

# PENRITH CITY COUNCIL

## MAJOR ASSESSMENT REPORT

<b>Application number:</b>	DA21/0403.01
<b>Proposed development:</b>	Section 4.55(1A) Modifications to Business Identification Signage for Approved Indoor Recreation Facility (Simulated Altitude Training - Tenancy T70)
<b>Property address:</b>	13 - 23 Pattys Place, JAMISONTOWN NSW 2750
<b>Property description:</b>	Lot 10 DP 1046110
<b>Date received:</b>	24 September 2021
<b>Assessing officer</b>	Phillip Doy
<b>Zoning:</b>	SEPP WSA - Affected by Obstacle Limitation SEPP WSA - Affected by Wildlife Buffer Zone Zone B5 Business Development - LEP 2010 RU4 Primary Production Small Lots - LEP 2010
<b>Class of building:</b>	Class 6
<b>Recommendations:</b>	Approve

## Executive Summary

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Council is in receipt of a modification application lodged under Section 4.55 of the Environmental Planning and Assessment Act 1979 (the Act), for alterations to a business identification sign associated with an approved indoor recreation facility (simulated altitude training) at Tenancy T70, Penrith Homemaker Centre, 13 - 23 Pattys Place, Jamisontown.

The site is zoned B5 Business Development under the Penrith LEP 2010 (PLEP).

The proposed signage is ancillary to the land use previously determined as permissible through the assessment attached to the original consent no. DA21/0403 for the change the use of tenancy T70 to a gymnasium/health studio which is permitted with development consent within the zone, and which is defined as a recreation facilities (indoor) under PLEP.

The proposal includes the change to the size of the approved wall mounted business identification sign, from approximately 2800mm (W) x 1600mm (H) or 4.48 square metres in total, to approximately 3330mm (W) x 2000mm (H) or 6.66 square metres in total. The proposed signage will read "AIR LOCKER" and will be constructed out of fabricated acrylic blue and black gradient letters illuminated by LEDs on aluminium composite panel backing. The proposal also includes 3 x printed graphics matching the business identification signage on the existing glazing.

The proposed modification to the business identification wall sign is ancillary to the proposed fit-out and use by Air Locker approved through consent no. DA21/0403, and is considered to be of a minor scale, which provides effective communication without compromising the visual quality and amenity of the immediately surrounding area. It is considered that the proposed sign dimensions are of a suitable scale and that the design is compatible with the signage theme and character of the immediately surrounding area.

Minimal impact is envisioned by the modification to the signage, as the subject site is appropriately located within an existing Homemaker Centre.

The proposal was not required to be notified or publicly exhibited under the requirements of Appendix F4 - Notification and Advertising of the *Penrith Development Control Plan 2014* (DCP).

An assessment of the proposal under Section 4.15 and 4.55(1A) of the Act has been undertaken and the application is recommended for Approval, subject to the recommended amended and existing conditions.

## Site & Surrounds

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The site is known as the Penrith Homemaker Centre located at 13 - 23 Pattys Place, Jamisontown, which is legally described as Lot 10 DP 1046110. The site has a land area of 5,610m<sup>2</sup> and accommodates several businesses, mainly top retail brands. The subject premises is Tenancy T70.

The tenancy was former 'beds n dreams', which has since been divided into three (3) tenancies via a Complying Development Certificate which was issued for the fit out and refurbishment of three (3) existing tenancies (tenancy 70, 75 and 80).

DA21/0403 was approved for Fit Out & Use of Premises as Indoor Recreation Facility for Simulated Altitude Training & Erection of Business Identification Signage (Tenancy T70).

Development consent is now sought for the modification to the approved business identification signage of tenancy T70.

The immediately surrounding area is characterised by commercial and industrial land uses. Green open space adjoins the site to the north. The broader road network includes the intersection of the M4 Motorway and Mulgoa Road approximately 400m to the south of the site.

## Proposal

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The applicant seeks to modify development consent no. DA21/0403, which approved use of the tenancy for a recreation facility (indoor) and associated signage, by altering the dimensions of the approved signage, at Tenancy T70, Penrith Homemaker Centre, 13 - 23 Pattys Place, Jamisontown.

The proposal comprises of the following:

- Altering the scale of an approved wall mounted illuminated business identification sign to have approximate dimensions of 3330mm (W) x 2000mm (H). The signage is proposed to be fabricated letters illuminated by LEDs on aluminium composite panel backing installed directly to the wall.

There is no change to the general location of the approved signage.

