

PENRITH CITY COUNCIL

MAJOR ASSESSMENT REPORT

Application number:	DA19/0791
Proposed development:	Alterations and Additions to an Existing Hotel - Red Cow Hotel
Property address:	569 - 595 High Street, PENRITH NSW 2750
Property description:	Lot 1 DP 1137699
Date received:	13 November 2019
Assessing officer	Sandra Fagan
Zoning:	Zone B3 Commercial Core - LEP 2010
Class of building:	Class 9b
Recommendations:	Refuse

Executive Summary

The application seeks consent for works to the beer garden area of the heritage listed Red Cow Hotel (licensed hotel/pub) located on the corner of Jane and Station Streets. The specific works are for the following:

- Demolition of the existing fabric awning and shade umbrellas in the beer garden (acceptable);
- Construction of a new pergola shade structure over part of the beer garden with movable blades and a drop down clear PVV blind (not acceptable);
- Removal of bi-fold windows and doors to the ground floor of the hotel's later addition and new replacement bi-fold windows and doors (acceptable);
- Removal of front fence around beer garden (acceptable);
- New front fence made of metal to a height ranging between 1.1m and 1.46m (may be acceptable if material changed from metal to timber); and
- New paving to beer garden (may be acceptable subject to further information about impact to tree and roots);
- General changes to beer garden such as new landscaping, lighting and benches (acceptable); and
- New support wall above first floor balustrade of infill building to support TV screen (TV screen has been removed from the proposal, remaining support wall not acceptable).

At both pre-application stage and during the Development Application assessment, concern has been raised by staff and Council's Heritage consultant about the proposed works, and the adverse impact to the heritage item. Primarily, concern is raised that the size, design, position, visibility and dominance of the proposed pergola will impact and detract from the setting of the heritage item, views of the item (especially views of the original hotel) from the surrounding visual catchment area, and therefore adversely impact on the heritage significance of the site and building. Further, the proposed pergola is not considered to be in accordance with the Conservation Management Plan adopted for the site which refers to the heritage significance of the views to the hotel and the relationship between the Station Masters House and Penrith Railway Station forecourt.

The applicant was asked to withdraw or amend the application to address these concerns. While the proposal was subsequently amended to reduce the height of the proposed front fence and remove the television screen from the beer garden, the pergola remains as originally proposed and the front fence material remains as metal. Therefore, the application is not supported in its current form as it is considered to be an unsympathetic addition to the heritage item. The application is recommended for refusal.

The application was not required to be notified. No public submissions have been received. The applicant has declared on the Development Application form that they are a relative of two Council employees. The nature of this familial connection has been disclosed and consideration has been given by planning staff as to whether this triggers the involvement of the Local Planning Panel. It has been determined that the familial connection does not fall within the category of 'conflict of interest' and therefore the application can still be determined under the normal delegations of Council's senior planning staff.

Site & Surrounds

The site is located on the south-western corner of Jane and Station Streets, Penrith. The site is occupied by a historic building, purpose built as a public house and now called the Red Cow Inn. It is currently a **free-standing** two storey building. The site is listed as a local Heritage Item in the Penrith Local Environmental Plan. The site has an adopted Conservation Management Plan and underwent restorations in 2005, including reinstating the two storey verandah to the building's frontages. The pub includes a beer garden to the north which is the area the subject of the proposed works.

The original inn was built as a single storey construction in 1862-63. The second floor was added in 1882. It was refurbished and added to in 1889 and 1926. Later additions were made around 1970 and the beer garden was added in 1990. In 2005-2006 the building underwent significant restorations in accordance with the Conservation Management Plan.

The subject site abuts the Westfield Shopping Centre to the west. The site is also adjacent to a main entrance to the shopping centre on Jane Street, which is primarily accessed from the Penrith Railway Station forecourt. The subject site has no frontage to the west as this elevation abuts the higher blank walls of the shopping centre.

However, the Red Cow Inn was purposefully built at its location to complement the position of Penrith Railway Station forecourt, and the Station Masters House. These are located opposite the site on Jane Street. Both Penrith Railway Station and the Station Masters House are locally listed heritage items. These three urban elements form part of an important vista, group and visual catchment which contribute to the setting of, and have historic links to, the heritage item. The visual catchment area is created by the train station, former Station Masters House, the Red Cow Inn, and in lesser part, the government office building on the opposite (south-eastern) corner. The government office building was recently redeveloped and intentionally included an open colonnade to both street frontages, the purpose of which was to open up the existing vista and visual catchment mentioned above.

