

**Statement of Environmental Effects
Food and Drink Premises
44-50 Tench Avenue, Jamisontown
Lot 7 DP 38950
December 2019**



Telephone: (02) 6583 6722

Email: admin@hopcon.com.au

Suite 1, 109 William St

PO BOX 1556, Port Macquarie NSW 2444

Hopkins Consultants Pty Ltd

ABN 27 055 060 878

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1 Introduction

Hopkins Consultants have been engaged by the proprietors of the site to prepare a Development Application (DA) for use of the site for a food and drink premises. In addition to conversion of the existing dwelling to a restaurant it is proposed to construct several new structures as well as car parking and outdoor areas. The site will be home to vegetable gardens and farm animals.

This town planning justification report has been prepared to accompany the DA. This report contains a description of the subject site and the proposed development. It addresses the relevant requirements of the Environmental Planning and Assessment Act 1979 (the Act), provisions of all applicable environmental planning instruments and development control plans. The report also considers the likely impacts of the development on the environment, as well as the suitability of the site.

The site is considered to be acceptable for the proposed use.

2 Description of Site and Surrounds

2.1 Site Description

The subject site (the site) is known as 44-50 Tench Avenue, Jamisontown and is legally described as Lot 7 DP 38950 (See **Figure 1** below). The site has an area of approximately 2.32ha and is rectangular in shape with a width of 91m and a depth of 256m. The site is currently occupied by a residential dwelling and sheds as well as an untended orchard.



Figure 1: Site Plan
Source: NSW Six Maps 2019

2.2 Site Context

The site is located to the southwest of Penrith CBD. Immediately to the north, south and east of the site are residential dwellings on large lots. To the west of the site on the opposite side of Tench Avenue is Tench Reserve and the Nepean River. Further south of the site on Tench Avenue is a commercial development comprising a number of food and drink premises. Further north is Nepean Shores Riverside Resort and Conference Centre. Also in the vicinity of the site is Cables Aqua Park, The 19th Golf Driving Range, Penrith Panthers Stadium and Rugby League Club and Penrith Paceway.

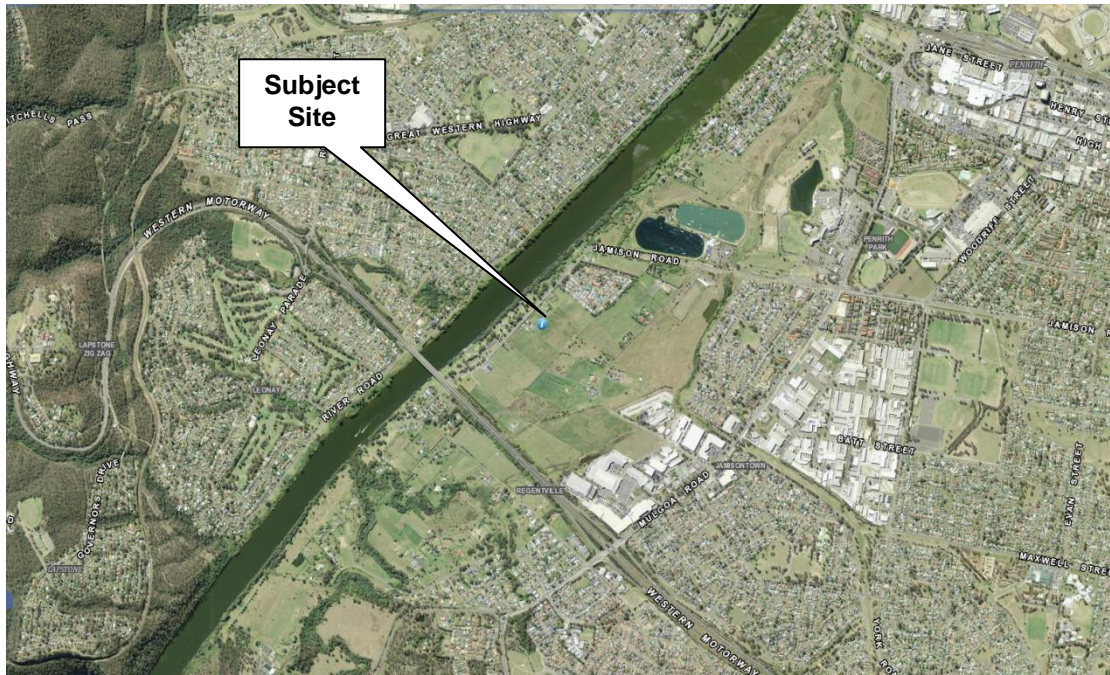


Figure 2: Site Context
Source: NSW Six Maps 2019

2.3 Site History

Council's DA tracking does not hold any applications in relation to the site.

3 Proposal

The details of the proposed development are:

3.1 Building Works

- Alterations and additions to the existing building to create cafe with indoor and outdoor dining areas, bakery, take away coffee and amenities.
- Outdoor dining pavilion, wood fired pizza hut and farmers co-op pavilion.
- Water tanks.
- Demolish tin sheds.
- Seating pods and playground.
- Livestock enclosures.
- Car parking at the rear of the site behind orchard and disabled car parking near Tench Avenue.
- OSD basin and channel on southern boundary.
- Loading dock in south west corner behind cafe.

The full scope of works is shown on the proposed plans held at **Appendix B**.

3.2 Signage

One business identification sign is proposed at the front entry which is composed of a large rock and rusted metal, in keeping with the desired character of the development.

The proposed sign is shown on the proposed plans held at **Appendix B**.

3.3 Landscaping

The site will be landscaped throughout including vegetable gardens and a decorative windmill.

3.4 Operational Details

The following operational details apply to the proposal:

- Cafe and restaurant opening hours from 7.00am with last orders at 9.00pm seven days including public holidays. All customers to leave the site by no later than 11.00pm. Staff may be present on site outside these times for cleaning and food preparation.
- Opening hours extended until 12.00 midnight on Friday and Saturday nights for pre-booked special events. Staff may be present on site outside these times for cleaning and food preparation.
- The premises will have a maximum of 20 staff at a time.
- A maximum of 400 patrons per day on weekends (150 for breakfast, 150 for lunch and 100 for dinner or events).
- Up to five deliveries per day for fresh produce, drinks, pre-packaged food and other items required for restaurant operation. Deliveries will be made in small vans.

- Waste collection at least two times per week with additional collections as required.

3.5 Special Events

Pre-booked special events are proposed on Friday and Saturday nights. It is proposed to operate until midnight on Friday and Saturday nights when events are booked. Likely events include weddings, birthdays and corporate events. A maximum of 100 people will be accommodated.

Special events will be generally conducted inside the restaurant building. Music is proposed inside but will be kept to a low level due to the nature of the venue and the nature of events proposed. All music will cease and guests will depart no later than midnight. Guests will be requested to leave the premises quietly.

Due to the nature of events proposed the venue will not require any security for late night opening. The proposed liquor licence will allow drinks to be served only with food and all relevant staff will have a current RSA.

