

PENRITH CITY COUNCIL

NOTICE OF DETERMINATION

DESCRIPTION OF DEVELOPMENT

Application number:	DA16/0219
Description of development:	Fit-Out & Use as Hog's Breath Cafe
Classification of development:	Class 6

DETAILS OF THE LAND TO BE DEVELOPED

Legal description:	Lot 12 DP 1176987
Property address:	127 - 141 Station Street, PENRITH NSW 2750

DETAILS OF THE APPLICANT

Name & Address:	Hb Group C/- Stimson & Baker Planning PO Box 1912 PENRITH NSW 2751
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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	14 April 2016
Date the consent expires	14 April 2018
Date of this decision	16 April 2016

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 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, stamped approved by Council, the application form, and any supporting information received with the application, except as may be amended in red on the attached plans and by the following conditions.

Drawing Title	Reference	Prepared By	Dated	Revision/Issue
Proposed Extensions - Existing Plan	SD1	Mckay Architects	14/02/16	-
Proposed Extensions - Site Plans	SD2	Mckay Architects	02/03/16	-
Proposed Extensions - Option 6	SD3	McKay Architects	02/03/16	-
Detailed Survey	35261	Matthew Freeburn	09/02/16	-
Cover Sheet. DWG. & Equip. Schedule	100A	Veca Group	24/02/16	A
Proposed Floor Layout	101A	Veca Group	24/02/16	A
Hydraulic Services	102A	Veca Group	24/02/16	A
Electrical Services	103A	Veca Group	24/02/16	A
Reflected Ceiling Layout	104A	Veca Group	24/02/16	A
Kitchen/Bar Elevations	105A	Veca Group	24/02/16	A
Site Plan & Legend	HDA01/P4	Inline Hydraulic Services	21/03/16	P4
Floor Plan	HDA02/P4	Inline Hydraulic Services	21/03/16	P4
Roof Plan	HDA03/P4	Inline Hydraulic Services	21/03/16	P4
Arborist Report	1550-REP-27-DR-A	Abel Ecology	17/02/16	-
Waste Management Plan	-	Ellen Smallcombe	03/03/16	-

- 2 The proprietor of the food business shall ensure that the requirements of the NSW Food Act 2003, NSW Food Regulation 2010 and the Australian and New Zealand Food Standards Code are met at all times.

- 3 **The development shall not be used or occupied until an Occupation Certificate has been issued.**

A satisfactory inspection from an authorised officer of Council's Environmental Health Department is required prior to the issue of the Occupation Certificate. The occupier is to contact the Environmental Health Department to organise an appointment at least 72 hours prior to the requested inspection time.

- 4 The business is to be registered with Penrith City Council by completing the "Registration of Premises" form. This form is to be returned to Council prior to the issuing of the occupation certificate and operation of the business.
- 5 The finishes of all structures and buildings are to be maintained at all times and any graffiti or vandalism immediately removed/repaired.
- 6 A **Construction Certificate** shall be obtained prior to commencement of any building works.

Environmental Matters

- 7 Erosion and sediment control measures shall be installed **prior to the commencement of works on site** including approved clearing of site vegetation. The erosion and sediment control measures are to be maintained in accordance with the approved erosion and sediment control plan(s) for the development and the Department of Housing's "Managing Urban Stormwater: Soils and Construction" 2004.
- 8 All waste materials stored on-site are to be contained within a designated area such as a waste bay or bin to ensure that no waste materials are allowed to enter the stormwater system or neighbouring properties. The designated waste storage areas shall provide at least two waste bays / bins so as to allow for the separation of wastes, and are to be fully enclosed when the site is unattended.
- 9 All wastes generated as a result of the development are to be re-used, recycled or disposed of in accordance with the approved waste management plan.

Waste materials not specified in the approved waste management plan are to be disposed of at a lawful waste management facility. Where the disposal location or waste materials have not been identified in the waste management plan, details shall be provided to the Certifying Authority as part of the waste management documentation accompanying the Construction Certificate application.

All receipts and supporting documentation must be retained in order to verify lawful disposal of materials and are to be made available to Penrith City Council on request.

BCA Issues

- 10 The owner of a building, to which an essential fire safety measure is applicable, shall provide Penrith City Council with an annual fire safety statement for the building. The annual fire safety statement for a building must:
- (a) deal with each essential fire safety measure in the building premises, and
 - (b) be given:
 - within 12 months after the last such statement was given, or
 - if no such statement has previously been given, within 12 months after a final fire safety certificate was first issued for the building.

