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## Statement of Environmental Effects



Development Application for proposed building alterations involving fit out of premises for use as a Neighbourhood Shop as part of the existing Chemist Warehouse operation and proposed signs at Tenancy 230, No's 13-23 Pattys Place, Jamisontown - Penrith SupaCenta

Prepared for: Administration and Marketing Solutions Pty Ltd and Damien Gance  
Project No: 8660A  
Date: February 2014



## Statement of Environmental Effects

Tenancy 230, No's 13-23 Pattys Place, Jamisontown – Penrith SupaCenta

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B.	Development Consent DA 08/1288.01
C.	DA Plans for the Proposal
D.	Retailer Reference Manual

## 1 Introduction and Background

DFP Planning has been instructed by Administration and Marketing Solutions Pty Ltd (Applicant) and Damien Gance to prepare a Development Application (DA) for lodgement with Penrith City Council (Council) seeking development consent for proposed building alterations involving the fitout of the front portion of existing premises (being an area of 198m<sup>2</sup>) for use as a neighbourhood shop and for proposed signs (proposal).

The premises are presently being used as a Chemist Warehouse operation, pursuant to a previously issued development consent, and are located at Tenancy 230, No's 13-23 Pattys Place, Jamisontown which is within the Penrith SupaCenta (Premises).

### 1.1 Purpose of this Statement

The purpose of this Statement of Environmental Effects (SEE) report is to provide Council with all relevant information necessary to assess the proposal and to determine the DA in accordance with Section 80 of the Environmental Planning & Assessment Act 1979 (EP&A Act).

The proposal is Local Development pursuant to Part 4 of the EP&A Act.

The proposal is not Integrated Development pursuant to Part 4 Division 5 of the EP&A Act.

### 1.2 Background

On 23 February 2009, Council issued Development Consent DA 08/1288 for a proposal described as "Tenancy Fitout and Use for Chemist Warehouse, Shop 230 Pattys Place" subject to 12 conditions (see **Appendix A**).

On 30 April 2009, Council issued a modification of Development Consent DA 08/1288.01 with the description of the proposal being "Tenancy Fitout Shop 230 Pattys Place – Modification to delete Condition 4" pursuant to Section 96 of the EP&A Act (Consent) (see **Appendix B**).

The Consent as modified in respect to Condition 4 is the existing Consent under which the Chemist Warehouse use currently operates at the premises. The modified Condition 4 of Development Consent DA 08/1288.01 states as follows:

*"4. Any retail sales are to be ancillary to the primary use of the premises as a distribution centre."*

It is understood that the business operations of Chemist Warehouse at the premises commenced in September 2009.

On 18 August 2009, certain third parties commenced proceedings in the NSW Land & Environment Court challenging "*both the validity of the relevant development consent and the lawfulness of the current use, a pharmacy business known and registered as "Chemist Warehouse Distribution Centre Penrith (CWDCP)"*" as referred to in the Court judgement of Justice Sheahan in *Bardsley-Smith and Anor -v- Penrith City Council and Others* (2012) NSW LEC 79 (Paragraph 2).

In that judgement, Justice Sheahan concluded that:

- (1) Council had not committed a jurisdictional error in granting the Consent; and
- (2) The retail use at the premises was ancillary to the primary warehouse and distribution centre use, and the use complied with the limitation imposed by Condition 4 of the Consent.

Accordingly, Justice Sheahan dismissed the Court proceedings.

The judgement of Justice Sheahan was then the subject of appeal proceedings to the NSW Court of Appeal.

In the NSW Court of Appeal judgement of Bardsley-Smith –v- Penrith City Council (2013) NSWCA 200 delivered on 4 July 2013, Acting Justice of Appeal Sackville (with whom McColl JA and Barrett JA agreed) held that:

- (1) The Consent was a valid consent in so far as it authorises the premises to be used as a retail pharmacy selling a limited range of products (paragraph 94); but
- (2) The present use of the premises as a large scale retail pharmacy goes well beyond the use permitted by the Consent (paragraph 95).

The judgement of the NSW Court of Appeal in Bardsley-Smith –v- Penrith City Council (2013) NSWCA 200 relevantly stated at paragraph 95 that:

*“..... the consent properly construed permits the premises to be used for the purpose of a retail pharmacy, but only if the pharmacy is limited to supplying PBS items and OTC drugs to members of the public. There is no dispute that the retail pharmacy conducted on the premises sells very large quantities of a wide range of products ordinarily sold through pharmacies, not limited to PBS items and OTC drugs. The use of the premises as a large scale retail pharmacy does not comply with the terms of the Consent.”*

The Applicant has chosen to lodge this DA in specific response to the findings of the Court of Appeal in the above proceedings in respect of the current operation of these premises. This DA has been prepared and lodged, notwithstanding that the Applicant remains of the view that the current retail use at the premises is ancillary to the Chemist Warehouse operations authorised under the existing Consent, for the reasons articulated by Justice Sheahan of the Land and Environment Court.