A register of any incidents which occur will be kept by staff and available for inspection by any relevant government officers.

3.6 Animals

Animals are proposed to be kept on site. Up to 16 animals will be kept on site including 10 chickens, two cows, two goats and two llamas. The enclosures are over 30m from the dining pavilion and 60m from the nearest neighbouring receptor. The separation requirements meet those prescribed in the Local Government (General) Regulation 2005. The odour impacts have been assessed in the Air Quality Impact Assessment at **Appendix E**.

Animals will be fed, watered and manure cleaned up daily by staff. Manure can be reused on gardens on site or disposed of via waste contractor as required.

Animals will be kept in their pens with no access by customers permitted to pens. Interaction will be through the fence. Hand sanitising stations will be provided near pens for customer use.

A permanent on site caretaker for the animals is not proposed. Shelter will be provided from the weather for all animals. Chickens will be locked inside their house at night for safety.

4 Statutory Matters

4.1 Environmental Planning and Assessment Act 1979

Clause 4.15(1)(a) of the Act requires Council to take into account the provisions of any environmental planning instrument, any proposed environmental planning instrument, any development control plan, any planning agreement and the regulations. The relevant matters are considered throughout Section 4 of this report.

4.2 Rural Fires Act 1997

The site is identified as bushfire prone land (**Figure 3**). The proposal is not for subdivision or a special fire protection purpose and a bush fire safety authority under Section 100B of the Rural Fires Act is not required. The bushfire threat comes from the rear and side of the site. Surrounding sites are generally cleared and maintained, there is a car park proposed at the rear of the site which provides a clear defendable space some 50m wide and a perimeter road is located on the northern boundary. The vegetation on site will be maintained.

The site also has access to clear, safe evacuation routes. As the surrounding area changes in future and is developed in accordance with Council's intended character of the area the bushfire threat will be further reduced.



Figure 3: Bushfire Prone Land
Source: NSW Planning Portal

4.3 State Environmental Planning Policy No 55 – Remediation of Land

State Environmental Planning Policy No 55 – Remediation of Land (SEPP 55)
Clause 7 requires that:

“(1) A consent authority must not consent to the carrying out of any development on land unless:

- (a) it has considered whether the land is contaminated, and*
- (b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
- (c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.”*

A Preliminary Site Inspection was prepared by SLR (**Appendix C**) which concludes that:

- *“The review of historical aerial photographs indicated the site was predominantly rural/tilled farmland from 1943 to 1970. Since then the site has had a variety of land uses including potential fish hatchery, storage of shipping containers and orchard/plantation;*
- *There exists the potential for residual contamination in sub-surface soil from storage of material/substances (including petroleum product and farm chemicals) across the site and machinery shed;*
- *There is the potential for some earthworks (cut and fill) being carried out in the past;*
- *Potential for contamination associated with the agricultural use farmland at the site; and*
- *Areas of potential influenced by deposition of imported materials was observed.*
- *The site is not considered suitable for use under its current land use zoning in the absence of further investigation and potential site remediation. The conclusions presented above must be read in conjunction with the report in its entirety and the limitations set out in Section 10.*

SLR would recommend a detailed site investigation (DSI) including soil and groundwater sampling to assess the extent (vertical and horizontal distribution) of contamination (if present), which may be required by Council as part of the DA. A DSI would generally include: (i) additional sampling to assess contaminant dispersion in soil and groundwater; (ii) assessment of the potential effects of contaminants on public health and the environment; (iii) off-site impacts on soil (where applicable); and (iv) assessing the adequacy and completeness of all information available of the site to be used in making decisions on remediation.”

A DSI can be prepared if required by Council prior to issue of CC.

4.4 State Environmental Planning Policy No 64 – Advertising and Signage

Business identification signage is proposed as described in Section 3 of this report. The State Environmental Planning Policy No 64 – Advertising and Signage (SEPP 64) therefore applies. Clause 13(1) states that a consent authority must not grant consent unless the advertisement:

(a) is consistent with the objectives of this Policy as set out in clause 3 (1) (a)

The relevant objectives of SEPP 64 as set out in Clause 3(1)(a) are as follows:

- “(a) to ensure that signage (including advertising):*
- (i) is compatible with the desired amenity and visual character of an area, and*
 - (ii) provides effective communication in suitable locations, and*
 - (iii) is of high quality design and finish, and”*

The proposed signage is considered consistent with the objectives of the policy in that the signage is compatible with the desired character of the area as a tourist

precinct. The proposed signage is clear and concise and will actively guide and inform visitors to the site to the various services on offer. The signage is of a high quality finish and attractive design which has been specifically developed to integrate with the proposed development.

(b) has been assessed by the consent authority in accordance with the assessment criteria in Schedule 1 and the consent authority is satisfied that the proposal is acceptable in terms of its impacts

The assessment criteria and responses to the criteria of Schedule 1 are addressed in **Table 1**.

Table 1: SEPP 64 Schedule 1 Assessment Criteria

ASSESSMENT CRITERIA	COMMENT
Character of the Area	
<ul style="list-style-type: none"> Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located? Is the proposal consistent with a particular theme for outdoor advertising in the area or locality? 	The proposal is compatible with the desired character for the area as a tourist precinct.
Special Areas	
<ul style="list-style-type: none"> Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas? 	The proposal will not detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways or residential areas.
Views and Vistas	
<ul style="list-style-type: none"> Does the proposal obscure or compromise important views? Does the proposal dominate the skyline and reduce the quality of vistas? Does the proposal respect the viewing rights of other advertisers? 	The proposed signage does not dominate the skyline or reduce the quality of vistas, as it does not extend above or beyond the envelope of the approved building. The proposal will not interfere with the viewing rights of other advertisers.
Streetscape, setting or landscape	
<ul style="list-style-type: none"> Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape? Does the proposal contribute to the visual interest of the streetscape, setting or landscape? Does the proposal reduce clutter by rationalising and simplifying existing advertising? Does the proposal screen unsightliness? Does the proposal protrude above buildings, structures or tree canopies in the area or locality? Does the proposal require ongoing vegetation management? 	The proposed signage has been designed in scale and proportion with its associated site and surrounds. The signage has been professionally designed and contributes to the visual interest of the streetscape.

Site and building

- | | |
|--|---|
| <ul style="list-style-type: none"> • Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located? • Does the proposal respect important features of the site or building, or both? • Does the proposal show innovation and imagination in its relationship to the site or building, or both? | <p>The proposed signage is compatible with the scale of the site.</p> |
|--|---|

Associated devices and logos with advertisements

- | | |
|---|---|
| <ul style="list-style-type: none"> • Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed? | <p>The proposal does not incorporate associated devices or logos.</p> |
|---|---|

Illumination

- | | |
|---|--------------------------------------|
| <ul style="list-style-type: none"> • Would illumination result in unacceptable glare? • Would illumination affect safety for pedestrians, vehicles or aircraft? • Would illumination detract from the amenity of any residence or other form of accommodation? • Can the intensity of the illumination be adjusted, if necessary? • Is the illumination subject to a curfew? | <p>Illumination is not proposed.</p> |
|---|--------------------------------------|

Safety

- | | |
|--|---|
| <ul style="list-style-type: none"> • Would the proposal reduce the safety for any public road? • Would the proposal reduce the safety for pedestrians or bicyclists? • Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public | <p>The proposal will not reduce the safety for pedestrians, cyclists or other road users by obscuring sightlines from public areas, nor have any other such potential impact.</p> |
|--|---|

(c) satisfies any other relevant requirements of this Policy

All relevant requirements of this policy are satisfied by the proposal.