## Plans that apply

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- Local Environmental Plan 2010
- Development Control Plan 2014
- State Environmental Planning Policy (Western Sydney Aerotropolis) 2020
- State Environmental Planning Policy No 64—Advertising and Signage
- Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

- **Section 4.15 - Evaluation**

The development has been assessed in accordance with the matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979, and having regard to those matters, the following issues have been identified for further consideration:

- **Section 4.55(1A) - Modifications involving minimal environmental impact**

(1A) Modifications involving minimal environmental impact A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if—

- a) it is satisfied that the proposal modification is of minimal environmental impact, and;
- b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent was modified (if at all), and;
- c) it has notified the application in accordance with -
  - (i) the regulations, if the regulations so require, or
  - (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires notification or advertising of applications for modification of a development consent, and;
- d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.

Subsections (1), (2) and (5) do not apply to such a modification.

The development has been assessed in accordance with the matters for consideration under Section 4.15 and Section 4.55(1A) of the Environmental Planning and Assessment Act 1979, and in this regard, complies with the above.

- **Section 7.12 - Developer Contributions**

Section 7.12 Contributions are not payable for the proposed development as the cost of works is below the applicable threshold.

### **Section 4.15(1)(a)(i) The provisions of any environmental planning instrument**

#### **State Environmental Planning Policy (Western Sydney Aerotropolis) 2020**

Although the site is mapped under the Obstacle Limitation and Wildlife Buffer Zone maps, there are no relevant provisions under State Environmental Planning Policy (Western Sydney Aerotropolis) 2020 that apply to the proposal.

#### **State Environmental Planning Policy No 64—Advertising and Signage**

Proposed business identification signage includes 1 x wall mounted illuminated sign measuring approximately 3330mm (W) x 2000mm (H) that is fixed to the building's façade. The proposed signage will read "AIR LOCKER" and will be constructed out of fabricated polycrylic blue and black gradient letters illuminated by LEDs on aluminium composite panel backing. The proposal also includes 3 x printed graphics matching the business identification signage on the existing glazing.

considered to be of a minor scale, which provides effective communication without compromising the visual quality and amenity of the immediately surrounding area. Given that the Penrith Homemaker Centre contains various signage styles for several other tenancies, it is considered that the proposed sign is of a suitable scale and that the design is compatible with the signage theme and character of the immediately surrounding area.

**Schedule 1 (Assessment Criteria):**

<b>Criteria</b>	<b>Comments</b>
<p><b>1 Character of the area</b></p> <ul style="list-style-type: none"> <li>• <i>Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?</i></li> <li>• <i>Is the proposal consistent with a particular theme for outdoor advertising in the area of locality?</i></li> </ul>	The premises is a part of the Penrith Homemaker Centre which contains a variety of business identification signage. The proposed business identification wall sign is of a minor scale and the design is considered to be compatible with the desired future character of the area.
<p><b>2 Special areas</b></p> <ul style="list-style-type: none"> <li>• <i>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?</i></li> </ul>	The site is not within or in close proximity to any environmentally sensitive areas, heritage areas, natural or other conservation areas, waterways or rural landscapes. The proposed sign will be of minimal view from the streetscape.
<p><b>3 Views and vistas</b></p> <ul style="list-style-type: none"> <li>• <i>Does the proposal obscure or compromise important views?</i></li> <li>• <i>Does the proposal dominate the skyline and reduce the quality of vistas?</i></li> <li>• <i>Does the proposal respect the viewing rights of other advertisers?</i></li> </ul>	The proposed sign will not obstruct any important views or vistas and is not within a skyline view, and will not compromise other business identification signage within the Penrith Homemaker Centre site.
<p><b>4 Streetscape, setting or landscape</b></p> <ul style="list-style-type: none"> <li>• <i>Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?</i></li> <li>• <i>Does the proposal contribute to the visual interest of the streetscape, setting or landscape?</i></li> <li>• <i>Does the proposal reduce clutter by rationalising and simplifying existing advertising?</i></li> <li>• <i>Does the proposal screen unsightliness?</i></li> <li>• <i>Does the proposal protrude above buildings, structures or tree canopies in the area or locality?</i></li> <li>• <i>Does the proposal require ongoing vegetation management?</i></li> </ul>	The scale and design of the proposed sign is minor in size relative to existing signage in the Penrith Homemaker Centre.  The proposal does not require any ongoing vegetation management.
<p><b>5 Site and building</b></p> <ul style="list-style-type: none"> <li>• <i>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?</i></li> <li>• <i>Does the proposal respect important features of the site or building, or both?</i></li> <li>• <i>Does the proposal show innovation and imagination in its relationship to the site or building, or both?</i></li> </ul>	The proposed sign is integrated with the building facade, which is essentially a replacement sign for the tenancy and is considered to be in proportion to the size of the building.