Surrounding heritage items include; the former Station Masters House; Penrith Railway Station group; and the former Penrith Council Chambers.

With regard to relevant development consents for the subject site, there were the following approvals:

- **DA03/2703** - approved facade renovations.
- **DA04/2504** - granted consent for the internal fit-out of the hotel. A subsequent modification was approved in July 2005 to add a retractable awning (13m long by 3.5m wide) to the facade of the new infill building. Proposed roll down blinds on the first floor balcony were deleted from the approval. The assessment report made reference to heritage comments such as the design of the awning needing to be compatible with the scale and architectural character of the inn and the infill building, and the awning being fixed approximately at the first floor level of the infill addition. The consent was subject to a condition that the retractable awning is to be the only shade structure located in the beer garden. This was later interpreted to mean 'the only permanent shade structure' and therefore subsequently, umbrellas were added to the beer garden. In addition, the condition was not seen to prohibit any future applications or approvals for further shade structures in the beer garden, although clearly the intent of the condition was to avoid proliferation of shade structures and resulting enclosure of the beer garden; and
- **DA07/0648** - granted consent for steel framed shade structures, with a stretched membrane, covering 90 square metres of the beer garden. These were proposed to be positioned adjacent to the existing automated retractable roller blind. Clear roll down blinds were also proposed on the first floor balcony of the infill building. A Construction Certificate was then issued in July 2007. While it does appear that a shade structure was built on the site, the form of the shade structure looks slightly different to what is shown on the approved drawings.

Proposal

The application seeks consent for works to the beer garden area of the hotel as follows:

- Demolition of the existing fabric awning and shade umbrellas in the beer garden;
- Construction of a new pergola shade structure over part of the beer garden with movable blades and drop down clear PVV blind. The awning structure will measure 80sqm in area (5.8m by 14.1m) and will range in height from 4.6m to 6.2m;
- Removal of bi-fold windows and doors to the ground floor of the hotel's later addition and new replacement bi-fold windows and doors;
- Removal of front fence around beer garden;
- New front fence made of metal to a height ranging between 1.1m and 1.46m; and
- General changes to beer garden, such as new landscaping, benches, and paving, with new lighting attached to side wall of historic Inn.

The proposal was amended to remove the television screen from the beer garden and reduce the height of the front fence. Although the TV screen was removed from the drawings, what appears to be a support wall for the screen remains proposed and is located on/above the first floor balustrade of the later addition building. Photomontages from the Station Masters House and the Rail forecourt were also provided.

Plans that apply

- Local Environmental Plan 2010 (Amendment 4)
- Development Control Plan 2014
- State Environmental Planning Policy (Infrastructure) 2007
- Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

Planning Assessment

• Section 4.15 - Evaluation

The assessment of the amended application has taken into account the matters for consideration contained at Section 4.15 of the Act. Those matters requiring further discussion are identified throughout this report and further discussed.

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

State Environmental Planning Policy (Infrastructure) 2007

Jane Street is part of the Great Western Highway and is a classified road. Consideration pursuant to the Infrastructure SEPP has been given to the proposed development given its frontage to the classified road. However, as there is no proposed opening onto the classified road and no change to use, there is no impact to the current operations of the road.

Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

The aims of this Policy include the protection of the environment of the river system by ensuring that the impacts of land uses are considered in a regional context. Part 2 of the SREP states that the general planning considerations, specific planning policies and recommended strategies as applicable, must be taken into consideration by the consent authority. The proposal is considered to be acceptable having regard to these controls and objectives. If the proposal was supported, adequate measures could be recommended to ensure that appropriate catchment management measures will be undertaken.

Local Environmental Plan 2010 (Amendment 4)

Provision	Compliance
Clause 1.2 Aims of the plan	Does not comply - See discussion
Clause 2.3 Permissibility	Complies
Clause 2.3 Zone objectives	Complies
Clause 4.3 Height of buildings	Complies
Clause 4.4 Floor Space Ratio	Complies
Clause 5.10 Heritage conservation	Does not comply - See discussion
Clause 7.8 Active street frontages	Complies - See discussion
Schedule 5 Environmental Heritage	Does not comply - see Appendix - LEP 2010

Clause 1.2 Aims of the plan

Clause 1.2(2)(f) seeks to protect and enhance the environmental value and heritage of Penrith. It is not considered that the proposal will do this, for reasons discussed in the body of this report.