4.5 Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (No 2 1997) (Deemed SEPP)

The site is identified in the SREP as adjacent to a scenic corridor boundary and being in an area of regional significance (**Figure 4**). The aim of the SREP “*is to protect the environment of the Hawkesbury-Nepean River system by ensuring that the impacts of future land uses are considered in a regional context.*”

Clause 11(16) states that for land uses in riverine scenic areas of regional significance consent is required for the following:

- (a) subdivision,
- (b) clearing,
- (c) erection of a structure greater than 50 sq m in area or over 1 storey in height,
- (d) carrying out of works for the purpose of stabilising the riverbank.

The matters for consideration by the consent authority are:

- (a) The need to prevent large scale, high density or visually intrusive development on waterfront land or on slopes and ridgetops which are visible from the river or the surrounding visual catchment. (This requires consideration of the proposed form and siting of buildings, of the colours and building materials used, and of landscaping.)
- (b) Whether the materials used in stabilising the banks are consistent with the scenic character of the area as described in the Scenic Quality Study.
- (c) Whether the development will damage the banks of the river or creeks.
- (d) Whether the development is adequately set back from the river.
- (e) Whether it is necessary and appropriate to increase public recreational and visual access to the river.
- (f) The need for conditions of consent to protect the scenic character, such as conditions requiring tree planting.
- (g) Whether any proposed works will improve scenic quality by repairing degradation.

The proposal is not large scale or visually intrusive and is set back from the river by over 100m. There will be no impact on the banks of the river or otherwise. The provisions of the SREP are satisfied.

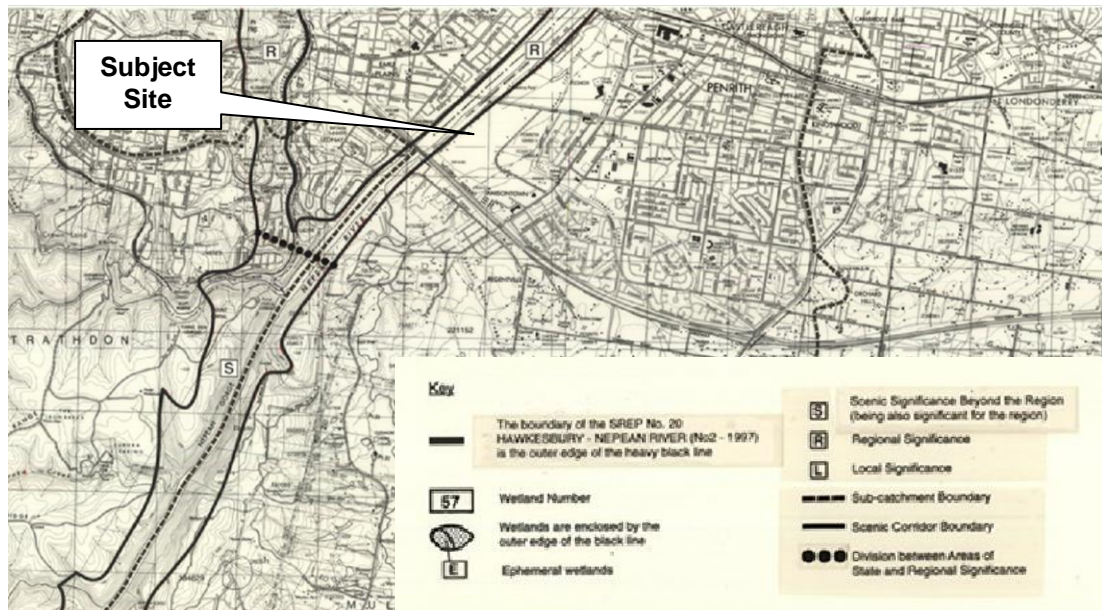


Figure 4: SREP Map
Source: SREP 20

4.6 Penrith Local Environmental Plan 2010

Zoning and Permissibility

Pursuant to LEP 2010, the subject land is zoned SP3 Tourist. An extract of the zoning map for the locality is illustrated in **Figure 5** below.

The objectives for the SP3 zone are:

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- “To provide for a variety of tourist-oriented development and related uses.
- To provide for diverse tourist and visitor accommodation and activities that are compatible with the promotion of tourism in Penrith.
- To create an appropriate scale that maintains important views to and from the Nepean River as well as to the Blue Mountains escarpment, while also improving important connections to the Penrith City Centre and the Nepean River.”

The proposed development is consistent with the objectives of the SP3 zone in that the proposed development is tourist oriented, providing a food and drink premises that is a stand-alone destination for tourists in the area. The proposed food and drink premise complements tourist accommodation in the vicinity and promotes tourism in Penrith. The scale of the buildings proposed is appropriate to the Nepean River and the Blue Mountains escarpment to the west.

The proposed land use is defined as “food and drink premises” in LEP 2010 which is permissible in the SP3 Zone with development consent. The ancillary use as a “function centre” is also permissible in the zone.

