

MEMORANDUM

Reference: **DA21/0923**

To: Penrith Local Planning Panel

From: Phillip Doy - Graduate Development Assessment Planner

Date: 22 February 2022

Subject: Use of existing Premises as a Beauty Salon (Shop 9, Elizabeth Arcade) at 459-463 High Street, Penrith

I refer to the subject development proposal and the related assessment report that is scheduled for consideration by the Penrith Local Planning Panel on 23 February 2022.

This memorandum provides a response to questions from the Local Planning Panel ahead of the upcoming Local Planning Panel meeting.

Item		Response
1.	From the peer review it appears to be land owned by a Councillor which triggers referral to the Panel (not apparent from report) – is that right?	Council confirms that the consent authority for the application is the Penrith Local Planning Panel, as per the requirements of Schedule 2(1)(b) of the Local Planning Panel's Direction, dated 30.06.2020, as the owner of the land is a Councillor. Detail is provided in the executive summary of Council's assessment report.
2.	SEPP 64 applies due to proposed signage – can a brief assessment be provided?	An assessment under SEPP 64 has now been undertaken and is included in the Council's amended report (attached). The assessment finds that the signage which is described as 'business identification signage' comprising of window stickers is supportable.
3.	Is it worth having a condition about the signage as details seem less than certain?	A suitable condition is recommended as stated below: <i>A separate development application for the erection of a sign or advertising structure, other than the advertisement signage proposed in this application, is to be submitted to Penrith City Council, complying with requirements</i>



MEMORANDUM

		<i>of Penrith Development Control Plan-Advertising Signs.</i>
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Phillip Doy
Graduate Development Assessment Planner

PENRITH CITY COUNCIL

MAJOR ASSESSMENT REPORT

Application number:	DA21/0923
Proposed development:	Use of Premises as Beauty Salon (Shop 9)
Property address:	459 - 463 High Street, PENRITH NSW 2750
Property description:	Lot 1 DP 111671
Date received:	8 December 2021
Assessing officer	Phillip Doy
Zoning:	Zone B4 Mixed Use - LEP 2010
Class of building:	Class 6
Recommendations:	Approve

Executive Summary

Council is in receipt of a development application for the use of an existing commercial arcade tenancy as a beauty salon at Shop 9, 459 - 463 High Street, Penrith. The beauty salon will provide a range of beauty services such as cosmetic tattoo, eyelash extensions and waxing.

Under Penrith Local Environmental Plan 2010 (PLEP), the proposal is defined as a Business Premises, which is a type of Commercial Premises. The subject site is zoned B4 Mixed Use and the proposal is a permissible land use in the zoning, with consent.

The business will employ two staff members and the operating hours for the business are proposed to be 8:00am to 8:00pm Saturday to Wednesday, and 8:00am to 9:30pm on Thursdays and Fridays. Whilst there is no assigned parking for the premises, there is public parking available in Allen Place car park located directly behind the salon, and Judges car park is a short 3-5 minute walk to the salon, as well as street parking along High Street. These car parking spaces are provided by Council for patrons of the High Street commercial uses. Penrith train station is also approximately 329 metres to the north of the premises.

Business identification signage is proposed to be displayed on the windows of the salon. These window stickers will be placed internally.

The application was referred to Council's Public Health and Building Surveying teams, who provided conditions of consent and raised no concerns with the proposal. A desktop review indicates that the business was operating from the premises prior to Council intervention, at which point the business owner was advised to cease use until a development application was approved.

In accordance with Penrith Development Control Plan 2014 (DCP), the proposed development was notified to neighbouring and adjoining land owners and occupiers between 20 December 2021 to 31 January 2022. Council has received no submissions in response.

An assessment of the proposal under Section 4.15 of the Environmental Planning and Assessment Act 1979, has been undertaken and the application is recommended for approval, subject to the recommended conditions. As per the requirements of Schedule 2(1)(b) of the Local Planning Panel's Direction, dated 30.06.2020, the application will be determined by the Penrith Local Planning Panel, as the owner of the land is a Councillor.

Site & Surrounds

The site is Shop 9 which is located in an arcade known as Elizabeth Arcade, on the northern side of High Street, south of Allen Place and Judges Place car park in Penrith. The surrounding area is by characterised by small scale commercial and retail premises. The site is located approximately 329 metres south of Penrith Railway Station.