Clause 5.10 Heritage conservation

Clause 5.10 of the Penrith LEP refers to Heritage Conservation. The relevant objectives of this clause are:

- (a) To conserve the environmental heritage of Penrith; and
- (b) To conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views.

Subclause (4) then requires the consent authority to consider the effect of the proposed development on the heritage significance of the item or area concerned.

In order to consider the effect of the proposed development, thought must first be given to the recognised heritage significance of the item and area. For this item, the State Heritage Inventory states its significance as follows (noting the mention of the building forming a precinct of buildings associated with the railway station):

"Completed around 1865, the Red Cow Inn is rare in Penrith LGA for its historic association with a family of note in the region and in eloquently demonstrating the impact of the coming of the railway had on the development of commerce. The building is unique in Penrith as an extant inn of the mid nineteenth century. The building forms part of a precinct of buildings with historic associations with the railway station".

For this particular heritage item, an adopted Conservation Management Plan (CMP) exists. This CMP is dated October 2004 and was written by suitably qualified and experienced staff at Noel Bell Ridley Smith & Partners (NBRS&P). The adopted CMP is the accepted document to guide conservation and protection of the heritage item. It establishes significant fabric, features and qualities of the item, grades their significance according to established heritage guidelines, and recommends a number of conservation works to protect and enhance the Item.

The CMP contains a Statement of Significance for the site. This includes the statement that *"The Inn is contemporary with Penrith Railway Station, and is evidence of the importance of Penrith as a major rail terminus"*. The CMP also states that *"The hotel is a local landmark having been a centre of local social activity for nearly 140 years"*.

For the purpose of assessing the effect of the proposed development, the CMP has been read to extract any relevant information such as references to the beer garden, the building's setting, views and vistas, historical context, and curtilage. In this regard, the relevant references of the CMP are replicated below:

- Page 44, Clause 4.5 refers to Curtilage. It states that *"The Red Cow Inn occupies a highly visible position at the corner of Station Street and Jane Street Penrith, and is contemporary with Penrith*

Railway Station and the Station Masters House. It is highly desirable to maintain the visual link between the Station and the Inn to reinforce the historical connection between the two buildings, that being the location of the Inn was deliberately selected to service railway patrons and workers";

- Page 44 also notes that *"The new development to the west of the Red Cow Inn will result in a reduced heritage curtilage, comprising the footprint of the early section of the Inn, the Beer Garden to its north and the area of the laneway to its south, shown in Figure 28. The curtilage takes into account the views of the Red Cow Inn in views and vistas along Station and Jane Street"*. The CMP references that the visual link is important and should be maintained;
- Figure 28 on Page 44 then shows the vistas referenced above. It is apparent that three faces of the Inn are opened up to public view, with the rear (west) face now obscured by the later additions to the building and the Westfield Shopping Centre;
- Page 56 onwards references the heritage significance of the site and the methodology for how the levels of significance was reached;
- Pages 61-62 refer to elements of the hotel that have *'exceptional significance'*. This category includes rare or outstanding items of local or state significance with a high degree of intactness and can be easily interpreted. This includes *"external masonry walls including brickwork and stone"*, *"views to and from the Red Cow Inn and Penrith Railway Station"*, and *"Views to the south, east and north elevations of the Red Cow Inn"*. The *"Views between the Red Cow Inn and the Station Master's House"*, and *"Oblique views to and from the Red Cow Inn, along Station Street"* are identified as having *'high significance'*;
- Chapter 7 starting at Page 69 then outlines conservation policies and guidelines. It states for elements that have *'exceptional significance'* and *'high significance'*, that the acceptable actions should be *"preservation, restoration and reconstruction"*.
- Paragraph 7.2.6 at Page 78 refers to the setting of the Red Cow Inn and how the open spaces of the beer garden are important as they allow the three elevations of the Inn to be viewed and provide a visual connection to the station. The particular wording is as follows: *"The visual setting associated with the Red Cow Inn has been reduced to the land immediately to the north, forming the 'Beer Garden', and the small area (laneway) to its south. These open spaces are important as they allow three elevations of the Red Cow Inn to be viewed, and the area to the north provides a visual connection to the Penrith Railway Station"*;
- Paragraph 7.2.21 at Page 86 states that additions are permissible provided they do not detract from the heritage significance of the building;
- Paragraph 8.3.3 at Page 90 outlines implementation of the CMP with suggested timeframes. Under the heading *'Setting of the Red Cow Inn'* it states that within 12 months the Beer Garden should be upgraded (including paving, furniture, lighting, shading structures and planting) to *"minimise any adverse visual impact on the Red Cow Inn or its heritage significance"*. It also states that in the longer term you should *"Maintain the trees in Beer Garden area to ensure visual connection from Penrith Railway Station to the Red Cow Inn is not completely obscured"*;
- Page 103 refers to the Burra Charter. Under Article 8 *"Setting"* it states that *"Conservation requires the retention of an appropriate visual setting and other relationships that contribute to the cultural significance of the place"*, and that *"New construction, demolition, intrusions or other changes which would adversely affect the setting or relationships are not appropriate"*. The paragraph also states that aspects of the visual setting may include use, siting, bulk, form, scale, character, colour, texture and materials. It then states that other relationships, such as historical connections, may contribute to interpretation, appreciation, enjoyment or experience of the place; and
- Page 118 refers to specific conservation works to be implemented. For the Beer Garden it states *"The Beer Garden to the north of the Inn will be generally reconstructed in the same location. The existing paving in the area will be replaced, and the fence will be reconstructed as shown in early photographs to assist in the interpretation of the site and to enhance the heritage significance of the place"*. The CMP later says that the eastern fence of the Beer Garden will be rebuilt to suit the photographic