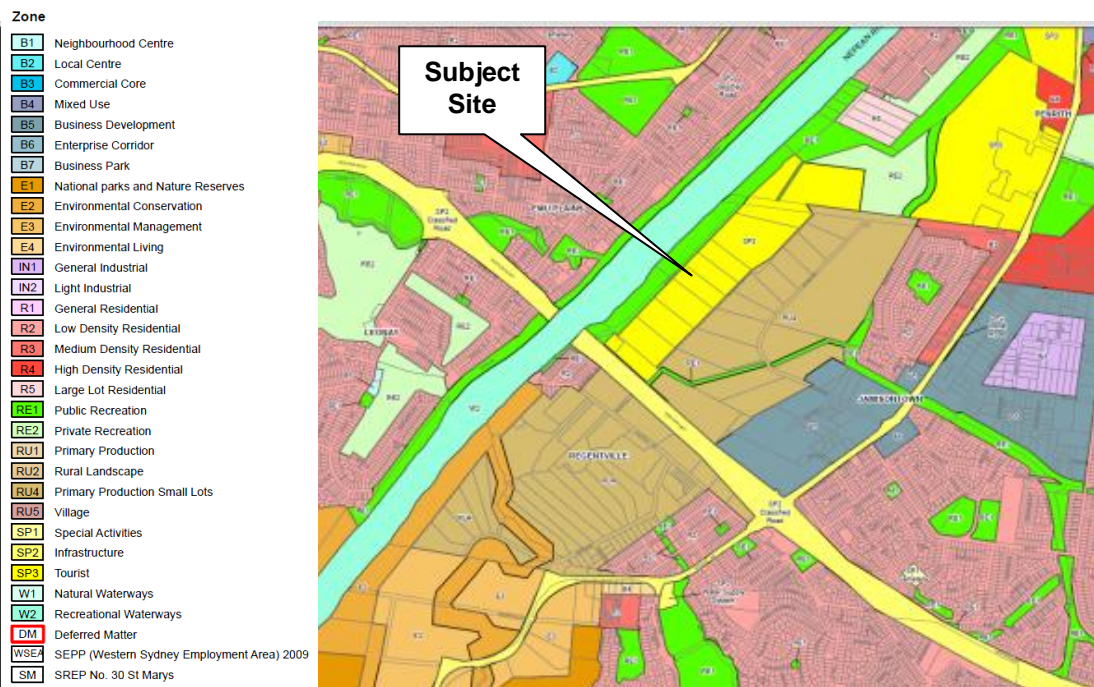


Figure 5: Zoning Map
Source: LEP 2010

Height of Buildings

The maximum building height standard for the site pursuant to Clause 4.3 of LEP 2010 is 8.5m as shown in **Figure 6**. Structures on site are single storey and comply.



Figure 6: Height of Buildings Map
Source: LEP 2010

Floor Space Ratio

The site is not subject to a maximum floor space ratio (FSR) pursuant to LEP 2010.

Heritage Conservation

The site is not identified as a heritage item in LEP 2010. 100m west of the site the Nepean River is identified as Local Heritage Item No. 148 “Rowing Course” (refer to **Figure 8**). The State Heritage Inventory contains information that this section of the Nepean River has been used as a rowing course since 1882. The site boundary is over 100m from the river edge and will not impact on the river or its curtilage. The proposal will complement the rowing course by providing a food and drink premises convenient for competitors and spectators. The proposal is acceptable in regard to Clause 5.10 of LEP 2010.

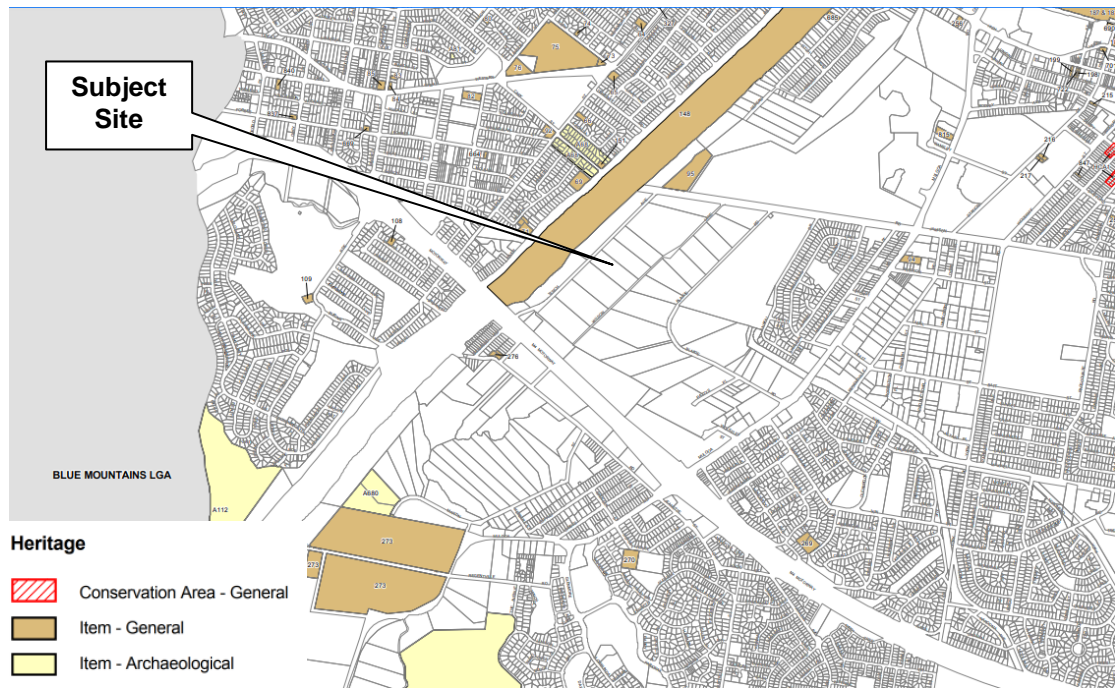


Figure 8: Heritage Map
Source: LEP 2010

Earthworks

Minor earthworks are proposed for footings and car parking. The proposal satisfies the provisions of Clause 7.1 of LEP 2010.

Flood Planning

The site is identified as being located in a flood planning area. A report has been prepared which is held at **Appendix D**.

Sustainable Development

Clause 7.4 of LEP 2010 requires Council to consider the principles of sustainable development as they relate to the proposal. The proposed works are minor and will not reduce the sustainability of the site. The fruit and vegetable production proposed on site will utilise water conservation and minimise waste and vehicle dependence by producing some of the food for the food and drink premises on site. The provisions of Clause 7.4 are satisfied.

Scenic Character

The site is identified on the Scenic and Land Values Map (**Figure 9**) under Clause 7.5 of LEP 2010. The development has been designed and located to minimise the visual impact of the development by limiting structures to single storey and retaining existing landscaping on the site. The proposal is considered to retain the scenic values of the surrounding area.

