

# PENRITH CITY COUNCIL

## NOTICE OF DETERMINATION

### DESCRIPTION OF DEVELOPMENT

Application number:	DA15/0108
Description of development:	Circus (Temporary Event)
Classification of development:	Class 9b

### DETAILS OF THE LAND TO BE DEVELOPED

Legal description:	Lot 2 DP 851152
Property address:	2 The Kingsway, ST MARYS NSW 2760

### DETAILS OF THE APPLICANT

Name & Address:	Webers Circus 84 Frank Street MT DRUITT NSW 2770
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### DECISION OF CONSENT AUTHORITY

In accordance with Section 81(1) (a) of the Environmental Planning and Assessment Act 1979, consent is granted subject to the conditions listed in attachment 1.

Please note that this consent will lapse on the expiry date unless the development has commenced in that time.

Date from which consent operates	13 April 2015
Date the consent expires	13 April 2017
Date of this decision	7 April 2015

### POINT OF CONTACT

If you have any questions regarding this determination you should contact:

Assessing Officer:	Lauren Van Etten
Contact telephone number:	(02) 4732 8222

## NOTES

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### **Reasons**

The conditions in the attached schedule have been imposed in accordance with Section 80A of the Environmental Planning and Assessment Act 1979 as amended.

### **Conditions**

Your attention is drawn to the attached conditions of consent in attachment 1.

### **Certification and advisory notes**

You should also check if this type of development requires a construction certificate in addition to this development consent

It is recommended that you read any Advisory Note enclosed with this notice of determination.

### **Review of determination**

The applicant may request Council to review its determination pursuant to Section 82A of the Environmental Planning and Assessment Act 1979 within 6 months of receiving this Notice of Determination.

You cannot make this request if the development is Designated Development, Integrated Development or State Significant development or if the application was decided by a Joint Regional Planning Panel.

### **Appeals in the Land and Environment Court**

The applicant can appeal against this decision in the Land and Environment Court within six (6) months of receiving this Notice of Determination.

You cannot appeal if a Commission of Inquiry was held for the subject development application, or if the development is a State Significant Development.

An appeal to the Land and Environment Court is made by lodging an application to the Court in accordance with the Rules of the Court.

### **Designated development**

If the application was for designated development and a written objection was made in respect to the application, the objector can appeal against this decision to the Land and Environment Court within 28 days after the date of this notice. The objector cannot appeal if a Commission of Inquiry was held.

If the applicant appeals against this decision, objector(s) will be given a notice of the appeal and the objector(s) can apply to the Land and Environment Court within 28 days after the date of this appeal notice to attend the appeal and make submissions at that appeal.

### **Joint Regional Planning Panels**

If the application was decided by a Joint Regional Planning Panel, please refer to Section 23H of the Environmental Planning and Assessment Act, 1979 (as amended) for any further regulations.

# ATTACHMENT 1: CONDITIONS OF CONSENT

## General

- 1 The development must be implemented substantially in accordance with the plans below and stamped approved by Council, except as may be amended in red on the attached plans and by the following conditions:

Document/Plan	Date
Information Manual (Webers Circus) Including Annexures 1 - 8	-
Site Plan	1/4/15

- 2 **The circus shall not commence its operation to the public until an Occupation Certificate has been issued.**
- 3 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 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 sign is to be displayed in a prominent position in the tent that specifies the following:
- i. The maximum number of persons as specified in the development consent, that are permitted in the tent as a place of public entertainment;
  - ii. 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
- 6 The circus is to abide by the National Consultative Committee for Animal Welfare (NCCAW) Position Statement No. 26 "Recommended National Circus Standards".
- 7 Dust suppression and minimisation strategies must be employed to manage potential dust nuisance within the sites. This is to apply to parking areas, access roads and with the event site.
- 8 The circus is to operate in accordance with the "Information Manual" submitted in support of the Development Application.  
Notwithstanding this, the circus is only permitted to operate between 26 December 2015 until 17 January 2016 without further consent from Council. The site is to be vacated on 18 January 2015.
- 9 This consent permits a maximum of 594 patrons on the site at any give time; this includes patrons within the tent structure.

- 10 The premises shall comply with the requirements of WorkCover Authority of NSW, with documentation to indicate compliance being submitted to Council prior to commencement of the circus.
- 11 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.
- 12 The following requirements are to be complied with:-
- The area to the west of the pathway shown on the plans is not to be used for any purpose including car parking, storage of equipment or stabling.
  - All ground surfaces must be left clean and free from defects following the event.
- 13 All electrical services shall comply with Clause NSW H102.14 of the National Construction Code 2014. Certification is to be submitted to Council prior to the issue of an Occupation Certificate.
- 14 Prior to the circus being occupied, the temporary tent structure is to be inspected by Council . Fees for this inspection are to be paid, as detailed in Council Fees and Charges, prior to the inspection being carried out.
- 15 The following CPTED 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.