evidence of the site in 1924.

It should also be noted that with the amended proposal, the applicant's Heritage Consultant has disputed the CMP, in particular, the level of significance of the views and setting of the heritage item. The applicant's consultant states that the extensive reconstruction works to the facade of the Inn, including reinstatement of the roof form, verandahs and reproduction lace balustrades, would make the categorisation of the view as having exceptional significance voided. The applicant's Statement of Heritage Impact also states that the extent of proposed change does not warrant the preparation of a new CMP.

In this regard, Council's Heritage Consultant has stated that the CMP is the applicant's own adopted CMP for the site. The basis for the cultural significance of the site is outlined in the CMP at Pages 51-55, and it is based on the methodology and guidelines set out by the NSW Heritage Office. A Development Application for particular proposed works is not the mechanism to vary or dispute an adopted CMP. If the applicant believes that the CMP should be varied, then a new CMP should be lodged for consideration. The CMP is then considered in its own right, not as a support document to justify a particular proposed development. Further, the CMP implementation strategy refers to reinstating the two storey verandah using historical drawings and photographic evidence. Therefore, the reconstruction and reinstatement of these elements, which occurred in 2005, appears to be in accordance with the conservation policies of the CMP.

In addition, after the restoration works were completed, the heritage consultants who wrote the CMP prepared a Conservation and Restoration Report, dated March 2006. That report assessed the detailed restoration works and what their impact was to the overall heritage significance of the site. That report stated that *"The modifications have facilitated the continuation of use of the Red Cow Inn as a licensed premises and are acceptable in conserving the identified significance of the place. The Statements of Heritage Impact contained within this report conclude that the completed works have conserved the cultural significance of the place"*

The applicant's consultant has also questioned how the CMP ranked the views of and to the Inn at the time the CMP was prepared, stating that the authors of the CMP did not provide evidence of what the views consisted of at that time, *"presumably because the "reconstruction" had not taken place at that juncture"*. The applicant's consultant then makes reference to later additions which they argue further obscure views to and from the Inn, such as the bus interchange on Jane Street, which they consider has substantially diminished the visual link between the historic Penrith Station and the Red Cow Inn. A response to this statement is made below, but in summary the bus interchange is a fairly lightweight and transparent structure. It still allows views into and around the area.

