is proposed is zoned RE1 – Public Recreation Zone, under the provisions of the Penrith Local Environmental Plan 2010. The proposed circus is appropriately characterised as either a "recreation facility (major) or "entertainment facility", both of which are prohibited uses in the RE1 zone. However, Clause 2.8(2) states that "despite any other provision of this Plan, development consent may be granted for development on land in any zone for a temporary use for a maximum period of 28 days (whether or not consecutive days) in any period of 12 months. As such, development consent can be granted for the proposed development in accordance with Clause 2.8.

See the Clause 2.8 section below for more information.

Clause 2.8 Are the temporary use of land requirements achieved?

The portion of the subject site where the circus will be located is zoned RE1 – Public Recreation Zone, under the provisions of the Penrith Local Environmental Plan 2010.

The proposed circus will be operating for a period of 16 days, and an appropriate characterisation of the proposed land use would either be a "recreation facility (major) or "entertainment facility", both of which are prohibited uses in the RE1 zone.

However, Clause 2.8(2) states that "despite any other provision of this Plan, development consent may be granted for development on land in any zone for a temporary use for a maximum period of 28 days (whether or not consecutive days) in any period of 12 months.

Furthermore, Clause 2.8(3) states that "development consent must not be granted unless the consent authority is satisfied that:

- (a) The temporary use will not prejudice the subsequent carrying out of development on the land in accordance with this Plan and any other applicable environmental planning instrument, and
- (b) The temporary use will not adversely impact on any adjoining land or the amenity of the neighbourhood, and
- (c) The temporary use and location of any structures related to the use will not adversely impact on environmental attributes or features of the land, or increase the risk of natural hazards that may affect the land, and
- (d) At the end of the temporary use period the land will, as far as is practicable, be restored to the condition in which it was before the commencement of the use.

Clause 2.8(3) responses for the subject application:

- (a) The temporary circus use is proposed for 16 non-consecutive days, and could only occur for a maximum of 28 days in any period of 12 months under the provisions of Clause 2.8 of Penrith LEP 2010. The proposed circus includes the erection of several tents and other temporary structures (such as amusement rides, jumping castle, animal yard, toilet facilities, 1.8m high fence) and parking of caravans and trucks that are ancillary to the circus operations. The land, when not used for a temporary circus event, is public open green space near the South Creek riparian corridor which may only be utilised occasionally for public recreation purposes from the local St Marys community. The land is owned by Council, and any temporary events are managed in unison between Council's Development Services, Parks and Recreation and Property Management departments.

Given this, the proposed use does not prejudice the carrying out of development in accordance with Penrith LEP or any other applicable environmental planning instrument.

- (b) The application has been assessment against the applicable development standards and controls listed against Penrith LEP 2010 and Penrith DCP 2014. The application was also referred to Council's Building, Environmental Management, Public Health, Traffic Engineering, Parks and Recreation and Property Development Departments, all of whom raise no objections to the proposal subject to recommended conditions of consent.

The information provided with the application has informed assessment of the proposed development against relevant controls as being supportable, and the enforcement of conditions of consent recommended from each department will ensure that the temporary use will not adversely impact on any adjoining land or the amenity of the neighbourhood,

(c) The location of proposed temporary structures and vehicles will not adversely impact on environmental attributes or features of the land, nor increase the risk of natural hazards that affect the land. This has been confirmed through review with the relevant departments of Council listed above and is also evident through over a decade of similar temporary land uses occurring on the subject site.

(d) A recommended condition of consent specifies that *"the site shall be rehabilitated at the cessation of occupancy to the satisfaction of Council"*. There are also relevant Council fees and charges (including bonds) that ensure the above is upheld.

As such, development consent can be granted for the proposed development in accordance with Clause 2.8.

It is noted that the circus is a popular recreational facility that is not expected to have any adverse impacts on the adjoining land owners and amenity of the neighbourhood. It will not adversely impact any environmental attributes and features associated with the site.

It is further noted that whilst specific dates have been proposed by the applicant, consent is recommended to be granted for the temporary land use to occur for a 12-month period, with proposed operations to occur in accordance with Clause 2.8 and the recommended conditions of consent. This is due in part to the current COVID-19 situation in NSW, and the uncertainty presented by NSW Government mandated lockdowns and the like. This approach provides flexibility for the operator, noting that they are also required to obtain bookings with Council's Parks and Recreation team for the use of the land.