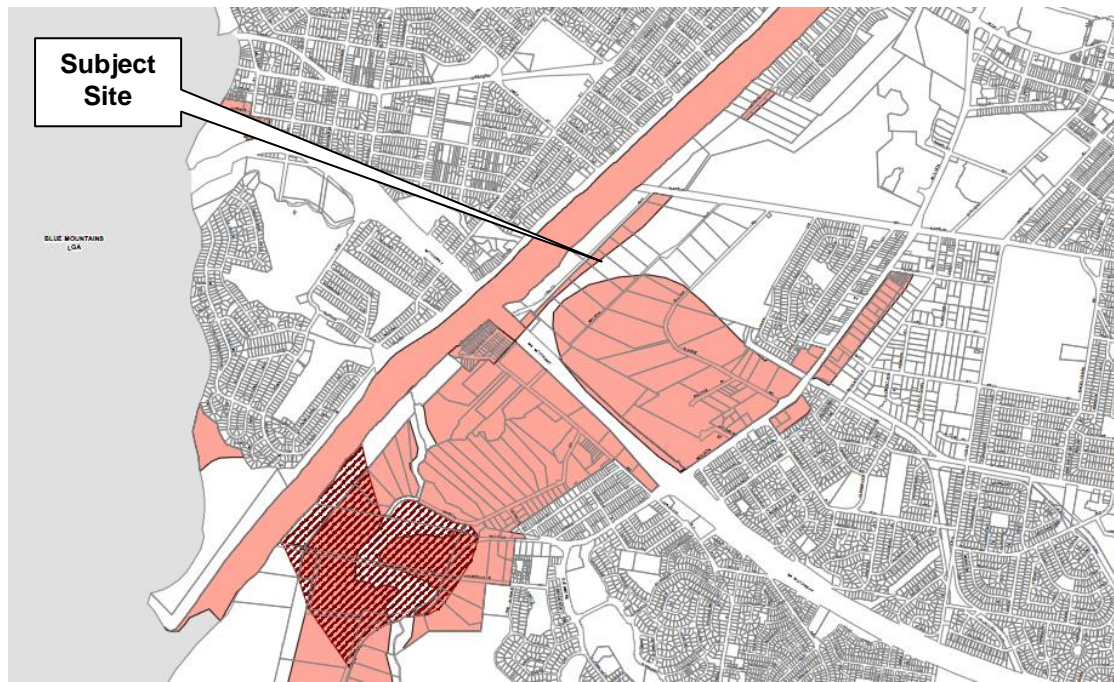


Figure 9: Scenic and Land Values Map
Source: LEP 2010

Servicing

The site has existing access to all essential services required by Clause 7.7 of LEP 2010.

4.7 Draft Environmental Planning Instruments

There are no draft environmental planning instruments relevant to the proposal.

4.8 Penrith DCP 2013

The applicable provisions of DCP 2013 are addressed below:

C6 Landscape Design

There is existing landscaping on the site which will be retained as part of the development. This is comprised of palm trees and orange trees. The landscaping is shown on the plans held at **Appendix B**.

C7 Culture and Heritage

The site is over 100m from the nearest heritage item, the Nepean River. The proposal will not impact on the setting of, or cause physical harm to, the curtilage of the heritage item. A heritage impact statement is not considered necessary in this instance.

C9 Advertising and Signage

The relevant signage controls are considered in **Table 2** below:

Table 2: Advertising and Signage

Control	Comment
1. General	
a) Signs are to be designed and located to: <ul style="list-style-type: none"> i) Relate to the use of the building; 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 property; v) Have only a minimal projection from the building; (vi) Be integrated and achieve a high degree of compatibility with the architectural design of the supporting building having regard to its composition, fenestration, materials, finishes and colours, and ensure that architectural features of the building are not obscured; (vii) Have regard to the view of the sign and any supporting structure, cabling and conduit from all angles, including visibility from the street level and nearby higher buildings and against the skyline; and (viii) Be sympathetic to the existing character of the area and the particular architectural/urban design utilised in any improvements scheme. 	<p>Complies</p> <p>The proposed signage relates directly to the use of the building for a food and drink premises.</p> <p>Signage is visually interesting and constructed of high quality and durable materials.</p> <p>Signage is wholly contained within the property.</p> <p>There is no signage projecting from the building.</p> <p>The signage is not directly attached to the building but has been designed to consider the architecture of the building.</p> <p>The supporting structure is integrated with the signage design. Cabling is not required.</p> <p>The proposed signage is sympathetic to the existing use of adjoining properties for residential and also the future character of the area as a tourist destination.</p>
b) Signs that contain additional advertising promoting products or services not related to the approved use of the premises or site (such as the logos or brands of products; e.g. soft drinks, brewers, photographic film, etc) are not permitted.	<p>Complies</p> <p>The proposed signs advertise the business on site only and not any third parties.</p>
c) Signs painted or applied on the roof are prohibited;	<p>Complies</p> <p>A roof sign is not proposed.</p>
d) Corporate colours, logos and other graphics are encouraged to achieve a very high degree of compatibility with the architecture, materials, finishes and colours of the building and the streetscape.	<p>Not Applicable</p> <p>Corporate colours and logos are not proposed.</p>
e) Flat standing signs are only permissible where the main building is set back 3 metres or more from the street alignment.	<p>Complies</p> <p>The main building on the site is set back 8 metres from the front boundary and 13m from the street alignment.</p>
f) In considering applications for new signs, Council must have regard to the number of existing signs on the site and in its vicinity; whether that signage is consistent with the provisions of this section; and whether the cumulative impact gives rise	<p>Complies</p> <p>There are no signs existing on the site. There are no signs on other sites in the immediate vicinity as the area is existing residential in transition to tourist.</p>

to visual clutter.	The nearest signs are at Nepean Shores 260m north and the commercial development 260m south.
g) Signs must not involve damage, removal or pruning to trees or other vegetation and must not result in pruning or removal for visibility purposes.	Complies No vegetation will be removed as a result of the proposed signs.
h) The dominant design of any sign must relate to business identification rather than product advertising.	Complies The signs are business identification signs and do not contain product advertising.
2. Signs and Road Safety	
a) Signs are regarded as prejudicial to the safety of the travelling public and are therefore prohibited if they: i) Obscure or interfere with road traffic signs and signals or with the view of oncoming vehicles or pedestrians; ii) Obscure or interfere with the view of a road hazard or an obstruction which should be visible to drivers or other road users; iii) Give instructions to traffic by use of the word 'stop' or other directions, which could be confused with traffic signs; iv) Include variable messages or intensity of lighting sufficient to impair drivers' vision or distract drivers' attention; or v) Are located in places where drivers' require greater concentration, such as at major intersections or merging and diverging lanes.	Complies The proposed signage will not interfere with road safety. The site is not located near a major intersection or other area where high concentration is required.
3. Inappropriate Signs	
a) Council will not support an application for an advertisement of a form, type or size described below (see Figure C9.1 for example illustrations): i) Roof signs; ii) Sky signs controlled from the land; iii) Signs painted on or applied on the roof; iv) Flashing signs; v) Signs made of canvas, calico or the like (other than a temporary sign); vi) Signs displayed on an awning blind or external window blind; vii) Hoardings; viii) Billboards; ix) Bulletin boards; x) Signs in the nature of posters attached directly onto walls, roof surfaces or any street furniture;	Complies None of the listed sign types are proposed.