<p><b>6 Associated devices and logos with advertisements and advertising structures</b></p> <ul style="list-style-type: none"> <li>• 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?</li> </ul>	<p>The proposed sign will be installed according to manufacturer and engineering requirements.</p>
<p><b>7 Illumination</b></p> <ul style="list-style-type: none"> <li>• Would illumination result in unacceptable glare?</li> <li>• Would illumination affect the safety for pedestrians, vehicles or aircraft?</li> <li>• Would illumination detract from the amenity of any residence or other form of accommodation?</li> <li>• Can the intensity of the illumination be adjusted, if necessary?</li> <li>• Is the illumination subject to a curfew</li> </ul>	<p>The proposal does include illuminated signage, however has no amenity impacts given its location in a commercial and industrial area. Appropriate conditions are recommended regarding illumination.</p>
<p><b>8 Safety</b></p> <ul style="list-style-type: none"> <li>• Would the proposal reduce the safety for any public road?</li> <li>• Would the proposal reduce the safety for pedestrians or bicyclists?</li> <li>• Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?</li> </ul>	<p>The proposed sign will be somewhat visible from the streetscape but is not considered likely to reduce safety for local traffic or pedestrians.</p>

## Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

An assessment has been undertaken of the application against relevant criteria with Sydney Regional Environmental Plan No 20—Hawkesbury-Nepean River (No 2—1997) and the application is satisfactory subject to recommended conditions of consent.

## Local Environmental Plan 2010

Provision	Compliance
Clause 1.2 Aims of the plan	Complies
Clause 2.3 Permissibility	Complies
Clause 2.3 Zone objectives	Complies
Clause 7.4 Sustainable development	Complies
Clause 7.5 Protection of scenic character and landscape values	Complies - See discussion

### Clause 7.5 Protection of scenic character and landscape values

The recreational centre is wholly contained within the existing centre and proposed signage is internal to the site with view lines generally from the car park area, therefore it is anticipated that there will be no impact upon the scenic and landscape values of the site.

## Section 4.15(1)(a)(ii) The provisions of any draft environmental planning instrument

It is noted that both the *Draft Environmental SEPP* and *Draft Remediation Land SEPP* are at present applicable to the subject site, but while so, does not affect or alter the recommendations of this report.

## **Section 4.15(1)(a)(iii) The provisions of any development control plan**

### **Development Control Plan 2014**

<b>Provision</b>	<b>Compliance</b>
DCP Principles	Complies
C1 Site Planning and Design Principles	Complies
C2 Vegetation Management	N/A
C3 Water Management	N/A
C4 Land Management	N/A
C5 Waste Management	N/A
C6 Landscape Design	N/A
C7 Culture and Heritage	N/A
C8 Public Domain	N/A
C9 Advertising and Signage	Complies
C10 Transport, Access and Parking	N/A
C11 Subdivision	N/A
C12 Noise and Vibration	N/A
C13 Infrastructure and Services	N/A
D3.1. Bulky Good Retailing	N/A
D3.2. Sex Services Premises	N/A
D3.3. Restricted Premises	N/A

## **Section 4.15(1)(a)(iiia) The provisions of any planning agreement**

There are no planning agreements applying to this application.

## **Section 4.15(1)(a)(iv) The provisions of the regulations**

The modification application is suitable having regard to the provisions of the Regulations.

## **Section 4.15(1)(b)The likely impacts of the development**

Under Section 4.15(1)(b) of the EP&A Act, consideration must be given to the likely impacts of the development proposal, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality.

### **Context and Setting**

The premises is situated within the Penrith Homemaker Centre which is characterised by a range of commercial land uses and a diverse range of signage themes. In this regard, the proposal is a modification to business identification signage previously approved through DA21/0403. Given the minor works, the proposal is not considered likely to result in any adverse impacts on either the character of the surrounding complex or the streetscape.

### **Traffic Impacts**

The proposed development is not considered to likely to result in any significant impacts on local traffic conditions.

### **Signage Design**

The design principles of the DCP and SEPP 64 have been satisfied, such as the compatibility of the proposed signage and its design quality relative to the signage themes of the immediately surrounding area.

### **Waste Management**

N/A

### **Safety, Air & Noise**

N/A

### **Socio-Economic Impacts**

N/A

## **Section 4.15(1)(c)The suitability of the site for the development**

The proposed modification to approved signage is a permissible and compatible land use in the B5 zone. The nature and scope of the development proposal is considered minor and unlikely to result in any adverse impacts on the surrounding environment.