Section 4.15(1)(a)(ii) The provisions of any draft environmental planning instrument

Draft Environment State Environmental Planning Policy

The Draft Environment SEPP was exhibited from 31 October 2017 to 31 January 2018. This consolidated SEPP proposes to simplify the planning rules for a number of water catchments, waterways, urban bushland, and Willandra Lakes World Heritage Property.

Changes proposed include consolidating a total of seven existing SEPPs being:

- *State Environmental Planning Policy No. 19 – Bushland in Urban Areas*
- *State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011*
- *State Environmental Planning Policy No. 50 – Canal Estate Development*
- *Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment*
- *Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (No.2-1997)*
- *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005*
- *Willandra Lakes Regional Environmental Plan No. 1 – World Heritage Property*

It is noted that the proposed changes to State Environmental Planning Policy No 19 – Bushland in Urban Areas (SEPP 19) are not considered to impact the proposed development. In addition, the amendments to Sydney Regional Environmental Plan No 20 – Hawkesbury – Nepean River (No. 2 – 1997) do not impact the proposed development. In this regard, the proposal is not inconsistent with the provisions of this Draft Instrument.

Draft Remediation of Land SEPP

The Department of Planning and Environment has announced a Draft Remediation of Land SEPP, which will repeal and replace the current State Environmental Planning Policy No 55—Remediation of Land.

The proposed new land remediation SEPP will:

- Provide a state-wide planning framework for the remediation of land,
- Maintain the objectives and reinforce those aspects of the existing framework that have worked well,
- Require planning authorities to consider the potential for land to be contaminated when determining development applications and rezoning land,
- Clearly list the remediation works that require development consent, and
- Introduce certification and operational requirements for remediation works that can be undertaken without development consent.

It is also proposed that it will transfer the requirements to consider contamination when rezoning land to a direction under Section 9.1 of the Environmental Planning and Assessment Act 1979.

Whilst the proposed SEPP will retain the key operational framework of SEPP 55, it will adopt a more modern approach to the management of contaminated land. Noting the above, the Draft SEPP will not alter or affect the findings in respect to contamination of the site.

Other Draft NSW Planning Legislation:

It is noted that the Draft Vegetation SEPP and Draft Design and Place SEPP apply to the subject site. However, these do not affect or alter the recommendation of this report.

Section 4.15(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	Complies
C2 Vegetation Management	N/A
C3 Water Management	Complies - see Appendix - Development Control Plan Compliance
C4 Land Management	N/A
C5 Waste Management	Complies
C6 Landscape Design	N/A
C7 Culture and Heritage	N/A
C8 Public Domain	Complies
C9 Advertising and Signage	Complies - see Appendix - Development Control Plan Compliance
C10 Transport, Access and Parking	Complies - see Appendix - Development Control Plan Compliance
C11 Subdivision	N/A
C12 Noise and Vibration	Complies
C13 Infrastructure and Services	Complies

Section 4.15(1)(a)(iiia) The provisions of any planning agreement

There are no planning agreements applicable to the site or development.

Section 4.15(1)(a)(iv) The provisions of the regulations

The requirements of the Regulations have been considered in the assessment of the application, with applicable conditions of consent being recommended.

Section 4.15(1)(b) The likely impacts of the development

The likely impacts of the proposed development upon the surrounding area are discussed as follows:

Traffic Generation and Parking

The approval of the proposal would have minimal impact on local traffic and parking conditions due to the limited days of operation and proposed hours of the circus.

Noise Impact

Relevant conditions are recommended to minimise the likely noise impact on the surrounding developments.

Intensity of Use

It is considered that the temporary nature of the proposal would have a negligible impact in terms of intensifying the use of the subject site.

Social/Economic

It is considered that the proposal would promote access for the local community to public entertainment.

Landscaping

A condition is recommended to ensure that existing vegetation is protected during occupation of the site.

Section 4.15(1)(c) The suitability of the site for the development

The subject site is recognised as an ideal venue for outdoor entertainment, and in the past it has been known to hold events similar in nature to the one proposed.

The proposal is not expected to have any adverse impacts on the adjoining land owners and amenity of the neighbourhood. It is expected that the proposal will not adversely impact any environmental attributes and features associated with the site.