Taking into account the CMP extracts mentioned above, it is considered that the proposed development, primarily the proposed awning structure, would be an unsympathetic addition to the heritage item, and that the setting, and views to the item would be unduly obscured and impacted by the proposed awning. In reaching this conclusion the following comments are made (from both Council's external Heritage Consultant and Council's Senior Planner):

- The beer garden was intended, and should be, be an open, light weight feature. The current arrangement with the fabric awning is still perceived as open and this was intended to allow views to the historic part of the Inn to be seen and experienced in the round;
- The current open yard arrangement allows the Red Cow Inn building to be appreciated by the public, and its openness complements the open nature of the forecourt of the Penrith Railway Station, which is also a heritage item;
- The Statement of Significance includes the commentary that the building forms part of a precinct of buildings with historic associations with the railway station. The resulting obscuring of the Inn detracts from the current vistas enjoyed which in turn diminishes the quality of the vistas from the historic group associations;
- The scale and dominance of the proposed awning, which covers half the yard, and its height, which restricts views of the northern elevation of the building contravenes the guidelines of the CMP regarding keeping the yard open and free so the views from the neighbouring streets and Railway Station are maintained;

- The development is in the visual catchment area of a number of heritage items including the Station Masters Cottage and the Penrith Railway Station. The pedestrian views from the Railway Station are maintained even with the construction of the Jane Street bus shelters as the shelters allow views under the roofed sections. The recent redevelopment of the government building on the 'fourth' corner of the visual catchment area was intentionally built with an open colonnade around street frontages. This was done to open up the existing vista in the street and surrounding vantage points;
- The outdoor areas of the Heritage Site are of considerable heritage importance. They maintain a landscape area which is highly lacking in this urban area. The open area of the yard is proposed to be roofed over almost half of the yard and the proposal has a form and shape that is inappropriate adjacent to the heritage item being diagonally angular and not aligning with heritage elements, such as ending above the verandah railing. The proposed extension is too large and too heavy and hence dominates the open yard of the historic site. This approach is contrary to the CMP policies to keep the yard open and to maintain significant heritage view lines;
- The scale, shape and form of the proposed awning bears no relationship to the scale and architectural features of the historic inn. The proposed awning is angular and rectangular, it will sit too close to the hipped roof and verandah of the hotel and this juxtaposition is not sympathetic. It also does not bear any relationship with the first floor filigree balcony detail of the original building;
- The proposal lacks adequate detail from an arborist with regard to the existing trees in the beer garden. Given that the proposed awning structure is very close to the branches of the tree/s and may require pruning of branches, further information regarding the tree and any pruning would be required;
- The proposed repaving may impact on the tree and tree roots in the beer garden and more information would be needed to ascertain any impact on the tree as a result of repaving;
- While the fencing in the amended proposal is more acceptable than the original proposal, the fencing needs to be justified in relation to the CMP. In this regard, documentary evidence of the Inn in 1924 should be used to show the fencing in situ at that time and how the proposed fencing meets the conservation requirements of the CMP. In principle, it is considered that the fencing should be lower in scale (no higher than 1.2 metres), which is a more appropriate height for a front fence facing a street boundary. This height would still allow passive surveillance and views into the site, ensuring that the beer garden remains open and transparent. However, the proposed use of metal as a material for the front fence is not acceptable. The proposed fence should be of timber construction, as this is a more sympathetic fabric suitable for the heritage item. The CMP states that the fence used in 1924 should be replicated or used as a guide; and
- While the previously proposed TV screen has been removed from the amended proposal, what appears to have been a solid support wall for the screen remains shown on the plans. This may have been an oversight when the drawings were amended. At any rate, the wall as shown appears to not be required and is not acceptable as it adds further bulk to the open balcony area and is not needed.

In conclusion, for the reasons stated above, the proposed development is not considered to meet the objectives and controls at Clause 5.10 of the Penrith LEP, as the proposed works will have an adverse impact on the heritage significance of the building, site, and its setting.

Clause 7.8 Active street frontages

Although the proposal is not acceptable on heritage grounds, the clause of the LEP relating to active street frontages is deemed to be met. This is because the pub (both the building and the beer garden) still front the street and provide an active use, open to the public.

Section 4.15(1)(a)(iii) The provisions of any development control plan

Development Control Plan 2014

Provision	Compliance
DCP Principles	Does not comply - see Appendix - Development Control Plan Compliance
C1 Site Planning and Design Principles	Does not comply - see Appendix - Development Control Plan Compliance
C2 Vegetation Management	Does not comply - see Appendix - Development Control Plan Compliance
C3 Water Management	N/A
C4 Land Management	N/A
C5 Waste Management	Complies
C6 Landscape Design	N/A
C7 Culture and Heritage	Does not comply - see Appendix - Development Control Plan Compliance
C8 Public Domain	Does not comply - see Appendix - Development Control Plan Compliance
C9 Advertising and Signage	N/A
C10 Transport, Access and Parking	N/A
C11 Subdivision	N/A
C12 Noise and Vibration	N/A
C13 Infrastructure and Services	N/A
E11 Penrith	Does not comply - see Appendix - Development Control Plan Compliance

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

The proposed development would be able to comply with the relevant Regulations.