### 1.3 SEE Report Structure

This SEE Report is structured in the following manner:

- |                  |  |
|------------------|--|
| <b>Section 1</b> | provides a brief introduction and background to the proposal;  |
| <b>Section 2</b> | is in relation to the site context and provides a description of the site and the nature of surrounding development;                     |
| <b>Section 3</b> | details the proposal;  |
| <b>Section 4</b> | is an environmental planning assessment of the proposal; and   |
| <b>Section 5</b> | provides a conclusion and recommendations for determination of the DA for the proposal by the Council as the relevant consent authority. |

### 1.4 Summary of Conclusions

This SEE Report concludes that the DA for proposed minor building alterations involving the fitout of part of the existing premises for use as a neighbourhood shop and proposed signs at the premises is a permissible development with the consent of the Council within the IN2 Light Industrial zone under the Penrith Local Environmental Plan 2010 (Penrith LEP 2010).

The proposal satisfies the definition of a “neighbourhood shop” and it is proposed to have a retail floor area not exceeding 200m<sup>2</sup> as required under Clause 5.4(7) of Penrith LEP 2010.

The use of the rear portion of the premises as a Chemist Warehouse distribution area and limited retail pharmacy dispensary area (selling PBS and OTC drugs) will continue to operate lawfully pursuant to the current Consent.

The DA for proposed building alterations involving the fitout of the front portion of the Chemist Warehouse premises as a neighbourhood shop, when considered together with the continued use of the rear portion of the premises, will satisfy the stated objectives of the IN2 Light Industrial zone under Penrith LEP 2010 in that the proposal will:

- Provide a range of warehouse and related land uses consisting of a Chemist Warehouse distribution operation, retail pharmacy dispensary and a neighbourhood shop.
- Encourage employment opportunities and support the viability of Centres including the Penrith SupaCenta.
- Minimise any adverse effect of industry or other land uses.
- Enable other land uses that provide facilities or services to meet the day to day needs of workers in the area, particularly with the proposed neighbourhood shop and retail pharmacy dispensary.
- Support and protect industrial land for industrial uses as the proposed neighbourhood shop will be wholly contained within the floor area of the existing premises.
- Promote development that makes efficient use of industrial land.

The proposal satisfies the relevant planning controls under the Penrith LEP 2010 and the Penrith Development Control Plan 2010 (Penrith DCP 2010).

The proposal will not have any significant adverse impacts on the natural and built environment, and in particular, the proposal will have satisfactory provision of off-street car parking, loading dock facilities, as well as vehicular and pedestrian access (including disabled access and parking) within the existing Council approved Penrith SupaCenta complex.

Accordingly, it is recommended that the Council grant development consent to the DA for the proposal pursuant to Section 80(1) of the EP&A Act.

## **2 Site Context**

### **2.1 Location**

The Penrith SupaCenta is located off Mulgoa Road at No's 13 to 23 Pattys Place, Jamisontown and is legally described as Lot 10 and Lot 11 in Deposited Plan 1046110.

The premises is known as Tenancy 230 and it is located centrally within the main Penrith SupaCenta building with pedestrian access from both the central mall and via the northern car park.

**Figure 1** below is a locality plan which shows the location of the Penrith SupaCenta. The DA plans at **Appendix C** include a site plan which shows the location of Tenancy 230 within the main Penrith SupaCenta building which is the subject of this DA for the proposal.

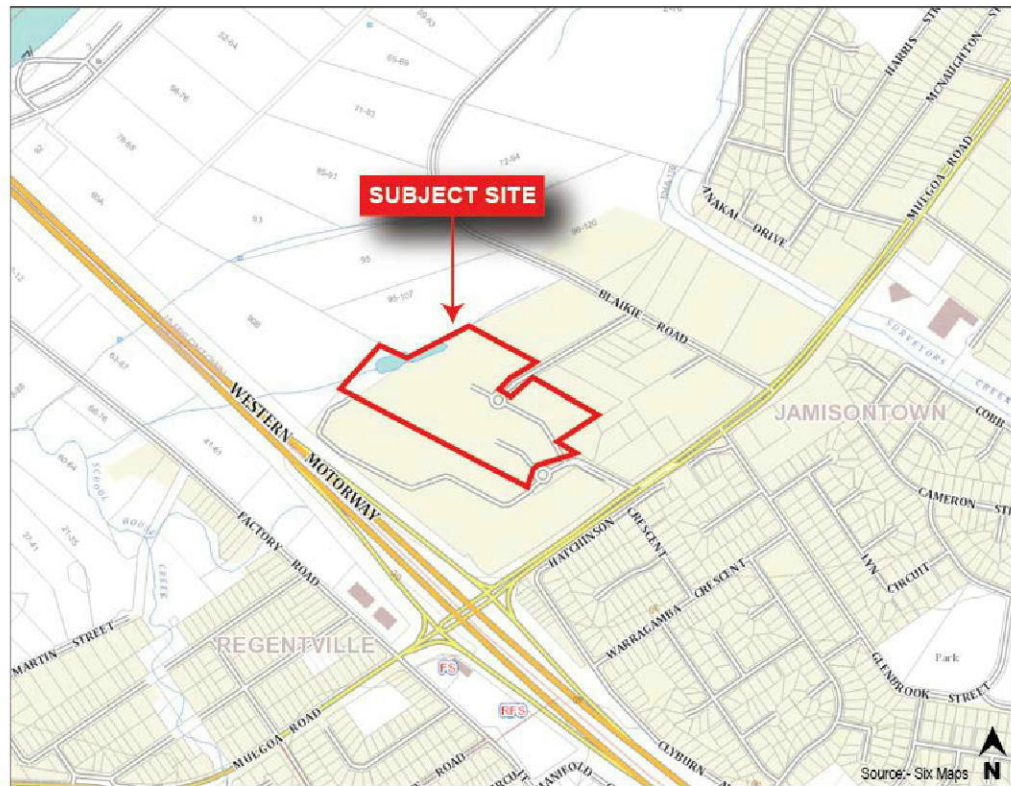


Figure 1 The site location.