As soon as practicable after the annual fire safety statement is issued, the owner of the building to which the statement relates:

- must also provide a copy of the statement (together with a copy of the current fire safety schedule) to the Commissioner of New South Wales Fire Brigades, and
- prominently display a copy of the statement (together with a copy of the current fire safety schedule) in the building.

- 11 All aspects of the building 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.

Health Matters and OSSM installations

- 12 The construction, fit out and finishes of the food premises must comply with Standard 3.2.3 of the Australian and New Zealand Food Standards Code, and AS4674-2004 *Design, Construction and Fitout of Food Premises*.

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Detailed plans and specifications for the construction of the premises and installation of fittings, furnishings and equipment to all food preparation and storage areas are to be submitted with the Construction Certificate application regarding the fit-out of the food shop. Particular attention is drawn to:

- a) Hand basins must be freestanding, serviced with hot and cold water through a single outlet, able to be mixed at a temperature of at least 40°C and fitted with a hands free operation. Where sensor taps are installed the basin must not be more than 6 metres from the hot water system. Disposable paper hand towels and soap must be provided and serviced from a dispenser adjacent to each hand basin.
- b) A hand basin must be located within the toilet cubicle. Hand basins must be freestanding, serviced with hot and cold water through a single outlet, able to be mixed at a temperature of at least 40°C and fitted with a hands free operation. Where sensor taps are used the basin must not be more than 6 metres from the hot water system. Disposable paper hand towels and soap must be provided and serviced from a dispenser adjacent to each hand basin.
- c) Hot water services must be positioned at least 75mm clear of the adjacent wall surfaces, and mounted at a minimum 150mm above the floor level on a non-corrosive metal stand. The hot water system must be sized to meet the demands of the food business during peak operating and cleaning periods and be able to provide sufficient hot water throughout the working day. Discharge from the hot water system must enter the sewer through a tongue dish in accordance with Sydney Water's requirements.
- d) The floor of the food premises must be finished in an approved non absorbent material, evenly laid, or graded and drained to a trapped floor waste. All floor wastes in the food preparation, service and scullery area must be fitted with a sump removable basket and grate, a minimum 200mm in diameter, and finished in all stainless steel.
- e) Approved, recessed coving must be provided at all intersections of the floor with the walls within all food preparation, service, storage and scullery areas. All coving must have a minimum concave radius of 25mm and be installed so as to be integral to the surface finish of both floor and wall in such a manner as to form a continuous, uninterrupted surface.
- f) The walls of the food preparation area must be of solid construction and finished with glazed ceramic tiles

or other approved material to a height of 2 metres. The intersection of tiles and render must have a flush finish, or be splayed at a 45 degree angle to eliminate a ledge that would allow dust and grease to accumulate.

g) The walls at the rear of cooking appliances must be surfaced with an impervious material, such as stainless steel, which extends from the canopy to the floor. Where a cooking appliance is sealed to the wall, the material must be lapped over the top edge of the appliance to provide a grease and vermin proof seal. Cooking appliances must only be sealed to walls made of a non-combustible material.

h) The ceiling in the preparation, service and scullery areas must be constructed with a rigid, non-absorbent, smooth faced material free from open joints, cracks and crevices and be painted with a light coloured washable paint. The intersection of the walls and ceiling must be tight jointed, sealed and dust proofed. Drop-in panel style ceilings are not permitted.

i) Fly screens or other approved means of excluding flies must be provided to all window and door openings.

j) Service pipes, electrical conduits and refrigeration condensate pipes shall be enclosed or chased into walls, floors or plinths. Where it can be demonstrated that this is not feasible pipes and conduits fixed on brackets, providing a minimum of 25 mm clearance from the adjacent wall and 100 mm from the floor or adjacent horizontal surface, can be used. All openings in walls, floors and ceilings, through which service pipes and conduits pass, must be vermin proof.

k) All wash sinks and food preparation sinks must be serviced with hot and cold water through a single outlet. Wash sinks must be supplied with water at a temperature of not less than 54 °C for washing.

l) The double bowl sink must be constructed of stainless steel, have a minimum bowl size of 450mm x 300mm x 300mm to enable cleaning of large pots and equipment, be fitted with a draining area at each end, and have a splashback as part of the unit at least 300mm up the wall.

m) The food preparation sink must be separated from all other sinks by a minimum distance of 2 metres or have an approved form of physical barrier that separates the sink.

n) The cleaners sink must be serviced with hot and cold water through taps fitted with hose connectors. Cleaner's sinks must be located outside of areas where open food is handled.

o) All fixtures, fittings and equipment must be provided with smooth and impervious surfaces, free from cracks and crevices to enable easy cleaning.

