

PENRITH CITY COUNCIL

NOTICE OF DETERMINATION

DESCRIPTION OF DEVELOPMENT

Application number:	DA17/1238
Description of development:	Outdoor Dining Area for Gelato Messina (Tenancy 60A)
Classification of development:	Class 6

DETAILS OF THE LAND TO BE DEVELOPED

Legal description:	Lot 1 DP 1137699
Property address:	569 - 595 High Street, PENRITH NSW 2750

DETAILS OF THE APPLICANT

Name & Address:	GM Penrith Pty Ltd 58 Mentmore Avenue ROSEBERY NSW 2018
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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	6 April 2018
Date the consent expires	6 April 2020
Date of this decision	6 April 2018

POINT OF CONTACT

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

Assessing Officer:	Sufyan Nguyen
Contact telephone number:	+612 4732 8568

NOTES

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 Sydney West 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.

Sydney West Planning Panels

If the application was decided by the Sydney West Planning Panel, please refer to Section 18 of the Greater Sydney Commission Act 2015 and 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 following plans stamped approved by Council, the application form and any supporting information received with the application, except as may be amended in red on the stamped approved plans and by the following conditions.

Drawing Title	Prepared By	Reference No.	Dated	Revision
Site Plan	Vie Studio	17208-S (A-401)	13/03/2018	J
Outdoor Seating Plan	Vie Studio	17208-S (A-402)	13/03/2018	J
Outdoor Seating Elevation & Signage	Vie Studio	17208-S (A-403)	13/03/2013	J

- 2 The finishes of all structures are to be maintained at all times and any graffiti or vandalism immediately removed/repaired.
- 3 The approved outdoor dining area shall comply with the following requirements at all times:
- The furniture shall be high quality in design and construction, and complement the existing streetscape. Lightweight plastic furniture, which may become airborne on windy days if not adequately weighted, is not permitted.
 - The furniture is to be maintained in a clean and hygienic state at all times.
 - The eating area is not to cause inconvenience or to disrupt pedestrian traffic along the footpath or thoroughfare.
 - No food is to be prepared or stored outside. No hot food counters, boilers or urns shall be placed on public areas or areas external to the premises.
 - All furniture must be put away inside the premises when it is closed. No furniture is to be left on the street at any time when the eating area is not operating.

BCA Issues

- 4 Access and sanitary facilities for persons with disabilities are to be provided and maintained in accordance with the requirements of the Building Code of Australia and AS 1428 "Design for Access and Mobility".

5 All aspects of the development's design shall comply with the applicable performance requirements of the Building Code of Australia so as to achieve and maintain acceptable standards of structural sufficiency, safety (including fire safety), health and amenity for the on-going benefit of the community. Compliance with the performance requirements can only be achieved by:

(a) complying with the deemed to satisfy provisions, or

(b) formulating an alternative solution which:

- complies with the performance requirements, or
- is shown to be at least equivalent to the deemed to satisfy provision, or

(c) a combination of (a) and (b).

It is the owner's responsibility to place on display, in a prominent position within the building at all times, a copy of the latest fire safety schedule and fire safety certificate/statement for the building.

Construction

6 Any construction works that are carried out in accordance with an approved consent that involve the use of heavy vehicles, heavy machinery and other equipment likely to cause offence to adjoining properties shall be restricted to the following hours in accordance with the NSW Environment Protection Authority Noise Control Guidelines:

- Mondays to Fridays, 7am to 6pm
- Saturdays, 7am to 1pm if inaudible on neighbouring residential premises, otherwise 8am to 1pm
- No work is permitted on Sundays and Public Holidays.

Other construction works carried out inside a building/tenancy that do not involve the use of equipment that emits noise are not restricted to the construction hours stated above.

The provisions of the *Protection of the Environment Operations Act 1997* in regulating offensive noise also apply to all construction works.

Certification

7 An Occupation Certificate is to be obtained from the Principal Certifying Authority on completion of all works and prior to the occupation/use of the outdoor dining area.

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.

8 Prior to the issue of an Occupation Certificate and use of the outdoor dining area, the Riley Street shoreline border paving shall be extended northwards and then westwards (with redundant paving reinstated) around the outside of the outdoor dining area, as marked in red on the stamped approved plans.

SIGNATURE

Name:	Sufyan Nguyen
Signature:	

For the Development Services Manager