## 2.2 The Penrith SupaCenta and Surrounding Context

The Penrith SupaCenta occupies a site with an area of about 6.49 hectares and consists of five (5) single storey buildings with approximately 27,561m<sup>2</sup> floor space and it has about 736 off-street car parking spaces including 17 disabled spaces.

The Penrith SupaCenta is principally occupied by bulky goods type retail operations such as Spotlight, Bing Lee, Snooze, JB Hi Fi as well as various carpet, lighting and furniture outlets. Other bulky goods retail outlets within the vicinity of the Penrith SupaCenta complex include Bunnings, Harvey Normans and Domayne which forms a precinct of bulky goods retailing outlets in this part of the Jamisontown locality. There is in excess of 1,000 off-street car parking spaces within the entire bulky goods retailing precinct.

Vehicular access to the Penrith SupaCenta is from Pattys Place via Mulgoa Road with the M4 Motorway less than 1 kilometre to the south and the Penrith CBD about 2.7 kilometres to the north east of the site.



The Jamisontown locality mostly comprises a range of light industrial and warehouse businesses, bulky goods retailing outlets, drive-thru fast food outlets, residential neighbourhoods and rural residential developments as shown on the aerial photograph at **Figure 2** below.



Figure 2 Aerial Photograph

### 2.3 The Existing Chemist Warehouse Premises (Tenancy 230)

The premises of the existing Chemist Warehouse operation at the Penrith SupaCenta is known as Tenancy 230. The premises occupies approximately 613m<sup>2</sup> of floor space and the floor layout is in an “L” shaped configuration. The pedestrian entry to the premises is via the central mall within the Penrith SupaCenta main building and also via the northern car parking area.

There is a loading dock area in the northern rear end of the premises which is accessed via the northern car parking area at the Penrith SupaCenta main building.

**Figure 3** below is a photo of the Penrith SupaCenta main building within which the premises, the subject of this DA for the proposal is located.



Figure 3 Photo of Penrith SupaCenta

**Figure 4** below is a photo of the main off-street car parking area at the Penrith SupaCenta complex.



Figure 4 Photo of Penrith SupaCenta



**Figure 5** below is a photo of the central mall within the Penrith SupaCenta main building and shows the premises of the existing Chemist Warehouse operation.

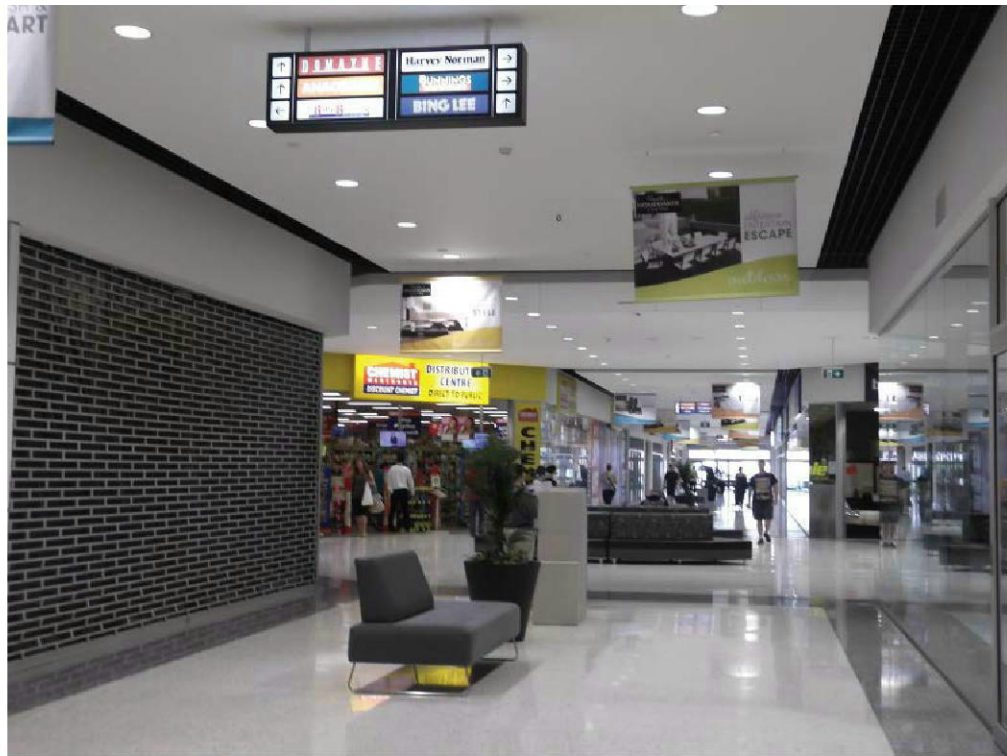


Figure 5 Photo of Penrith SupaCenta and the Premises

**Figure 6** below is a photograph of the pedestrian entry point at the premises of the existing Chemist Warehouse operation at the Penrith SupaCenta complex.