Therefore, the site is considered suitable for the proposed development, subject to conditions.

Section 4.15(1)(d) Any Submissions

Community Consultation

In accordance with Penrith Council's Community Engagement Strategy, the proposal was advertised and notified to 42 surrounding and neighbouring properties between 15 June and 29 June 2021. No submissions were received in response.

Referrals

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

Referral Body	Comments Received
Building Surveyor	No objections - subject to conditions
Environmental - Environmental management	No objections - subject to conditions
Environmental - Public Health	No objections - subject to conditions
Traffic Engineer	No objection subject to conditions
Parks and recreation	No objections
Property Development	No objections

Building Surveyor

The application was referred to Council's Building team who had no objections subject to recommended conditions of consent.

Environmental - Environmental management

The application was referred to Council's Environmental Management team, who raised no objections subject to recommended conditions.

Environmental - Public Health

The application was referred to Council's Public Health team who raised no objections subject to recommended conditions.

Parks and recreation

The application was referred to Council's Parks and Recreation / Facilities team, who raised no objections and confirmed the booking of the subject site for the applicant.

Property Development

The application was referred to Council's Property team as the subject site is Council owned land. The Property team raised no objections and issued an owners consent letter to the applicant for the lodgement of the subject application (dated 10 June 2021).

Traffic Engineer

The application was referred to Council's Traffic Engineering team who raised no objections subject to recommended conditions.

Section 4.15(1)(e)The public interest

As addressed in this report, and in the public interest, a 12-month consent shall be issued for the proposed circus operations to occur in accordance with the requirements of Clause 2.8 of Penrith LEP 2010, in providing flexibility to the operators to successfully organise such events during the current COVID-19 situation in NSW.

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

Conclusion

In assessing this application against several state policies, Penrith Local Environmental Plan 2010 and Penrith Development Control Plan 2014, the proposal satisfies the aims, objectives and provisions of these policies. The site is suitable for the proposed development, the proposal is in the public interest, and adverse impacts are not anticipated as a result of the development. Therefore, the application is worthy of support, subject to recommended conditions.

Recommendation

That DA21/0354 for a Circus (Temporary Event) & Erection of Circus Tent at 2 Charles Hackett Drive, St Marys NSW 2760, be approved subject to the attached conditions.

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 approved plans and by the following conditions.

Description	Reference	Prepared By	Date
Site Plan	SP01	Janlin Circuses Pty Ltd	01.05.2018
Event Risk Management Plan	ERMP01	Janlin Circuses Pty Ltd	01.05.2018
Waste Management Plan	WMP01	Janlin Circuses Pty Ltd	01.05.2018

2 A019 - OCCUPATION CERTIFICATE (ALWAYS APPLY)

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

3 A026 - Advertising sign (not for residential)

A separate development application for the erection of a sign or advertising structure, other than an advertisement listed as exempt development, is to be submitted to Penrith City Council, complying with the requirements of Penrith Development Control Plan-Advertising Signs.

4 A Special

A hotline to receive complaints shall be established for the duration of the event. The hotline phone number(s) shall be provided to Penrith City Council with a contact name. The applicant shall address the complaints and amend any practice in consultation with Penrith City Council.

5 A Special

This consent permits the temporary use of the land for the purpose of a circus in accordance with the provisions of Clause 2.8 Temporary Use of Land, for a maximum period of 28 days (whether or not consecutive days) in any period of 12 months.

This consent expires on 31 December 2022.

6 A Special

The circus is to abide by the National Consultative Committee for Animal Welfare (NCCAW) Position Statement No. 26 "Recommended National Circus Standards".

7 A Special

Prior to the event being held, the operator shall book the use of the land through Council's Community Facility and Recreation Department. Fees and charges may apply.

Please contact Council's Community Facility and Recreation Department on (02) 4732 7777 for more information.

8 A Special

This consent permits a maximum of **680 patrons** on the site at any give time; this includes patrons within the tent structure.

9 [A Special](#)

The following Crime Prevention Through Environmental Design requirements are to be complied with:

Lighting

- Temporary lighting must be provided to illuminate key areas, including entry and exit points, toilets, the car park and designated access routes around the site. All areas intended to be used at night should allow appropriate levels of visibility.
- Lighting should have a wide beam of illumination, which reaches to the beam of the next light, or the perimeter of the site or area being traversed.