All fittings and fixtures must be built into the wall and floor so as to be free from joint, gaps and cavities to enable easy cleaning or alternatively, supported on one of the following:

a. Plinths – plinths must be an integral part of the floor, constructed of solid materials similar to the floor at least 75mm in height and coved at the intersection with the floor. All plinths must have a smooth and impervious finish. All fittings and fixtures must be properly sealed to the plinth so to be free from gaps, cracks and cavities.

b. Wheels or castors – fittings and fixtures can be supported on wheels or castors. The wheels and castors must be capable of supporting and easily moving a full loaded fitting. All wheels and castors must be provided with a restraining device.

c. Legs – fittings and fixtures can be supported on legs but must be constructed of a non-corrosive, smooth metal or moulded plastic. All legs must be free from cracks and crevices. All legs must have a clearance space between the floor and the underside of the fitting of at least 200 mm.

NOTE: False bottoms under fittings are not permitted (AS 4674-2004 – Section 4.2 and 4.3).

p) All food preparation benches must be constructed in stainless steel or finished in a smooth and non-absorbent approved material that is free of joints.

q) Light bulbs or tubes are to be shatterproof or fitted with approved light diffusers (covers or shields) to prevent contamination of food by glass from a broken light globe or tube. Light fittings must be free from any feature that would collect dirt or dust, harbour insects or make the fitting difficult to clean. Light fittings must

be recessed into ceilings or equipment where possible. Heat lamps must be protected against breakage by a shield extending beyond the bulb.

r) Shelves must be smooth and impervious free from joints, cracks and crevices; and able to be easily cleaned. The lowest shelf must be at least 200mm off the floor to allow easy cleaning underneath. Approved materials must be used, such as galvanised piping, stainless steel or laminated plastic. Shelves are to be sealed to the wall or kept clear of walls to allow easy access for cleaning (>40 mm).

s) The storeroom must be constructed in accordance with AS 4674-2004 by providing the following:

- A smooth, even, non-slip floor surface.
- Coving at all intersections of the floor and walls with approved, recessed coving to a minimum concave radius of 25mm, so as to be integral to the surface finish of both floor and wall in such a manner as to form a continuous, uninterrupted surface. "Feather edge skirting" and non-rebated coving are not permitted.
- Walls must be provided with a smooth even surface and painted with a light coloured washable paint to enable easy cleaning.
- The ceiling must be constructed with a rigid, non-absorbent, smooth faced material free from open joints, cracks and crevices and be painted with a light coloured washable paint. The intersections of the walls and ceiling must be tight-jointed, sealed and dustproof. Drop in panel style ceilings are not permitted.
- Shelving or storage racks must be designed and constructed to enable easy cleaning.

- 13 Cooking appliances which exceed a total maximum power input of 8kw for electrical, or a total gas input of 29MJ/h for a gas appliance are required to have a kitchen exhaust system installed in accordance with Clause F4.12 of the Building Code of Australia and Australian Standard AS1668 Parts 1 & 2.

Detailed plans together with calculations for the system must be provided as part of the development application or as part of the Construction Certificate application.

The exhaust hood must completely cover the equipment to be ventilation and extended at least 200mm beyond the perimeter of the equipment. The exhaust hood must be provided with a condensation gutter around its base. The gutter must be at least 50mm wide by 25mm deep. Where abutting walls are located the hood must be constructed so as to finish flat against the wall surface.

The low edge of a canopy type exhaust hood must be at least 2000 mm above floor level.

Prior to the issuing of an Occupational Certificate, and operation of the business, the exhaust system shall be certified by an appropriately qualified person to comply with the Building Code of Australia and Australian Standard AS1668 Parts 1 & 2. A copy of the certification and supporting documentation must be provided to Council's Environmental Health Department if Council is not the Principal Certifying Authority

- 14 A Food Safety Supervisor, with a current Food Safety Supervisor Certificate recognised by the NSW Food Authority, must be appointed by the business prior to commencement of the business.
- 15 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.
- 16 The coolroom and freezer room floor must be finished with a smooth even surface and graded to the door. A sanitary floor waste must be located outside the coolroom and freezer adjacent to the door. All metal work in the coolroom and freezer room must be treated to resist corrosion.
- 17 Condensation from coolrooms and refrigeration motors must discharge to sewer via a tundish with air gap separation in accordance with Sydney Water requirements.