Figure 6 Photo of the Premises

### 3 The Proposal

#### 3.1 Description of the Proposal

This DA seeks the development consent of Council for minor building alterations involving the fitout of the front portion of the premises to be used for the purpose of a neighbourhood shop with a total retail floor area of 198m<sup>2</sup>.

The rear portion of the premises currently operates as a distribution centre (including ePharmacy) and with a limited retail pharmacy dispensary area for PBS items and OTC (over-the-counter) drugs pursuant to the National Health Act 1995. This rear portion of the premises, with a floor area of approximately 415m<sup>2</sup>, will continue to operate under the existing Consent, with only minor amendments proposed to the dispensary area fitout proposed as part of this DA.

**Appendix C** to this SEE report are the DA plans for the proposal which show the proposed location and fitout of the proposed neighbourhood shop (shaded red) and the existing distribution area and retail pharmacy dispensary area within the premises (shaded blue).

As a part of the proposal, customers will only be able to access the neighbourhood shop retail floor area within the premises. Access to the existing distribution area and pharmacy dispensary area within the premises will be limited to staff only.

**Figure 7** below is a photo of an existing Chemist Warehouse operation in Queensland which has a similar fitout to the proposal as shown on the DA plans at **Appendix C** with physical barriers separating the neighbourhood shop from the distribution area and pharmacy dispensary area which is limited to staff access only.



Figure 7 Photo of similar Chemist Warehouse Premises in Queensland with a physical barrier.

The proposed fitout of the neighbourhood shop involves the provision of a check out area adjoining the main customer entry/exit to the premises with a series of gondola and perimeter racking for stocking general merchandise to be sold to customers from the proposed neighbourhood shop.

The proposed fitout of the premises also includes the provision of a service bench, clear Perspex barricade, two entry gates (staff access only) as well as gondola and perimeter racking for the pharmacy dispensary area within the premises.



The building materials for the proposed fit out of the premises will be melamine bench tops and steel frame barriers. There will be no structural building works to the premises.

There is no other proposed building alterations or changes to the internal layout of the existing warehouse/distribution area and pharmacy dispensary area at the northern rear section of the premises which will continue to operate under the existing Consent.

The existing loading dock area at the northern rear end of the premises will service the proposed neighbourhood shop and the existing Chemist Warehouse distribution area and retail pharmacy dispensary area within the premises.

The proposal will continue to be serviced by the existing off-street car parking spaces within the Penrith SupaCenta complex which has about 736 car spaces including 17 disabled car spaces.

### 3.2 Proposed Signs

The DA plans at **Appendix C** include details of proposed new signs which are summarised in Schedule 1 below:

#### Schedule 1 Proposed Signs

Schedule 1 Proposed Signs		
Type	Size	Quantity
Large window print	4000mm x 3090mm	1
Vertical Window Prints	600mm x 3090mm	2
Light box (above entrance)	3600mm x 1000mm	1
Folded Composite Panel	3600mm x 1000mm	2
Window print	12000mm x 3090mm	1
External Light Box	2000mm x 1000mm	2

The proposed signs are defined as Business Identification Signs and comply with the exempt development provisions of Schedule 2 of Penrith LEP 2010 with the exception of the proposed window print sign which is defined as an advertising sign, and accordingly, will require the development consent of Council.

### 3.3 Proposed Neighbourhood Shop

The front section of the premises is proposed to be used for the purposes of a neighbourhood shop with a retail floor area of 198m<sup>2</sup> for the purposes of selling general merchandise such as foodstuffs, personal care products, newspapers and the like to provide for the day-to-day needs of people who live or work in the local area.

The retail goods to be sold to customers from the proposed neighbourhood shop within the premises will include the following:

- Coffee and tea;
- Newspapers and magazines;
- Milk and bread;
- Soft drinks;
- Confectionaries;

- Cosmetics;
- Beauty and health care products;
- Soaps;
- Vitamins and health foods;
- Skin care products;
- Toothpaste and mouth wash;
- Baby care products including nappies and the like;
- Toilet paper and tissues;
- Hair care products such as shampoos and conditioners;
- Household cleaning products;
- Batteries; and
- Other general merchandise including food stuffs, personal care products and the like to provide for the day-to-day needs of people who live or work in the local area.

### **3.4 Hours of Operation**

The proposed hours of operation of the proposal will be as follows:

- 8:00am to 7:00pm Monday to Wednesday and Friday;
- 8:00am to 9:00pm Thursday;
- 8:00am to 6:00pm Saturday; and
- 9:00am to 6:00pm Sunday

The proposed delivery times of stock to the premises will be as follows:

- 8:00am to 6:00pm Monday to Saturday; and
- No deliveries on Sunday

### **3.5 Staffing Numbers**

There will be a maximum of 30 staff at peak operating times and between 13 - 17 staff at other times employed at the proposed neighbourhood shop and the existing distribution area and retail pharmacy dispensary area at the premises.

## **4 Environmental Planning Assessment**

This Section provides an Environmental Planning Assessment of the proposal in respect to the relevant matters for consideration under Section 79C(1) of the EP&A Act.