## **Section 4.15(1)(d) Any Submissions**

### **Community Consultation**

In consideration of the nature of the application, notification is not identified as being required as per Appendix F4 of the *Penrith Development Control Plan 2014*.

### **Referrals**

The application was referred to the following stakeholders and their comments have formed part of the assessment:

Referral Body	Comments Received
Building Surveyor	No objections - subject to conditions

### **Building Surveyor**

The modification application was not referred to the building surveyor owing to the minor nature of the works. The referral comments provided here are copied to carry over the original recommended conditions.

## **Section 4.15(1)(e)The public interest**

In consideration of the nature and minor scale of the development proposal, in addition to the proposal being compliant with the applicable development controls and standards, the health and safety of the public will not be adversely affected and therefore, the development is not considered likely to generate any significant issues of public interest.

## Conclusion

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In assessing this proposal against the relevant environmental planning policies, including *Penrith Local Environmental Plan 2010*, *Penrith Development Control Plan 2014*, *State Environmental Planning Policy No. 64—Advertising and signage*, *State Environmental Planning Policy (Western Sydney Aerotropolis) 2020*, and *Sydney Regional Environmental Plan No. 20—Hawkesbury-Nepean River (No. 2—1997)*, the proposal is considered to satisfy the aims, objectives and provisions of these policies, noting that the proposal does not contravene any development controls or standards, and is not considered likely to result in any significant impacts on the natural, social or economic environments. The site is considered to be suitable for the development and the proposal is in the public interest. Therefore, the application is worthy of support and is recommended for approval, subject to conditions.

## Recommendation

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That DA21/0403.01 for the section 4.55 modification to the approved business identification signage at Tenancy T70, 13-23 Pattys Place, Jamisontown be approved, subject to attached conditions.

## General

### 1 A001 - Approved plans table

The development must be implemented substantially in accordance with the following plans and documents 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	DWG No.	Dated
Existing Tenancy Plan	Archi Spectrum	DA01	prelim
Proposed Tenancy Plan	Archi Spectrum	DA02	prelim
<b>External Elevations &amp; Signage Details</b>	<b>Archi Spectrum</b>	<b>DA03a</b>	<b>prelim</b>
Site Plan	Archi Spectrum	DA04	prelim

***Amended in accordance with Section 4.55(1A) of the Environmental Planning and Assessment Act 1979 on 15/10/2021, under DA21/0403.01.***

### 2 A019 - OCCUPATION CERTIFICATE (ALWAYS APPLY)

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

### 3 A039 - Graffiti

The finishes of all structures and the premises are to be maintained at all times and any graffiti or vandalism immediately removed/repaired.

### 4 A046 - Obtain Construction Certificate before commencement of works

A **Construction Certificate** shall be obtained prior to commencement of any building works.

### 5 A19f - Compliance Certificate (use instead of A019 for other devt earthworks subdivision)

Prior to the issue of the Construction Certificate the requirements of Clause 143 of the Environmental Planning and Assessment Regulation 2000 are to be taken in to consideration.

## Environmental Matters

### 6 D010 – Appropriate disposal of excavated or other waste

All waste generated as a result of the development are to be re-used, recycled or disposed of in accordance with an 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.

### 7 D014 - Plant and equipment noise

The operating noise level of plant and equipment shall not exceed 5dB(A) above the background noise level when measured at the boundaries of the premises. The provisions of the *Protection of the Environment Operations Act 1997* apply to the development, in terms of regulating offensive noise.

## BCA Issues

## 8 E01A - BCA compliance for Class 2-9

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.

## Construction

### 9 H001 - Stamped plans and erection of site notice

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.

## 10 H002 - All forms of construction

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.

## 11 H041 - Hours of work (other devt)

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.

## Certification

12 **Q006 - Occupation Certificate (Class 2 - 9)**

An Occupation Certificate is to be obtained from the Principal Certifying Authority on completion of all works and prior to the occupation of the building/tenancy and commencement of the approved use. The Occupation Certificate shall not be issued if any conditions of this consent, but not the conditions relating to the operation of the development, are outstanding, and the development does not comply with the provisions of the Environmental Planning and Assessment Act and Regulation.

Before the Occupation Certificate can be issued for the development, Fire Safety Certificates issued for the building are to be submitted to Penrith City Council and the New South Wales Fire Brigades.

A copy of the Occupation Certificate and all necessary documentation supporting the issue of that Certificate including the above mentioned documents shall be submitted to Penrith City Council, if Council is not the Principal Certifying Authority.

13 **Q01F - Notice of Commencement & Appointment of PCA2 (use for Fast Light only)**

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.