Building Security & Access Control

- Access control measures should be in place to restrict public access to designated areas only (e.g. security/staff at entrances to backstage and performance areas; mobile homes, caravans and trailers well secured).
- Office and ticket sales areas should be secure and accessible to staff only, with appropriate cash-handling procedures in place to avoid large amounts of cash being kept in office areas.
- After hours security patrols or a static guard are recommended to reduce opportunities for unauthorised access to the site and enhance property security.

Way Finding/Finding Help

- Internal and external signage shall be large and legible with strong colours, standard symbols (e.g. for toilets and entrances/exits) and simple graphics.
- Signs will assist with way-finding and indicate where to go for help or assistance.
- Signage should be erected to denote areas not intended for public access.

Amenities

- Toilets should be clearly visible and signposted.
- Entrances to toilets should be clear of all screening to allow surveillance by the public and staff. This increases patrons' sense of safety and decreases the likelihood of inappropriate activities occurring in the toilets.
- Doors should also have spring-opening hinges to allow doors to remain open when not in use.

Graffiti/Vandalism

- Bins will need to be stored within a secure position and not at risk of vandalism or graffiti.
- Graffiti to circus structures must be promptly removed.

10 [A Special](#)

The site shall be rehabilitated at the cessation of occupancy to the satisfaction of Council. All structures associated with the circus must be removed from the site in a safe manner at the conclusion of the event. The site shall be free of all structures and be returned to its original condition (free of all rubbish and debris) with grass cover established prior to the last day of use.

11 **A Special**

Prior to the circus commencing operation, the event structures and associated facilities are to be inspected by Penrith City Council 24 hours before the event operates for the public.

Fees for the inspection are to be paid, as detailed in Council's Fees and Charges, prior to the inspection being carried out. Please contact Penrith City Councils Development Services and Environmental Health Department to arrange the inspection (02) 4732 7991.

The event structures and associated facilities are to be inspection by Penrith City Council before the event operates for the public. Fees for the inspection are to be paid, as detailed in Council's Fees and Charges, prior to the inspection being carried out. Please contact Penrith City Councils Development Services and Environmental Health Department to arrange the inspection (02) 4732 7991.

The event structures and associated facilities are to be inspection by Penrith City Council before the event operates for the public. Fees for the inspection are to be paid, as detailed in Council's Fees and Charges, prior to the inspection being carried out. Please contact Penrith City Councils Development Services and Environmental Health Department to arrange the inspection (02) 4732 7991.

12 **A Special**

A sign is to be displayed in a prominent position in the tent that specifies the following:

a. The maximum number of persons as specified in the development consent, that are permitted in the tent as a place of public entertainment;

b. The name, address and telephone number of the council of the area in which the building is located.

Penrith City Council Civic Centre
601 High Street
Penrith NSW 2750
(02) 4732 7777

13 **A Special (BLANK)**

The operating hours of the circus are restricted to:

Monday to Thursday - 10:00am to 4:30pm,

Friday to Sunday - 10:00am to 9:30pm.

14 **A Special (BLANK)**

Prior to the issue of an Occupation Certificate, an up-to-date (non-expired) Animal Permit, and other relevant documentation and approvals required by the NSW Department of Primary Industries, shall be submitted to Penrith City Council. No Circus events or performances shall occur without an operating Animal Permit.

15 [A special BLANK](#)

The following Public Health requirements are to be implemented prior to the commencement of circus operations and/or be maintained for the duration of the operation of the circus:

- 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.
- Solid and liquid waste storage and disposal must be carried out in accordance with the Food Act 2003, Local Government Act 1993 and Protection of the Environment Operations Act 1997. All vans - including but not limited to mobile food vans, accommodation vans or vehicles - must include any waste water (including grey water) is discharged to the sewer, or collected and pumped out by a NSW EPA licensed contractor and taken to a licensed facility for disposal.
- Toilets used by food handlers must have within, or immediately adjacent to them, a hand wash basin with warm running water through a single outlet, soap and single use paper hand towel. These handwash basins are **in addition** to the hand wash facilities which are required to be located within each mobile food van or food stall.
- All construction and operation of temporary food outlets and mobile food vans shall be carried out in accordance with the requirements of the Food Act 2003, Food Regulation 2010, Food Safety Standards under the Australian and New Zealand Food Standards Code and the current guidelines for temporary events produced by the NSW Food Authority. **All temporary food outlets must complete and return Council's "Application to Sell Food" form at least 14 days prior to operating.**
- 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.
- Hand wash facilities must be provided in **each** temporary food stall and mobile food van. All hand washing facilities are to be serviced with warm water and provided with liquid soap and single use paper hand towel.

