



Request for Variation

File No: VAR16138-1

Date: 23 May 2015

Site

Lot 3 DP 807365
249 Queen Street St Marys

Proposal

Recreation Facility (Indoor), Gymnasium for Fitness Classes

The Control	The Proposal
Clause C10.5.1 of Penrith Development Control Plan, 2014 Car Parking This clause requires that parking be provided at the rate of 7 spaces per 100m ² of GFA. This development has an area of 220m ² and a requirement for 16 spaces.	No spaces are proposed.

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

The objectives of the control would be defeated or thwarted if compliance with the standard were required.

Justification

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

The site is located at the intersection of a classified road and a main road servicing a commercial precinct. It is part of an existing built up area and does not benefit from any alternate public road access. Providing a parking area and access thereto would compromise the operation of the nearby major signalised intersection which provides, inter alia, a link between the Great Western Highway and Western Motorways. Even if it could be engineered to be safe the likelihood of such an arrangement meeting RMS requirements for intersection efficiency is remote.

The site is also located in a precinct with shared public parking that is accessible to the development. Any use of this building and those in the immediate vicinity would need to rely on this parking to avoid adverse impacts on the intersection.

The alternative would be to require parking that accesses from an unsuitable point in the road network. Applying the control in this way is contrary to the objective of the control.

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

Execution and Limitations

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

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