### **4.1 Section 79C(1)(a) – Planning Controls**

Under Section 79C(1)(a) of the EP&A Act, the Consent Authority must take into consideration the provisions of:

- Section 79C(1)(a)(i) Environmental Planning Instruments
- Section 79C(1)(a)(ii) Draft Environmental Planning Instruments
- Section 79C(1)(a)(iii) Development Controls Plans
- Section 79C(1)(a)(iiia) Planning Agreements
- Section 79C(1)(a)(iv) The EP&A Regulations

The relevant Environmental Planning Instruments and other Statutory Planning Controls which apply to the assessment of the proposal are:

- Penrith LEP 2010; and
- Penrith DCP 2010.

There are no draft Environmental Planning Instruments which are applicable to the DA for the proposal. There is no Planning Agreement or provisions in the EP&A Regulations that are relevant to the assessment of the proposal.

#### 4.1.1 Penrith LEP 2010

The premises is located within the IN2 Light Industrial zone under Penrith LEP 2010 as shown on the Land Zoning Map which is reproduced as **Figure 8** below.

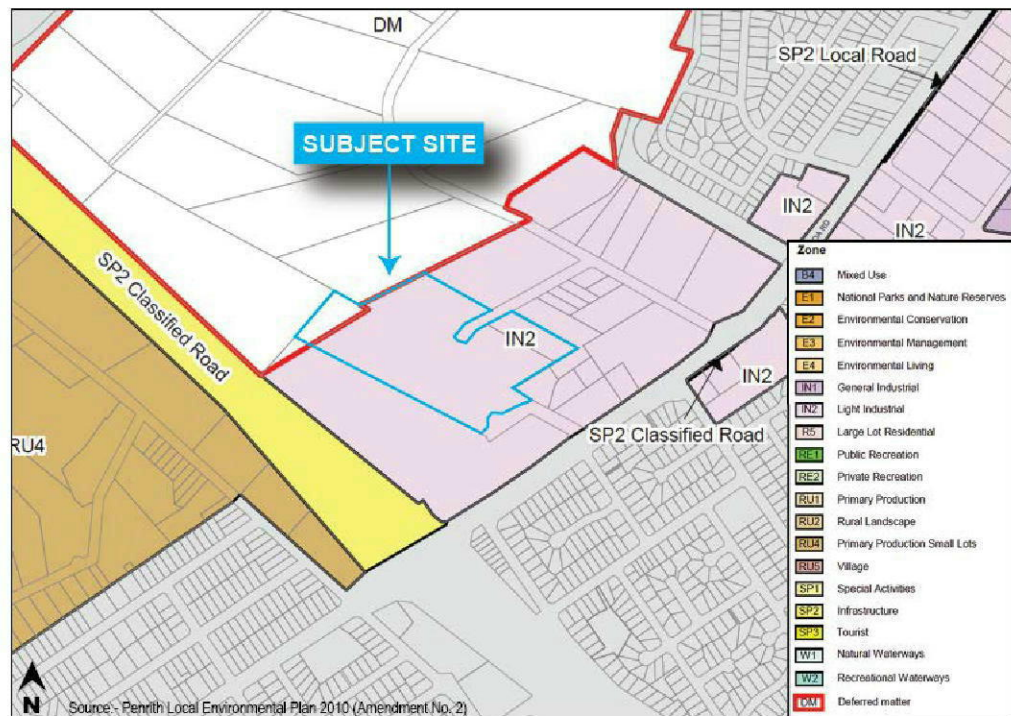


Figure 8 Zoning Map

Clause 2.3 of Penrith LEP 2010 relates to Zone Objectives and the Land Use Table and states as follows:

#### “2.3 Zone objectives and Land Use Table

- (1) The Land Use Table at the end of this Part specifies for each zone:
  - (a) The objectives for development, and
  - (b) Development that may be carried out without development consent, and
  - (c) Development that may be carried out only with development consent, and
  - (d) Development that is prohibited.
- (2) The consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone.
- (3) In the Land Use Table at the end of this Part:
  - (a) a reference to a type of building or other thing is a reference to development for the purposes of that type of building or other thing, and

(b) a reference to a type of building or other thing does not include (despite any definition in this Plan) a reference to a type of building or other thing referred to separately in the Land Use Table in relation to the same zone.

(4) This clause is subject to the other provisions of this Plan.”

The following is an extract of the Land Use Table for Zone IN2 Light Industrial in Penrith LEP 2010 which states as follows:

**Zone IN2 Light Industrial**

**1 Objectives of zone**

- To provide a wide range of light industrial, warehouse and related land uses.
- To encourage employment opportunities and to support the viability of centres.
- To minimise any adverse effect of industry on other land uses.
- To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.
- To support and protect industrial land for industrial uses.
- To promote development that makes efficient use of industrial land.

**2 Permitted without consent**

Roads

**3 Permitted with consent**

Amusement centres; Car parks; Child care centres; Community facilities; Crematoria; Depots; Educational establishments; Electricity generating works; Environmental facilities; Environmental protection works; Flood mitigation works; Food and drink premises; Function centres; Hardware and building supplies; Hotel or motel accommodation; Industrial retail outlets; Industrial training facilities; Landscaping material supplies; Light industries; Medical centres; **Neighbourhood shops\***; Places of public worship; Plant nurseries; Recreation areas; Recreation facilities (indoor); Resource recovery facilities; Respite day care centres; Self-storage units; service stations; **Signage\***; Timber yards; Vehicle repair stations; Vehicle sales or hire premises; Veterinary hospitals; Warehouse or distribution centres; Waste or resource transfer stations.”