16 [A Special BLANK](#)

The following Building Code of Australia requirements are to be implemented prior to the issue of an Occupation Certificate and/or be maintained for the duration of the operation of the circus:

- The development shall comply with the Building Code of Australia at all times with respect to smoke and flame index of materials, emergency lighting, exit signs and firefighting facilities.
- The seating in the tent shall comply with Clause NSW H102.10 of the Building Code of Australia.
- The tent structure, when erected, is to comply with Part B1 of the Building Code of Australia.
- Prior to the issue of the Occupation Certificate, access for persons with disabilities shall be provided to the tent in accordance with AS1428.1-2021.
- Prior to the issue of the Occupation Certificate, portable fire extinguishers shall be provided in the tent in accordance with AS2444-2001.
- Prior to the issue of the Occupation Certificate, emergency lighting and illuminated exit signs are to be installed in the tent in accordance with AS2293.1-2018.
- Prior to the issue of the Occupation Certificate, a structural engineers certificate is to be submitted to Council certifying the structural adequacy of the tent and seating platforms.
- Prior to the issue of the Occupation Certificate, documentary evidence that the tent fabric complies with the Building Code of Australia Specification C1:10 Fire Hazard Properties shall be submitted to Council.
- Prior to the issue of the Occupation Certificate, certification is to be submitted to Council verifying that all electrical services comply with Building Code of Australia, Clause NSW H102.14.
- Prior to the issue of the Occupation Certificate, temporary sanitary facilities are to be provided for the patrons and employees. The facilities are to be in accordance with the Building Code of Australia, Table F2.3 Class 9(b) - public halls, function rooms or the like. Additionally, facilities for persons with disabilities shall be provided in accordance with AS1428.1-2021.

Environmental Matters

17 [D009 - Covering of waste storage area](#)

All waste materials stored on-site 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.

18 [D014 - Plant and equipment noise](#)

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.

19 [D025 - Stormwater disposal](#)

Only clean unpolluted water is to be discharged into Penrith Council's stormwater drainage system. Liquid wastes suitable for discharge to the mains sewer are to be discharged in accordance with Sydney Water's requirements. If mains sewer is not available or if Sydney Water will not allow disposal to the sewer then a licensed contractor is to remove the liquid waste from the premises to an appropriate waste facility.

20 [D131 - Approved noise level 2](#)

No noise generating activities are to occur on the site between 10:00 pm and 9:00 am.

21 [D132 - Approved noise Level 3](#)

Amplified music is only to be used within the big top structure

22 [D Special](#)

The approved waste management plan must be implemented on-site and adhered to throughout all stages of the development. All rubbish material generated is to be collected and stored in enclosed (lidded) bins and is to be disposed of at a licensed waste management facility. Waste bins are to be located in a secure position that is not at risk of vandalism. Supporting documentation / receipts shall be retained in order to verify the recycling and disposal of materials in accordance with the approved plans.

23 [D Special](#)

Litter Patrols are to be conducted after each performance to collect litter disposed of by patrons. The litter patrols are to include the circus site and associated carpark.

24 [D Special](#)

Animal manure is to be removed from the site daily and disposed of in the proposed separate animal waste bin to a licensed waste management facility.

25 [D Special](#)

The animal enclosure is to be kept clean and sanitary at all times to reduce any potential nuisances to surrounding properties.

26 [D Special BLANK](#)

Access and parking areas are to be managed to reduce any potential nuisances to surrounding properties. Mud and soil from vehicular movements to and from the site must not be deposited on the road.

Engineering

27 [K Special \(BLANK\)](#)

Appropriate signage and arrows are to be displayed to reinforce designated vehicle circulation and parking arrangements.

28 [K Special \(BLANK\)](#)

Temporary parking spaces for persons with a mobility impairment are to be made available.