<ul style="list-style-type: none"> xi) Signs mounted on parked or stationary motor vehicles, trailers (both registered and unregistered) where the principal purpose of the vehicle or trailer is not for the transportation of goods or people but is parked in a location and position as an advertising medium; xii) A-frame or sandwich board signs (except where specific controls have been prepared and adopted by Council); xiii) Pole or pylon signs, except for industrial, business park, service station or shopping centre uses which are permitted one pole or pylon signs with the maximum height not in excess of 7.0m; xiv) Signs that are located on land which advertises businesses that are not being conducted on that land; xv) Vertical or horizontal projecting signs; xvi) Fin signs; and xvii) Above awning signs. 	
4. Desirable Signage Design	
<ul style="list-style-type: none"> a) The following signs are permitted by Council (see Figure C9.2 for example illustrations): <ul style="list-style-type: none"> i) Fascia signs; ii) Under awning signs; iii) Flush wall signs; iv) Top hamper signs; v) Painted window signs; and vi) Advertising panel signs. 	<p>Acceptable on Merit</p> <p>The proposed sign is a unique type which is also a landscape feature. The development does not lend itself to traditional signage forms. The proposed rock with steel lettering is considered an acceptable form given the context of the site and the proposed development.</p>
9.2 Signs in the Vicinity of Heritage Items	
<p>1) Applicants intending to erect a sign should consult Penrith LEP 2010 (Schedule 5 Environmental Heritage) to determine whether or not the property is an heritage item, or in a heritage conservation area, or in the vicinity of a heritage item ('In the vicinity' is defined in Appendix F1 – Definitions of this Plan). If the proposed signage is on or in the vicinity of a heritage item, or in a heritage conservation area, the impact must be addressed in the application. In some cases, Council may require a Heritage Impact Statement.</p>	<p>Complies</p> <p>The site is not listed as a heritage item in LEP 2010. The site is in the vicinity of a heritage item, the Nepean River Rowing Course opposite the site.</p> <p>The proposed signage is high quality and of a design which is respectful to the adjacent heritage item.</p> <p>A Heritage Impact Statement is not warranted in this instance.</p>
<p>2) A sign, generally, should not be fixed to a heritage item unless the building had traditionally displayed an advertisement.</p>	<p>Not Applicable</p>
<p>3) Any sign shall be appropriately designed and located to ensure that the architectural details of the building and/or the heritage character of the site are not obscured or diminished.</p>	<p>Complies</p> <p>The character of the heritage item opposite the site will not be diminished by the proposed signage as the</p>

	separation is over 100m.
9.4 Commercial, Mixed Use and Industrial Zones	
1) Applicants intending to erect a sign (advertisement) should first consult the relevant environmental planning instrument applying to the subject property to determine whether or not an advertisement requires development consent.	Complies There is no provision in LEP 2010, SEPP 64 or State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 that would allow the proposed signage to be erected without development consent.
2) All advertising is to be - a) constructed of high quality, durable materials; b) considered in conjunction with design and construction of buildings; c) restricted to one sign identifying the name of the occupants and/or products manufactured or produced on the site; and d) contained wholly within the site.	Complies The proposed signage is constructed of high quality durable materials, designed to accord with the structures on site and restricted to one sign located wholly within the site.
3) Signs should generally be confined to the ground level of the building, awning or fascia, unless it can be demonstrated that the building is of a scale, architectural style and in a location that would be enhanced by signage at different elevations (see Figure C9.3 below).	Complies All signs are at ground floor level.
4) The sign is to be contained fully within the confines of the wall or awning to which it is mounted.	Not Applicable
5) In the case of multiple occupancy of a building or site: a) Each development should have a single directory board listing each occupant of the building or site (see Figure C9.4 below). Multiple freestanding signs will not be supported; b) Only one sign is to be placed on the face of each premises either located on or over the door of the shop, unit, office, suite, etc.; c) One under awning sign shall be permitted for each shop, unit, office, suite, etc. (see Figure C9.5). In the case where the shop, office, suite etc. has more than one street frontage, one under awning sign may be permitted to each street frontage; d) The minimum distance between under awning signs shall be 3m (see Figure C9.6); and e) Where possible, multiple tenancies	Not Applicable

in the same building should use consistent sign size, location and design to avoid visual clutter and promote business identification.	
6) Projecting wall signs, generally, will not be supported unless it can be demonstrated to be of an architectural style which is particularly suited to that building in relation to its design.	Not Applicable
7) Illuminated signs are not to detract from the architecture of the supporting building during daylight.	Not Applicable
8) Illumination (including cabling) of signs is to be: a) Concealed; or b) Integral with the sign; or c) Provided by means of carefully designed and located remote or spot lighting.	Not Applicable
9) The ability to adjust the light intensity of illuminated signs is to be installed where Council considers it necessary.	Not Applicable
10) A curfew may be imposed on the operation of illuminated signs where continuous illumination may impact adversely on the amenity of residential buildings, serviced apartments or other tourist and visitor accommodation, or have other adverse environmental effects.	Not Applicable
11) Up-lighting of signs is prohibited. Any external lighting of signs is to be downward pointing and focused directly on the sign and is to prevent or minimise the escape of light beyond the sign.	Complies No up-lighting is proposed.

C10 Transport, Access and Parking

The proposal includes bicycle parking for staff and customers and change and shower facilities for staff. Planning Guidelines for Walking and Cycling 2004 specifies a bicycle parking rate for 3-5% of staff and customers. There is only one bicycle parking space required for staff and 7.5 spaces for customers and 20 are proposed.

All loading can be completed on site. Deliveries are made by vans and small trucks with no heavy vehicles anticipated.

The relevant parking requirements for “restaurants, reception and function centres” in Table C10.2 of DCP 2014 is 1 space per 6m² of seating area, plus 1 space per employee. There is a total of 335m² of seating area and a maximum of 20 employees at one time. The parking requirement is therefore 76. The proposed car parking provides 109 spaces and exceeds the requirement.

All car space dimensions will comply with AS2890. A path is proposed for pedestrians to travel to the front of the site separate from the driveway. The car parking area will be constructed of hard wearing all weather material.

The car parking area is visually separated from Tench Avenue and the buildings on site by existing and proposed landscaping.

All vehicles can enter and leave the site in a forward direction.

C12 Noise and Vibration

The proposed use will generate noise as a result of mechanical exhaust and traffic noise and noise from guests, including special events on Friday and Saturday nights. The site is located directly adjacent to a residential dwelling which exists in the SP3 Tourist zone under existing use rights. There is an existing fence and landscaping on the subject site and a row of sheds on the adjoining property. Vehicle movements and other noises will generate minimal noise in the early morning. Use will be generally quiet from 9pm weeknights and midnight on weekends.

The proposed development is considered appropriate in regard to noise given the desired future character of the area and a Noise Impact Statement is not considered necessary.

D5 Other Land Uses

Parent Friendly Amenities

The proposed WC facilities include a baby change table in the disabled WC.

E13 Riverlink Precinct

The site is identified as being located in the Riverlink Precinct (**Figure 10**). The relevant controls are considered in **Table 3**.