(\*Note: emphasis added)

The IN2 Light Industrial Zone – Land Use Table indicates that “*Neighbourhood Shops*” and “*Signage*” are permissible with the consent of the Council under Penrith LEP 2010.

Clause 1.4 and the Dictionary of Penrith LEP 2010 define “*Neighbourhood Shops*” as follows:

*“Neighbourhood shop means premises used for the purposes of selling general merchandise such as foodstuffs, personal care products, newspapers and the like to provide for the day-to-day needs of people who live or work in the local area, and may include ancillary services such as a post office, bank or dry cleaning, but does not include restricted premises.”*

Clause 5.4(7) of Penrith LEP 2010 provides as follows:

**(7) Neighbourhood Shops**

*If development for the purposes of a neighbourhood shop is permitted under this Plan, the retail floor area must not exceed 200m<sup>2</sup>.”*

It is the opinion of DFP Planning Consultants that the DA for proposed building alterations involving the fitout and use of the front portion of the existing Chemist Warehouse premises as a neighbourhood shop is a permissible development with the consent of the Council under the provisions of Penrith LEP 2010. The proposal is capable of satisfying the



definition of a “neighbourhood shop” and it is proposed to have a retail floor area not exceeding 200m<sup>2</sup> as required under Clause 5.4(7) of Penrith LEP 2010.

The use of the rear portion of the premises as a Chemist Warehouse distribution area and limited retail pharmacy dispensary area will continue to operate pursuant to the existing Consent.

It is the opinion of DFP Planning Consultants that the DA for proposed building alterations involving the fitout of the front portion of the Chemist Warehouse premises as a neighbourhood shop, when considered together with the continued use of the rear portion of the premises, will satisfy the stated objectives of the IN2 Light Industrial zone in that the proposed development will:

- Provide a range of warehouse and related land uses consisting of a Chemist Warehouse distribution operation, retail pharmacy dispensary and a neighbourhood shop.
- Encourage employment opportunities and support the viability of Centres including the Penrith SupaCenta.
- Minimise any adverse effect of industry or other land uses.
- Enable other land uses that provide facilities or services to meet the day to day needs of workers in the area, particularly with the proposed neighbourhood shop and retail pharmacy dispensary.
- Support and protect industrial land for industrial uses as the proposed neighbourhood shop will be wholly contained within the floor area of the existing premises.
- Promote development that makes efficient use of industrial land.

The DA plans at **Appendix C** include details of proposed signs for the premises. “Signage” is a permissible development with the consent of Council in the IN2 Light Industrial zone of Penrith LEP 2010. Notwithstanding, all of the proposed signs are defined as Business Identification signs which comply with the exempt development provisions of Penrith LEP 2010, except for the proposed window print sign that is defined as an advertising sign and, accordingly, requires the development consent of Council.

The proposal also satisfies the requirements of Clause 6.6 of Penrith LEP 2010 in relation to the satisfactory provision of a reticulated water supply, adequate facilities for the removal and disposal of sewage and the need for public amenities or public services has been, or will be met.

The proposal satisfies the relevant aims as specified in Clause 1.2 of Penrith LEP 2010 including the following:

- (a) *To promote development that is consistent with the Council's vision for Penrith, namely, one of a sustainable and prosperous region with harmony of urban and rural qualities with a strong commitment to environmental protection and enhancement,*
- (b) *To ensure development incorporates the principles of sustainable development through the delivery of balanced, social, economic and environmental outcomes,*
- (e) *To provide for an urban environment that is active, attractive and safe for residents and visitors,*
- (f) *To foster viable employment, transport, education and future investment opportunities that are suitable to the needs and skills of the residents and the workforce,”*

#### 4.1.2 Penrith DCP 2010

Most of the provisions within the Penrith DCP 2010 are not relevant as the DA is only seeking the development consent of Council to minor building alterations involving the fitout of the front section of the premises to be used as a neighbourhood shop, whilst the use of the rear portion of the premises by Chemist Warehouse as a distribution area and retail pharmacy dispensary area will continue to operate lawfully pursuant to the existing Consent.

The following provisions of the Penrith DCP 2010 are considered to be relevant to the environmental planning assessment of the proposal:

##### **C5 Waste Management**

Waste and rubbish generated by the proposal will be mainly flattened cardboard boxes which will be recycled. Disposal of waste will occur either by recycling or via a 1.5m<sup>3</sup> commercial waste bin. Waste will be removed from the premises on a regular basis by a commercial garbage waste contractor. The Retailer Reference Manual identifies how waste will be managed and recycled within the Penrith SupaCenta complex (see **Appendix D**).

##### **C9 Advertising and Signage**

The DA plans at **Appendix C** include details of the proposed signs for the premises. All of the proposed business identification signs are exempt development under Schedule 2 of Penrith LEP 2010. The proposed window print sign is defined as an advertising sign and, accordingly, requires the development consent of Council in the IN2 Light Industrial zone of Penrith LEP 2010.