Proposal

The proposed development includes the following aspects:

- Use of an existing commercial shop as a beauty salon, offering a range of beauty services such as cosmetic tattoo, eyelash extensions and waxing;
- No physical alterations are proposed to the existing shop premises;
- The business will consist of two employees and will be appointment based;
- The proposed operating hours are 8:00am to 8:00pm Saturday to Wednesday, and 8:00am to 9:30pm on

Thursdays and Fridays;

- Deliveries to the site will be minimal;
- Whilst there is no assigned parking for the premises, there is public parking available in Allen Place Car Park located directly behind the salon, and Judges Car Park which is a 3-5 minute walk to the salon as well as street parking along High Street. Penrith train station is also approximately 329 metres North of the premises;
- Signage is proposed to be displayed on the windows of the salon. These window stickers will be placed internally. Signage on the glass door for the salon will be between 20-30cm, signage on the window will be approximately 60cm. Colours in signage will be black and white with some pink (as it's apart of the business logo).

The new use will utilise the Arcade's existing amenities and waste facilities.

Plans that apply

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

Planning Assessment

• 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 4.15(1)(a)(i) The provisions of any environmental planning instrument

State Environmental Planning Policy No 64—Advertising and Signage

Assessment Criteria		Comment	Compliance
1. Character of the area	Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?	The type and design of the proposed sign is compatible with the direct locality and existing signage currently installed in the vicinity of the development. The sign is characteristic of similar signage and will not be adversely perceived within the locality and will not be out-of-place.	Yes.
	Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?	Yes.	Yes.

2. Special areas	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?	No.	Yes.
3. Views and vistas	Does the proposal obscure or compromise important views?	No.	Yes.
	Does the proposal dominate the skyline and reduce the quality of vistas?	No.	Yes.
	Does the proposal respect the viewing rights of other advertisers?	The sign will not impede on any viewing rights of other signage within the area. The signs are within the confines of the subject site and do not encroach upon the rights of other advertisers within the vicinity.	Yes.
4. Streetscape, setting or landscape	Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?	The proposed signs are of a scale and proportion that is appropriate and compatible with the scale and nature of buildings surrounding the site. The sign will also not be adversely perceived from within the locality and will not be uncharacteristic. The signs will not be visually dominant and are appropriate in the context of its landscaping.	Yes.
	Does the proposal contribute to the visual interest of the streetscape, setting or landscape?	The use and signage will activate the arcade.	Yes.
	Does the proposal reduce clutter by rationalising and simplifying existing advertising?	The proposal provides for a fair appearance that will not result in visual clutter providing consistent form and size of signage elements within the arcade.	Yes.
	Does the proposal screen unsightliness?	N/A	N/A

	Does the proposal protrude above buildings, structures or tree canopies in the area of the locality?	N/A	N/A
	Does the proposal require ongoing vegetation management?	No.	N/A
5. Site and building	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?	The signs will not be perceived as out-of-place due to the scale and nature.	Yes.
	Does the proposal respect important features of the site or building, or both?	The sign will not alter access to the site or the visibility of the shop. The site is within an arcade and signage is appropriate	Yes.
6. Associated devices and logos with advertisements and advertising structures	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?	The film shall be fixed to the glazing of the building. No part of the letters will protrude past the face of the windows.	Yes.
7. Illumination	Would illumination result in unacceptable glare?	No lighting is proposed with the sign.	N/A
	Would illumination affect safety for pedestrians, vehicles or aircraft?	No light will illuminate the sign internally or externally.	N/A
	Would illumination detract from the amenity of any residence or other form of accommodation?	No lighting is proposed with the sign.	N/A
	Can the intensity of the illumination be adjusted, if necessary?	N/A	N/A
	Is the illumination subject to a curfew?	N/A	N/A
8. Safety	Would the proposal reduce the safety for any public road?	No, the signage is consistent with other signage already in place in the vicinity of the development.	Yes.
	Would the proposal reduce the safety for pedestrian and cyclists?		
	Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?		

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 - See discussion
Clause 2.3 Zone objectives	Complies - See discussion
Clause 4.3 Height of buildings	Complies - See discussion
Clause 4.4 Floor Space Ratio	Complies - See discussion
Clause 5.21 Flood planning	Complies - See discussion

Clause 2.3 Permissibility

Under Penrith Local Environmental Plan 2010, the proposal is defined as a Commercial Premises. The subject site is zoned B4 Mixed Use and the proposal is a permissible land use in the zoning with Council consent.

Clause 2.3 Zone objectives

The B4 zone has the following objectives:

- *To provide a mixture of compatible land uses.*
- *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*
- *To minimise conflict between land uses within the zone and land uses within adjoining zones.*
- *To create opportunities to improve public amenity.*
- *To provide a wide range of retail, business, office, residential, community and other suitable land uses.*

The proposal remains consistent with objectives of the zone, which allows for other services to meet the needs of the residents.