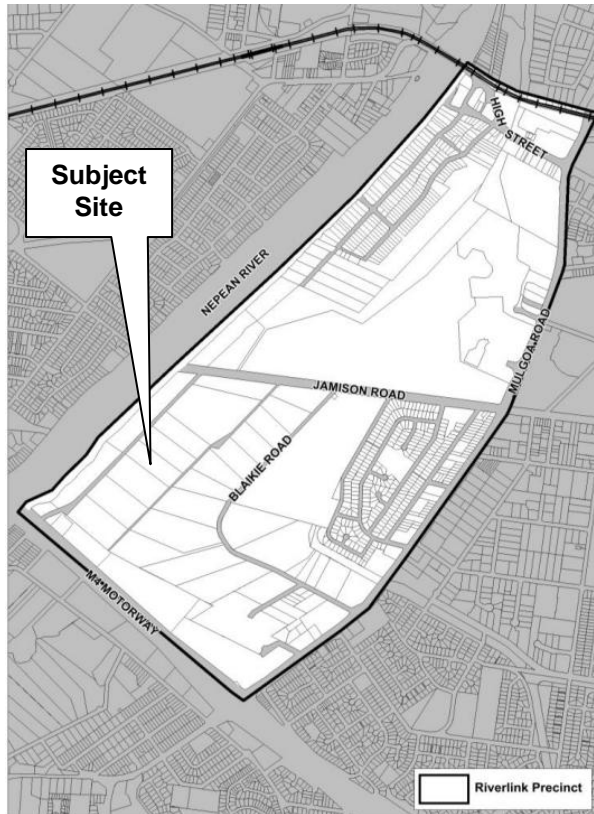


Figure 10: Riverlink Precinct Map
Source: DCP 2014

Table 3: Riverlink Precinct

Control	Comment
13.1.1 Landscape Structure	
<p>1) General</p> <p>a) A long-term landscape concept plan must be provided for all landscaped areas including the deep soil landscape zone in accordance with the Landscape Design section of this DCP.</p> <p>b) Remnant vegetation and riparian areas in the precinct are to be protected and enhanced where possible.</p> <p>c) Any significant stands of mature trees are to be assessed and where the health and vigour of the stand is demonstrated, are to be retained.</p> <p>d) Landscaping is to be integrated in the front setback of the development to provide an attractive outlook within buildings, an attractive edge to the footpath, and to screen and breakdown the apparent scale of large areas of façade, bulk of building mass and urban form.</p> <p>e) Where the setback area is a deep soil zone, clear-trunk canopy trees shall be planted.</p> <p>f) Where an established planting character exists, this is to be continued into adjacent</p>	<p>Complies</p> <p>The site will retain the existing orange orchard and palm trees in addition to new planting proposed. Landscaping is shown on the plans held at Appendix B.</p> <p>The site does not have any existing remnant vegetation or riparian areas.</p> <p>The significant mature palm trees and orange orchard will be retained.</p> <p>There is existing and proposed landscaping in the front setback of the development to promote the desired image of the site as a farm style development.</p> <p>There is no established planting character on the western side of Tench Avenue that needs to be replicated on the site.</p> <p>The majority of plants chosen to be planted are food plants and herbs which will be used in the restaurant on site. Water tanks are</p>

<p>new development sites.</p> <p>g) Native or indigenous plants that have lower water requirements are to be incorporated.</p> <p>h) Landscaping of balconies, walls or roofs (vertical gardens/pots) should be provided to help visually minimise building mass and help soften the building. These areas should be designed for optimum conditions for plant growth by:</p> <p>i. Providing soil depth, soil volume and soil area appropriate to the size of the plants to be established;</p> <p>ii. Providing appropriate soil conditions and irrigation methods</p> <p>iii. Providing appropriate drainage.</p> <p>iv. The mix of plants in a planter, for example, where trees are planted in association with shrubs, groundcovers and grass.</p> <p>v. Ensuring appropriate long term maintenance will be provided.</p>	<p>proposed for use for watering.</p>
<p>2) Street Design</p> <p>a) All streets are to provide verge planting in local streets and full width decorative paving in pedestrian areas with high activity.</p> <p>b) The street detailing, furniture, lighting and finishes are to be developed to respond to the specific character of the Precinct and are to complement the design palette in the draft Penrith Public Domain Technical Manual.</p>	<p>Acceptable on Merit</p> <p>There is no space on the verge for plantings and the area is not one of high pedestrian activity. The existing open nature of the fence and landscaping beyond is considered acceptable to satisfy the objectives. The existing footpath is considered adequate width for the proposal. There is a path on the western side of Tench Avenue also and a third path in the park.</p> <p>There are no public domain works proposed to which this control is relevant.</p>
<p>13.2.1 Permeability</p>	
<p>1) Through site links are to be provided as shown in Figure E13.2: Existing and Proposed Connections with accessible paths of travel that are:</p> <p>a) a minimum width of 4m for its full length and clear of all obstructions including columns, stairs, etc</p> <p>b) Direct and publicly accessible thoroughfares for pedestrians; and</p> <p>c) Open-air for its full length and have active frontages or a street address.</p>	<p>Not Applicable</p> <p>There is no through site link required on the site in accordance with Figure E13.2. There are existing paths in front of and opposite the site.</p> <p>Due to the public and open nature of the site through links may be possible in the future.</p>
<p>2) Ensure new streets and through site links extend and reinforce the existing street and block pattern as shown in Figure E13.2.</p>	<p>Not Applicable</p> <p>No new streets or through site links are proposed.</p>
<p>3) New through site links should be connected with existing and proposed through block lanes, shared zones, arcades and pedestrian ways and opposite other through site links</p>	<p>Not Applicable</p>
<p>4) The redevelopment of sites with an extra</p>	<p>Not applicable</p>

area of 5 hectares or more are to include new streets, lanes and/or site links to ensure permeability and encourage public access throughout the site.	The site has an area of 2.32ha.
5) Locate vehicular access and entries to parking on secondary streets or at the rear of buildings	Acceptable on Merit The site has only one street frontage and all vehicles will enter the site from Tench Avenue.
6) Existing publicly and privately owned links are to be retained.	Not Applicable
7) Signage is to be located at street entries indicating public access through the site as well as the street to which the link connects.	Not Applicable
13.2.2 Pedestrian and Cycle Network	
1) Paved surfaces are to be designed to delineate between different uses including pedestrian areas, car parking spaces and driveways.	Not Applicable
2) Signage is to be located at street entries indicating public access through the site as well as the street to which the link connects.	Not Applicable
13.3.1 Street Alignment and Setbacks	
1) Street setbacks are to be in accordance with those shown in Figure E13.3. Where an area is not identified in Figure E13.3 applicants should refer to other sections of this DCP for minimum setback requirements.	Complies The site is identified as requiring an 8-10m setback from Tench Avenue. The existing dwelling has a compliant setback of 8m and there is no proposal to build any structures within the front setback.
2) Provide slender buildings aligned to the street or pedestrian walkways where possible.	Not Applicable
3) Minor projections into front building lines and setbacks for sun shading devices, entry awnings and cornices are permissible.	Not Applicable
4) Buildings must demonstrate that views to the Blue Mountains escarpment are maintained through the provision of technically accurate perspectives to the satisfaction of Council officers.	Complies There will be no obstruction of views to the escarpment.
5) The following development is permitted and preferred within the 8-10m setback along Tench Avenue: a) Outdoor dining and awnings, including upper storey dining, where appropriate, to maximise views to the river; b) Landscaping, including shade trees; and c) Limited signage and parking.	Complies Landscaping, signage and access are proposed in the 8m setback to Tench Avenue.
13.3.2 Active Street Frontages	
1) Active ground level uses are to be located as shown in Figure E13.5.	Complies Tench Avenue is identified as requiring an