29 [K Special \(BLANK\)](#)

Attendants are to supervise the use of the informal parking area and the surrounding grounds to ensure the orderly behaviour of customer parking and to ensure that customers do not park on the nature strips of the surrounding roads.

30 [K Special \(BLANK\)](#)

The applicant is to discuss overflow parking arrangements with the affected surrounding businesses.

Payment of Fees

31 [P Special](#)

The following fees are payable to Council **prior to use of the site** in accordance with Council's Schedule of Fees and Charges:

- Cleaning bond (refundable),
- Infrastructure (non refundable),
- Casual Use (daily).

For details on the amounts payable, you are requested to contact Council's Parks and Recreation Department on (02) 4732 7777.

32 **P Special**

An Infrastructure Restoration Bond is to be lodged with Penrith City Council for use of land around Council's Public Infrastructure Assets. The bond is to be lodged with Council **prior to the use of the site**. The bond is based upon the estimated value of the development at a rate of 0.5% of the total cost of the development.

The bond is refundable once a final inspection has been carried out by Council's Works Department and the use of the site has ceased. The bond may be used to repair or reinstate any damage that occurs to Council's Public Infrastructure Assets as a result of the development works.

Contact Council's City Works Department on 4732 7777 or visit the website to obtain the form and request for final inspection.

Certification

33 **Q01F - Notice of Commencement & Appointment of PCA2 (use for Fast Light only)**

Prior to the commencement of any earthworks or construction works on site, the proponent is to:

- (a) employ a Principal Certifying Authority 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 Certifying Authority" in accordance with Section 81A of the Environmental Planning and Assessment Act 1979.

Information to accompany the Notice of Commencement

Two (2) days before any earthworks or construction/demolition 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 81A of the Environmental Planning and Assessment Act 1979.

34 **Q05F - Occupation Certificate for Class10**

An Occupation Certificate is to be obtained from the Principal Certifying Authority on completion of all works and prior to the occupation/use of the site.

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.

Operation of OSSM

35 **R Special**

All wastewater from the mobile homes/caravans (including kitchen, toilets, laundry and shower water) is to be collected in a sanitary manner that does not create a nuisance or pollution event. All wastewater generated onsite is to be removed from the site and disposed of at an authorised waste management facility. No contaminated water is to enter the stormwater system or be discharged into any watercourse or onto land.

36 **R Special**

The proposed toilets are to be cleaned and serviced regularly. All wastewater generated from the toilets onsite is to be disposed of at an authorised waste management facility. No contaminated water is to enter the stormwater system or be discharged into any water course.

Appendix - Development Control Plan Compliance

Development Control Plan 2014

Part C - City-wide Controls

C3 Water Management

To minimise the likely impact of flooding on the surrounding developments, a condition is recommended to restrict any alterations to the ground levels and avoid the concentration of stormwater overland flow. To ensure the development would not increase the flood hazard or risk to the surrounding properties and any person associated with the use of the temporary structures, an additional condition is imposed in the consent to ensure the ground levels would not be altered causing concentrate overland flow of stormwater.

The subject site is located in close proximity to South Creek. However, it is noted that the Big Top tent and other associated structures where customer flows will occur are all located outside of any local overland flow area.

C10 Transport, Access and Parking

The purpose of Section C10 is to provide guidance in relation to Council's requirements for car parking for new development. The key objective of the parking requirements are :-

a) To ensure the provision of an appropriate number of vehicular spaces having regard to the activities present and proposed on the land, the nature of the locality and the intensity of use.

There is no specific car parking requirements identified in the DCP for this type of land use. As a result the proposal is considered on merit noting the temporary nature of the event and the availability of on street, and communal car parking areas within the St Marys Town Centre area.

There are free Council car parking areas located located between Carinya Avenue and West Lane, which provides approximately 130 car parking spaces. This car park is within approximately 300m of the subject site. In addition on street parking is available within Charles Hackett Drive as well as limited parking opportunities south of the circus location.

Circus events have operated at this site for the last decade without adverse impact or complaints regarding car parking availability or local road congestion. Given the limited operation of the event and the times of operation outside of core business hours, the available public parking is considered reasonable to support the event and comply with the objectives of the DCP. As a result the proposed parking arrangements are considered to be suitable.

Design and Numerical Requirements

It is noted that there are no specific design and numerical requirements in the DCP for the erection of temporary structures for the purposes of a place of public entertainment.