## **Environmental Matters**

- 16 The construction and operation of the premises shall comply with the NSW Smoke-free Environment Act 2000 and Smoke-free Environment Regulation 2000.
- 17 Use of any private water supply shall be in accordance with the *Local Government Act 1993*, *Public Health Act 2010*, *Public Health Regulation 2012*, *Food Act 2003* (where applicable) and the NSW Health *Private Water Supply Guidelines*. A copy of these guidelines is available for download from the NSW Health website [www.health.nsw.gov.au](http://www.health.nsw.gov.au).
- 18 Access and parking areas are to be managed to reduce any potential nuisances to surrounding properties. Soil, dirt or other material from these areas is not to be deposited on the road.
- 19 No noise generating activities are to occur on the site between 10:00pm and 9:00am.
- 20 All rubbish material is to be collected and stored in enclosed (lidded) bins and is to be disposed of to a licensed waste management facility. Waste bins are to be located in a secure position that is not at risk of vandalism.
- 21 No rubbish material is to enter the stormwater system or neighbouring properties.
- 22 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 car park
- 23 All wastewater from mobile homes (including toilet, kitchen, laundry and shower water) is to be collected in a sanitary manner that does not create a nuisance or pollution event. All wastewater generated on site is to be removed from the site and disposed of at an authorised waste facility. No contaminated water is to enter the stormwater system or be discharged into any watercourse or onto land.
- 24 The portable toilets are to be cleaned and serviced regularly. All wastewater generated from the toilets is to be disposed of to an authorised waste facility. No contaminated water is to enter the stormwater system or be discharged into any watercourse or onto land.

## **BCA Issues**

- 25 Access for a person with a disability shall be provided to the tent in accordance with AS1428.1.
- 26 Temporary sanitary facilities are to be provided for the use by patrons and employees whilst the temporary tent structure is on site. The temporary sanitary facilities are to be provided in accordance with the national Construction Code 2014, table F2.3 - class 9(b) - public halls, function rooms or the like. In addition a temporary toilet to accommodate a person with a disability complying with AS1428, shall also be provided for patrons.
- 27 Certification of essential fire or other safety measures including Portable Fire Extinguisher, Emergency Lighting, Illuminated Exit Signs, and Fire Blankets shall be submitted to Penrith City Council prior to the issue of the Occupation Certificate.
- 28 The seating in the tent shall comply with Clause NSW H102.10 of the National Construction Code.
- 29 The temporary tent structure and seating platforms, when erected, are to fully comply with Part B1 of the National Construction Code 2014. Structural Engineer's Certification is to be submitted to Council, certifying the structural adequacy of the tent and seating platforms, prior to the structure being operated and opened to the public.

## **Health Matters and OSSM installations**

- 30 All construction and operation of the temporary food outlet 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 hours prior to operating.

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.

- 31 Appliances used to store potentially hazardous food must have a capacity to keep foods hotter than 60°C, refrigerated foods less than 5°C, and frozen foods less than 18°C and be provided with a digital thermometer, accurate to 1°C that can be easily observed from outside the appliance.

## **Construction**

- 32 Provide certification that the tent fabric has a flammability index not less than 6. Certification shall be provided to Council prior to the issue of an Occupation Certificate.
- 33 The risk management plan submitted with the development application shall be implemented and complied with at all times that the circus is operating.

## Engineering

- 34 Appropriate signage is to be displayed to reinforce designated vehicle circulation and parking arrangements.
- 35 Temporary parking spaces for people with accessibility issues are to be made available.
- 36 Attendants are to supervise the use of the parking areas and the surrounding grounds to ensure orderly behaviour of customers and to ensure that customers do not park on the nature strips of the surrounding roads.
- 37 The applicant is to discuss parking arrangements with surrounding businesses.

## Payment of Fees

- 38 Prior to the commencement of any works on site, all fees associated with Penrith City Council-owned land and infrastructure shall be paid to Council. These fees include Road Opening fees and Infrastructure Restoration fees.
- 39 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 website to obtain the form and request for final inspection.

- 40 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.
- 41 The site shall be rehabilitated at the cessation of occupancy to the satisfaction of Council.
- 42 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 inspection are to be paid, as detailed in Council's Fees and Charges, prior to the inspection being carried out. Please contact Penrith City Council's Development Services and Environmental Health Department to arrange the inspection (02) 4732 7991.

- 43 Prior to the issue of an Occupation Certificate, a Dilapidation Report is to be prepared and submitted to Penrith City Council. The report shall include relevant documents and photographs of Council's infrastructure on site (footpaths etc). All damage to Council's infrastructure shall be repaired by the applicant at the

applicant's cost.

44 An inspection by Councils Public Health Department will be required prior to operation of the event.

Please contact Councils Environmental Health Department on (02) 4732 7911 or (02) 4732 7991 to arrange the food inspection.

## Certification

- 45 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.

- 46 An Occupation Certificate is to be obtained from the Principal Certifying Authority prior to the commencement of the circus.

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.

## SIGNATURE

Name:	Gavin Cherry Principal Planner
Signature:	

For the Development Services Manager