The proposed window print sign to be erected at the premises complies with the general requirements for signs under Chapter C9 Advertising and Signage provisions of Penrith DCP 2010 in that the proposed window print sign is designed and located to:

- (i) Relate to the use of the premises;
- (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 premises;
- (v) Have minimal projection from the building;
- (vi) Be integrated to achieve a high degree of compatibility with the architectural design of the Penrith SupaCenta building;
- (vii) Have regard to the view of the sign and any supporting structure, cabling and conduit from all angles; and
- (viii) Be sympathetic to the existing character of the area and the particular architectural/urban design utilised in any improvements scheme.

##### **C10 Transport, Access and Parking**

Transport to the Penrith SupaCenta complex is generally by motor vehicle for customers and staff as it is predominantly a bulky goods retailing outlet precinct serving the local area. Notwithstanding, there is regular bus services along Mulgoa Road with bus stops in close walking distance to the Penrith SupaCenta site. There are also taxi stands at the Penrith SupaCenta site.

Vehicular access to the Penrith SupaCenta is via Pattys Place which connects with Blaikie Road and Mulgoa Road.

The existing Council approved Penrith SupaCenta has 736 off-street car parking spaces including 17 disabled spaces which are provided at basement and ground levels to service

the car parking demands of customers and workers within the complex. There is in excess of 1,000 car spaces within the overall Penrith SupaCenta precinct which includes other bulky goods retail outlets such as Harvey Normans, Domayne and Bunnings.

The proposal only involves minor internal building alterations involving the fitout of part of the premises for use as a proposed neighbourhood shop. The proposal will not involve any increase in the existing gross floor area of the premises being about 613m<sup>2</sup> as shown on the DA. plans at **Appendix C**, although the proposed neighbourhood shop will only occupy 198m<sup>2</sup>. Accordingly, the proposal will not increase the parking demand at the site as assessed under Penrith DCP 2010.

The existing loading dock facility at the northern rear end of the premises will be retained to service the proposed neighbourhood shop and the existing distribution area and the pharmacy dispensary area within the premises. There will be on average about 3 to 5 truck deliveries per day to the premises.

The Council approved Penrith SupaCenta complex also caters for disabled access to and within the premises. There is also provision for 17 disabled car spaces within close proximity to the Penrith SupaCenta main building, close to the premises. The Penrith SupaCenta building complies with AS2890.6-2009.

#### **D4 Industrial Development**

The main industrial areas in the Penrith City LGA are broken down into 11 precincts as specified in Chapter D4 Industrial Development in the Penrith DCP 2010. The Penrith SupaCenta complex is located within Precinct 7 – South Penrith (West of Mulgoa Road).

The provisions under Chapter D4 Industrial Development of Penrith DCP 2010 primarily relate to the construction of new industrial development and include planning controls for building height, building setbacks and landscaping, building design, accessing and servicing the site, storage of materials and chemicals and lighting. These are all planning matters that have been addressed in Council's approval for the construction of the existing Penrith SupaCenta complex.

The proposal does not involve any change to the existing Penrith SupaCenta complex other than the proposed minor internal fitout of part of the premises for the purpose of the proposed neighbourhood shop, whilst the existing distribution area and pharmacy dispensary area will continue to operate under the existing Consent.

The proposal does not involve the provision of any new external lighting. All goods and materials will be stored within the premises. There is a loading dock at the rear of the existing premises.

In conclusion, it is considered that the proposal complies with all the relevant provisions of the Penrith DCP 2010.

## **4.2 Section 79C(1)(b) – Likely Impacts of the Development**

### **4.2.1 Impacts on the Natural Environment**

All issues relating to the impact on the natural environment in terms of land resources, water, soils, air and micro climate, flora and fauna and natural hazards, were considered by Council as part of the assessment of the DA for the Penrith SupaCenta at the site. It is not considered that the proposal will impact on any aspects of the natural environment of the site and the locality.

### **4.2.2 Impacts on the Built Environment**

The proposed neighbourhood shop as well as the existing Chemist Warehouse distribution and pharmacy dispensary operation within the premises will fit well with the other existing bulky goods retailing outlets at the Penrith SupaCenta complex.

Issues relating to the context and setting, relationship with the public domain, service facilities, waste, energy, safety, security and crime prevention, site design, vehicle and pedestrian access, transport, traffic and parking impacts were all considered by Council in assessing the original DA for the Penrith SupaCenta complex.

The Penrith SupaCenta complex is well serviced by public transport with bus stops and taxis which will afford good accessibility for those local residents or workers not using private vehicles to attend the premises.

Notwithstanding, it is considered that the majority of people will travel by private vehicle to the premises within the Penrith SupaCenta complex. The parking demands likely to be generated by the proposed neighbourhood shop as well as the existing Chemist Warehouse distribution and pharmacy dispensary operations within the premises will be comfortably accommodated by the 736 existing car spaces including 17 disabled spaces available within the car parking areas at the Penrith SupaCenta complex. As noted, the bulky goods retailing precinct within which the premises is located has well in excess of 1000 car spaces. The proposal does not involve any change in the gross floor area of the premises which will remain at approximately 613m<sup>2</sup>. The site is serviced by major arterial and local roads and the external and internal road system is more than adequate to accommodate the limited traffic demands generated by the proposal.

Service truck deliveries to the premises will be relatively low being approximately 3-5 truck deliveries on average per day and will be adequately catered for by the existing loading dock at the northern rear end of the premises.