	active ground level usage in Figure E13.5. The site will provide an active usage at ground floor level and near to Tench Avenue.
2) Entries to active frontage tenancies are to be accessible and at the same level as the adjacent footpath.	Complies An accessible entry will be provided to the restaurant.
3) Vehicular access points should not be located at primary active frontages or adjacent to building entry points.	Does Not Comply. Acceptable on Merit The existing vehicle access point to the site is directly adjacent to the building. It is proposed to use this access for service vehicles. Customer access will utilise a new entry/exit adjacent to the northern boundary of the site. This is acceptable as there is no secondary frontage available for alternative access to the site.
4) Ground level uses at active frontage zones are to be located at or close to street level.	Complies The proposed uses are located at street level.
5) Transparency and openings to the street are to be maximised and blank walls, fire exits and building services elements are to be minimised.	Complies There are no blank walls, fire exits or building services located at the street frontage.
6) Locate primary pedestrian entries to buildings on the street frontage.	Complies The primary pedestrian entry to the restaurant is located on the street frontage.
7) Design setback areas to provide interest and maximise opportunities for casual surveillance.	Complies The setback area will be landscaped to provide visual interest and allow casual surveillance.
8) Design openings, including main entries, to the street to activate the street and to provide passive surveillance and overlooking of the public domain	Complies The main entry to the restaurant, as well as window openings, face Tench Avenue to activate the street and provide passive surveillance of Tench Avenue and Tench Reserve opposite.
9) Development on High Street may be built to the street frontage to encourage active uses including restaurants and cafes.	Not Applicable
13.4.2 Tourism and Recreation Precinct	
1) Facilitate access and areas for casual spectator vantage points for river based events	Not Applicable The site is 110m from the river and Tench Reserve is between the site and the river and is heavily vegetated. There is no opportunity for spectator vantage points on the site.
2) Facilities for water related uses should be provided at major points along the River such as pontoons, wharf structures, boardwalks and viewing decks.	Not Applicable
3) Improved vehicle circulation and parking	Complies

should be provided, including trailer parking near boat launch areas.	All parking for the proposed restaurant use will be provided on site and have no impact on the car parking for Tench Reserve.
4) Improvements to the public domain are to be implemented such as street lighting and continuous street planting.	Not Applicable
5) Vehicular access points and entries to parking areas are to be located on secondary streets or at the rear of buildings.	Complies The site does not have a secondary street access. Parking is located behind the building.
6) Landmark and gateway intersections are to be reinforced with buildings and structures and are to demonstrate architectural excellence in the following areas: a) How the building reinforces and enhances significant vistas and view corridor b) How the building will enliven the public domain it adjoins.	Not Applicable
7) Materials are to be selected for durability and quality. In general painted surfaces are not appropriate especially at street 'level'.	Complies Durable materials are proposed as shown in the plans at Appendix B .
8) Particular attention is to be paid to detailing of materials.	Complies A schedule of colours and materials has been submitted with the plans at Appendix B .
9) Balconies and terraces should be provided, particularly where buildings overlook parks and on low rise parts of buildings. Gardens on the top of setback areas of buildings are encouraged.	Complies A deck and outdoor eating area are provided which overlook Tench Reserve.
10) Facades are to be articulated so that they address the street and add visual interest.	Complies The proposed building and use will provide a good level of visual interest to Tench Avenue.
11) To assist articulation and visual interest, large expanses of any single material are to be avoided.	Complies The property has been designed to create visual interest to attract customers.
12) External walls should be clad with high quality and durable materials and finishes.	Complies Durable materials are proposed as shown in the plans at Appendix B .
13) Adjoining buildings (particularly heritage buildings) are to be considered in the design of new buildings in terms of: a) datum of main façade and roof elements, b) appropriate materials and finishes selection, c) façade proportions including horizontal or vertical emphasis.	Complies The area is in transition and the adjoining buildings are residential dwellings. The proposed structures pay respect to the transitional nature of the area as they are single storey and without unnecessary bulk. Materials and finishes are not out of place for a residential area in transition.
14) Buildings are to be simple, elegant and well proportioned.	Complies All existing and proposed structures on site are single storey, simple and well proportioned.

15) Environmental and sustainable initiatives are to be incorporated into new buildings.

Complies

The proposal promotes sustainability by growing fresh produce for use in the restaurant on site. Water tanks are proposed for use on the gardens.

4.9 Planning Agreements

There are no planning agreements relevant to the proposed redevelopment of the site.

4.10 The Regulations

The proposal is capable of complying with the relevant matters in the Regulation including the BCA and all Australian Standards. Detail can be provided at Construction Certificate stage where required.

5 Matters for Consideration

Clause 4.15(1)(b) of the Act requires the consent authority to take into consideration the following additional matters when determining a development application:

5.1 The Likely Impacts of the Development

Social and Economic Impacts

The proposal will provide a positive social impact by providing a family and outdoor oriented food and drink premises with a farm feel. The proposed use is unique and a stand-alone destination. The proposal is considered to be beneficial to Jamisontown and the surrounding area.

The business is locally owned and will create 20 jobs ranging from casual to full time. The proposal will have a positive local economic impact.

Access, Transport & Traffic

The site is well connected to the local road network and traffic will not be unreasonably increased as a result of the proposal. There is public transport access to the site via the nearest bus stop in front of Nepean Shores. The access to the site is acceptable and the traffic impact is negligible.

5.2 Suitability of the Site for Development

The site is zoned SP3 Tourist and the area is in transition away from the semi-rural residential use which surrounds the site under existing use rights. The site is suitable for the development by virtue of the SP3 zoning and it is Council's clear intention that the site and surrounding area be redeveloped for tourist appropriate uses.

However, consideration must be made to the dwellings surrounding the site. As the use will generally operate during the day and does not comprise any activities that would comprise offensive noise, or any other impacts that would materially affect the residential dwellings, the proposal is considered to be suitable for the site.

5.3 Any Submissions Made

The development is not listed in Appendix F4 of DCP 2014 as a type which requires notification, however it is considered likely that the proposal will be notified when regard is given to the site surrounds. Should any submissions be received the issues raised will be responded to by the proponent as required.

5.4 The Public Interest

The approval of the subject DA for a food and drink premises in an intended tourist precinct is in the public interest.

6 Conclusion

The proposal is for a food and drink premises at 44-50 Tench Avenue Jamisontown. The area is currently in transition from semi-rural to the SP3 tourism zoning. The proposed use is permissible and acceptable in the context of the desired future character of the area.

The impacts created as a result of the development have been considered throughout this report and in specialist reports. The appropriateness of the development is demonstrated by the compliance of the development with all relevant legislation and development controls.

Given the above, Council's favourable consideration of the proposal is requested.

Appendix A

Survey

Appendix B

Plans

Appendix C

Contamination

Appendix D

Flooding/Stormwater

Appendix E

Air Quality

Appendix F

Wastewater

Appendix G

Traffic

Appendix H

Access