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

Having regard to Section 4.15 of the Act and specifically, the likely impacts of the proposed development, it is considered that the proposed works are not sympathetic to the setting, curtilage, fabric and significance of the heritage item. The detailed reasons for such are contained in the discussion at Clause 5.10 Heritage conservation of the Penrith LEP.

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

Because of the adverse heritage impact, it is not considered that the site is suitable for the proposed development. The proposed awning will obstruct and obscure views and vistas to the original and historic Inn and the architectural features of the Inn have not been considered in the design, proportions and scale of the proposed awning structure.

Section 4.15(1)(d) Any Submissions

Community Consultation

The application was not required to be notified or advertised. Public submissions have not been received.

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
Heritage	Not supported
Environmental - Environmental management	No objections - subject to conditions
Environmental - Public Health	No objections - subject to conditions
Community Safety Officer	No objections - subject to conditions
Social Planning	No objections

Heritage

For the purpose of this assessment, it is relevant to include the statements made by Council's external Heritage Consultant over the period of the Development Application assessment. It should be noted that the applicant also sought pre-application advice and at that time, Council's Heritage Consultant raised similar concerns. An assessment of the comments is made in the planning assessment sections of this report to avoid repetition.

First Response (at DA lodgement):

It is noted that the design is unchanged since pre-DA heritage advice provided. The design was not supported in the pre-DA advice to the applicant. The HIS makes reference to an existing CMP (Conservation Management Plan) for the item. In discussions with the assessing officer this CMP has been requested from the applicant and the proposal is to be re-viewed in conjuncture with the CMP once received.

Second Response (CMP received):

The Applicant's Conservation Management Plan (NBRS 2004) page 44 Clause 4.5 "Maintain the visual link between Station and the Inn". Also notes: "curtilage takes into account the views of the Red Cow Inn and vistas along Station and Jane Street". Figure 7.28 outlines vistas. Also, on page 80 "Open spaces are important as they allow the three elevations of the Red Cow Inn" ... (to be viewed).

Proposed fencing at 1.8m - 2m also obscures the view into/out of the courtyard/beer garden. Any fence proposed should be a low scale (1.2m) picket hard wood fence of an open style nature.

The proposal with proposed awning being of a scale that covers half the yard and its height restricts views of the northern elevation. Hence the proposal contravenes the guidelines of the CMP regarding keeping the yard open and free so the views from the neighbouring streets and Railway Station are maintained.

Consequently, the scheme cannot be supported from a heritage perspective.

Third Response (amended proposal and further information):

Applicant's Heritage Advisor is disputing the applicants Conservation Management Plans details. Consequently, recommend Applicant to update the CMP and present to Council for consideration/approval as part of the DA process.

However, without the above amended CMP to review, the current application cannot be supported for following reasons:

1. The development is in the visual catchment area of a number of heritage items including the Station Masters Cottage and the Penrith Railway Station. The current pedestrian views from the Railway Station are maintained even with the construction of the bus shelters as the shelters allow views under the roofed sections.

2. The outdoor areas of the Heritage Site are of considerable heritage importance. They also maintain a landscape area which is highly lacking in this urban area. The open area of the yard is proposed to be roofed over almost half of the yard and the proposal has a form and shape that is inappropriate adjacent to the heritage item being diagonally angular and not aligning with heritage elements e.g. ending above the verandah railing. The proposed extension is too large and too heavy and hence dominates the open yard of the historic site. This approach is contrary to the CMP policies to keep yard open and to maintain significant heritage view lines.

Hence, recommend that the proposal from a heritage perspective is not supported.

Section 4.15(1)(e)The public interest

Given the potential resulting adverse heritage impacts discussed in this report, it is not considered that the proposed development is in the public interest.