Appropriate safety and security arrangements are proposed as outlined in the Retailer Reference Manual (**see Appendix D**). In addition, customers will only have access to the proposed neighbourhood shop area within the premises. There will be a physical barrier with staff access only to the existing Chemist Warehouse distribution area and pharmacy dispensary area within the rear section of the premises, which will continue to operate lawfully under the existing Consent.

It is considered that the proposal will have no adverse impacts on the built environment particularly in terms of amenity impacts on surrounding residential neighbourhoods in the local area. The proposal is compatible with the immediately surrounding and adjacent land uses being predominantly a bulky good retailing precinct and with other commercial and industrial buildings in the vicinity of the site. The proposal will provide a valuable and convenient community support facility to meet the day-to-day needs of people who live and work in the local area.

#### **4.2.3 Social & Economic Impacts**

The DA for the proposed fitout of the premises for the purpose of a neighbourhood shop, together with the existing Chemist Warehouse distribution area and pharmacy dispensary area which will continue to operate lawfully under the existing Consent, will provide local employment opportunities for up to 17 staff. The construction phase for the proposal will also provide short term opportunities for local employment.

The proposal will have positive social and economic impacts by providing a neighbourhood shop selling general merchandise such as food stuffs, personal care products, newspapers and the like to meet the day-to-day needs of people who live or work in the local area as well as offering an important health care service to the local community with the Chemist Warehouse distribution and pharmacy dispensary operations at the premises.

#### **4.3 Section 79C (1) (c) – Suitability of the Site for the Development**

The type and scale of the proposal is considered to be suitable for the site and will fit well with the existing industrial and bulky goods retailing precinct. The premises being within the existing main building of the Penrith SupaCenta Complex is well separated from any

sensitive residential and other land uses, although it is still conveniently located to meet the day-to-day needs of those who live and work in the local area.

The proposed neighbourhood shop is not located in close proximity to other similar premises and, along with the existing pharmacy dispensary component of the Chemist Warehouse premises, it will be frequented by residents and workers in the local area. Accordingly, the site is considered to be suitable for the proposed development.

#### **4.4 Section 79C (1) (d) – Submissions**

It is a matter for Council to determine whether the DA for the proposal requires public notification.

#### **4.5 Section 79C (1) (e) – Public Interest**

The proposal is consistent with the objectives and relevant planning controls of Penrith LEP 2010 and provisions of the Penrith DCP 2010. The proposal will not have adverse impacts on the natural or built environment in the locality.

The proposal will have positive social and economic impacts in the locality, providing a convenient neighbourhood shop to residents and workers in the local area. For the above reasons, it is considered that the proposal is in the public interest.

### **5 Conclusion**

This SEE report has demonstrated that the DA for proposed minor building alterations involving the fitout of the front portion of the premises for use as a neighbourhood shop and proposed signs is a permissible development with the consent of Council, within the IN2 Light Industrial zone under Penrith LEP 2010.

The proposal satisfies the definition of a “neighbourhood shop” and it is proposed to have a retail floor area not exceeding 200m<sup>2</sup> as required under Clause 5.4(7) of Penrith LEP 2010.

The use of the rear portion of the premises by Chemist Warehouse as a distribution area and limited retail pharmacy dispensary area will continue to operate lawfully pursuant to the current Consent.

The DA for proposed building alterations involving the fitout of the front portion of the Chemist Warehouse premises as a neighbourhood shop, when considered together with the current use of the rear portion of the premises, will satisfy the stated objectives of the IN2 Light Industrial zone under Penrith LEP 2010 in that the proposal will:

- Provide a range of warehouse and related land uses consisting of a Chemist Warehouse and distribution operation, retail pharmacy dispensary and a neighbourhood shop.
- Encourage employment opportunities and support the viability of Centres including the Penrith SupaCenta.
- Minimise any adverse effect of industry or other land uses.
- Enable other land uses that provide facilities or services to meet the day-to-day needs of workers in the area, particularly with the proposed neighbourhood shop, and retail pharmacy dispensary.
- Support and protect industrial land for industrial uses as the proposed neighbourhood shop will be wholly contained within the floor area of the existing premises.
- Promote development that makes efficient use of industrial land.

The proposal satisfies the relevant planning controls under the Penrith LEP 2010 and Penrith DCP 2010.

All of the proposed business identification signs as shown on the DA plans at **Appendix C** are exempt development under Schedule 2 of the Penrith LEP 2010 with the exception of the proposed window print sign which is defined as an advertising sign and, accordingly, requires the development consent of Council.

The proposed window print sign complies with the general requirements of signs under Chapter C9 Advertising and Signage provisions of Penrith DCP 2010.

The proposal will not have any significant adverse impacts on the natural and built environment of the locality and the proposal will have satisfactory provision of off street car parking, loading dock facilities, as well as vehicle and pedestrian access (including disabled access and parking) within the existing Council approved Penrith SupaCenta complex.

The proposal is considered to be a suitable form of development for this site being within the Penrith SupaCenta complex. The proposal will provide residents and workers in the local area with a convenient neighbourhood shop to purchase general merchandise such as foodstuffs, drinks, personal care products, papers and magazines, and the like as well as offering community health services with the existing Chemist Warehouse distribution area, pharmacy dispensary area at the premises operating lawfully under the existing Consent.

Overall, the proposal is considered to have no significant adverse impact and accordingly, DFP Planning is of the opinion that the DA should be granted development consent by Council.