- 18 The coolroom and freezer room must be provided with:
- A door which can at all times be opened from inside without a key and
 - An approved alarm device located outside the room, but controlled only from the inside.
- 19 Sufficient lockers must be provided in the food preparation area or store room specifically for the storage of cleaning materials, employees' clothing and personal belongings.
- 20 All garbage must be stored in accordance with the requirements of the Food Safety Standards of the Australian and New Zealand Food Standards Code and the *Protection of the Environment Operations Act 1997* to prevent the harbourage of vermin or generation of odours.
- 21 Smooth and impervious surfaces (walls and floors) must be provided to all waste storage areas and rooms. Floor areas must be graded and drained to a floor waste gully connected to the sewer. Open waste storage areas must be appropriately covered and bunded to avoid stormwater entering the sewer. Waste storage rooms must be adequately ventilated and proofed against pests. The area or room must be provided with water service hose connectors to enable easy cleaning.
- 22 Rubbish bins must be cleaned regularly to remove the food scraps stuck on the bin surface and to minimise the emission of odour that attracts insects and vermin. Bins may be cleaned either by the rubbish collecting contractors or inside a rubbish room constructed to the above specifications.
Bins, hoppers and other containers used for storing garbage or recyclable material shall be:
- a) constructed of impervious material such as metal or plastic; and
 - b) have tight fitting lids
 - c) bins that cannot be lifted for draining after cleaning shall have drainage bungs at the base.
- 23 The grease arrestor must not be installed in any kitchen, food preparation or food storage area. The grease arrestor shall be installed in accordance with Sydney Water's requirements.

Utility Services

- 24 A Section 73 Compliance Certificate under the Sydney Water Act 1994 shall be obtained from Sydney Water. The application must be made through an authorised Water Servicing Coordinator. Please refer to "Your Business" section of Sydney Water's website at www.sydneywater.com.au then the "e-developer" icon, or telephone 13 20 92.

The Section 73 Compliance Certificate must be submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

Construction

25 Stamped plans, specifications, a copy of the development consent, the Construction Certificate and any other Certificates to be relied upon shall be available on site at all times during construction.

The following details are to be displayed in a maximum of 2 signs to be erected on the site:

- the name of the Principal Certifying Authority, their address and telephone number,
- the name of the person in charge of the work site and telephone number at which that person may be contacted during work hours,
- that unauthorised entry to the work site is prohibited,
- the designated waste storage area must be covered when the site is unattended, and
- all sediment and erosion control measures shall be fully maintained until completion of the construction phase.

Signage but no more than 2 signs stating the above details are to be erected:

- at the commencement of, and for the full length of the, construction works onsite, and
- in a prominent position on the work site and in a manner that can be easily read by pedestrian traffic.

All construction signage is to be removed when the Occupation Certificate has been issued for the development.

26 Prior to the commencement of construction works:

(a) Toilet facilities at or in the vicinity of the work site shall be provided at the rate of one toilet for every 20 persons or part of 20 persons employed at the site. Each toilet provided must be:

- a standard flushing toilet connected to a public sewer, or
- if that is not practicable, an accredited sewage management facility approved by the council, or
- alternatively, any other sewage management facility approved by council.

(b) All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with the appropriate professional standards. All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.

(c) If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made:

- must preserve and protect the building from damage, and
- if necessary, must underpin and support the building in an approved manner, and
- must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished. The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this condition, whether carried out on the allotment of land being excavated or on the adjoining allotment of land, (includes a public road and any other public place).

(d) If the work involved in the erection or demolition of a building is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or involves the enclosure of a public place, a hoarding or fence must be erected between the work site and the public place:

- if necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place,
- the work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place, and
- any such hoarding, fence or awning is to be removed when the work has been completed.

27 Construction works or subdivision 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 and 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.

Landscaping

- 28 All trees approved by Council for removal shall be removed in a manner so as to prevent damage to those trees that are to be retained

- 29 Replacement trees must be planted. At least 4 suitable replacement tree/s (preferably native trees) capable of and nurtured to grow to about 10m in height at maturity, must be planted in a suitable location within the property. Replacement trees must be planted prior to occupancy.

- 30 The tree/s must be retained and protected in accordance with Australian Standards, Protection of trees on development sites, AS 4970 -2009.

- 31 The Trees must be retained and protected in accordance with the arborists report recommendations.

Certification

- 32 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.

- 33 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
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- 34 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 development.

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:	
Signature:	

For the Development Services Manager