Conclusion

The Development Application seeks consent to refurbish the beer garden which is located to the north of the historic building and on the corner of Jane and Station Streets. However, the size, scale, design, height and appearance of the proposed awning is not considered to be a sympathetic addition to the heritage item. The proposed awning will have the effect of partially enclosing the beer garden and will unduly obstruct public views into the site from surrounding streets and the railway station forecourt. The adopted Conservation Management Plan (CMP) for the site refers to the setting and cultural heritage significance of the Item being in part its visual connection with the railway station and former Station Masters House. The document also refers to the beer garden remaining an open space to allow the exposed elevations of the Inn building to be viewed and appreciated. It is considered that the proposed awning does not respond to these points and given its size, scale and design, detracts from these important heritage elements. In addition, the use of metal for the proposed new front fence is not acceptable and it is likely that the fence used in 1924 (which the CMP states should be referred to as a guide) would have been timber. Further information relating to the existing trees in the beer garden would be required, to ascertain whether any branch removal would be needed given that the proposed awning appears to encroach on the tree canopy. In addition, the proposed repaving of the beer garden would have to demonstrate that no tree roots would be disturbed.

Recommendation

That Development Application DA19/0791 for the Red Cow Inn at 569-595 High Street, Penrith (also known as 9 Station Street) be refused for the reasons outlined below.

Refusal

1 [X Special \(BLANK\)](#)

The proposed development, by virtue of the following:

- (a) The size, position, height, scale, shape, design, and appearance of the proposed awning structure;
- (b) The material of the proposed front fencing;
- (c) The lack of information relating to the protection of the existing trees in the beer garden, as a result of the position of the proposed awning near tree branches, and proposed repaving in terms of possible root damage; and
- (d) The support, blade wall located above the first floor balustrade,

is not considered to sympathetically respond to the heritage significance of the site, and is inconsistent with the adopted Conservation Management Plan for the Heritage Item.

Therefore, the proposal development will result in adverse impacts to the heritage significance of the Heritage Item, and is thus contrary to; the adopted Conservation Management Plan; the objectives and controls at Clause 5.10 of the Penrith Local Environmental Plan 2010, and Sections C1, C2, C7, C8, and E11 of the Penrith Development Control Plan 2014.

2 [X Special 02 \(Refusal under Section 4.15\(1\)\(a\)\(i\) of EPA Act 1979\)](#)

The application is not satisfactory for the purpose of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 as the proposal is inconsistent with the aims of the Penrith Local Environmental Plan 2010 in particular, at Clause 1.2(2)(f) which seeks to protect and enhance the environmental values and heritage of Penrith.

3 [X Special 10 \(Refusal under Section 4.15\(1\)\(e\) of EPA Act 1979\)](#)

The application is not satisfactory for the purpose of Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979 as the proposal is not in the public interest.

Appendix - Development Control Plan Compliance

Development Control Plan 2014

Part B - DCP Principles

One of the principles in the DCP is Principle 6 which refers to building on the distinctive characteristics of cities, including cultural values and history. For the reasons outlined in the body of this report, it is not considered that the proposed development enhances or protects the cultural heritage significance of the site.

Part C - City-wide Controls

Those chapters of the DCP - Part C - of which the proposed development is not deemed to comply are:

C1 - Site Planning and Design Principles;
C2 - Vegetation Management;
C7 - Culture and Heritage; and
C8 - Public Domain.

Full details about why the proposed development does not accord with the objectives and controls contained in these chapters has been explained in the body of this report. They primarily relate to; the siting, scale, height, design and appearance of the proposed awning structure; the lack of information relating to any tree impacts, from both the potential removal of branches given the proximity of the awning to the Jacaranda tree, and potential root damage from the proposed re-paving of the beer garden; and the use of metal instead of timber for the proposed front fence.

E11 Penrith

E11 - Penrith City Centre:

The site is located within the Penrith City Centre, and within the Commercial Core Area. The area is described as the 'gateway' to Penrith on arrival by rail and as such the DCP refers to this status and needing the highest quality development. The site is importantly located on the corner of Jane and Station Streets. It is likely to be one of the first commercial uses seen by visitors, residents and workers as they alight and leave Penrith Railway Station. The original site for the Inn was in fact chosen because of its position relative to the railway. Part of the cultural significance of the site lies in this visual, and historic connection to the entrance to the commercial core of Penrith.

One of the objectives of the Penrith City Centre is to enhance the character of Penrith and protect and enhance the public domain. Further, Clause 11.3 refers to pedestrian amenity and states that significant views and vistas along streets should be maintained.

For the reasons outlined in the body of this report, it is not considered that the proposed development achieves the objectives of the Penrith City Centre controls. The proposed development blocks the vista currently experienced of the building as people arrive to Penrith by rail and foot.