The character of the commercial area remains unaltered due to the limited intensity of the use and the minimal environmental impacts.

Clause 4.3 Height of buildings

The proposal does not alter the height of the dwelling.

Clause 4.4 Floor Space Ratio

The proposed commercial premises is located within the approved floor space of a mixed use development. In this regard, no impact on the approved floor space is envisioned

Clause 5.21 - Flood planning

The proposal does not alter the existing floor level or drainage infrastructure, and therefore existing appropriate site flood controls are still satisfactory.

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

There are no draft Environmental Planning Instruments that apply to the proposal.

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

Development Control Plan 2014

Provision	Compliance
DCP Principles	Complies
C1 Site Planning and Design Principles	Complies
C2 Vegetation Management	N/A
C4 Land Management	N/A
C5 Waste Management	Complies
C6 Landscape Design	N/A
C7 Culture and Heritage	N/A
C9 Advertising and Signage	Complies
C10 Transport, Access and Parking	Complies
C11 Subdivision	N/A
C12 Noise and Vibration	Complies
C13 Infrastructure and Services	Complies
E11 Penrith	Complies

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 requirements of the Regulations have been considered and addressed through conditions of consent.

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

There are no likely negative impacts associated with the proposed development.

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

The existing site is suitable for the proposed development.

Section 4.15(1)(d) Any Submissions

Community Consultation

In accordance with Council's adopted *Community Engagement Strategy and Community Participation Plan 2019* and Appendix F4 of the *Penrith Development Control Plan 2014*, the proposal was notified to nearby and adjoining properties and publicly exhibited between 20 December 2021 and 31 January 2022. No submissions were received.

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
Environmental - Public Health	No objections - subject to conditions

Section 4.15(1)(e)The public interest

The proposal should not generate any significant issues of public interest.

Conclusion

In assessing the application against the current relevant instruments being several State Policies, *Penrith Local Environmental Plan 2010* and the *Penrith Development Control Plan 2014*, with appropriate conditions, the proposal satisfies the requirements.

With the recommended conditions of consent, it is considered unlikely to have a negative impact on the surrounding properties and environment, the site is suitable for the development proposed and will complement the existing surrounding developments.

Recommendation

That development application no. DA21/0923 for the use of Shop 9, 459-463 High Street, Penrith as a commercial premises (beauty salon), be approved subject to the following recommended conditions.

CONDITIONS

General

1 [A001 - Approved plans table](#)

The development must be implemented substantially in accordance with the approved plans and Statement of Environmental Effects, the application form, and any supporting information received with the application, except as may be amended in red on the approved plans and by the following conditions.

Drawing Title	Prepared By	Date
Floor Plan	Applicant	08.12.2021
Elevation Plan	Applicant	08.12.2021
Tenancy Location Plan	Applicant	08.12.2021
Site Plan	Applicant	08.12.2021
Signage Plan	Applicant	08.12.2021

2 [A021 - Business Registration](#)

Prior to the commencement of trade, the occupier must register their skin penetration business with Penrith City Council by completing Council's "Skin Penetration - Registration of Premises" Form. The occupier of the premises must notify Council within 7 days of any change of details.

3 [A021 - BUSINESS REGISTRATION](#)

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 commencement of the business**.

4 [A026 - Advertising sign \(not for residential\)](#)

A separate development application for the erection of a sign or advertising structure, other than the advertisement signage proposed in this application, is to be submitted to Penrith City Council, complying with the requirements of Penrith Development Control Plan-Advertising Signs.

5 [A029 - HOURS OF OPERATION AND DELIVERY TIMES](#)

The approved operating hours are from 8:00am to 8:00pm Saturday to Wednesday, and 8:00am to 9:30pm on Thursdays and Fridays. Delivery and service vehicles generated by the development are limited to the nominated business hours.

6 [A032 - Goods in buildings](#)

All materials and goods associated with the use shall be contained within the building at all times.

BCA Issues

7 [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.

Health Matters and OSSM installations

8 F007 – Hairdresser

The operator of beauty salon shall ensure that the requirements of the Local Government Act 1993 and Regulations thereunder, the Public Health (Skin Penetration) Regulation 2000 and the NSW Health Department's "Skin Penetration Guidelines" 2000 are met at all times.

9 F008 - Skin penetration

Any person carrying out any of the following skin penetration procedures shall ensure that the requirements of the Public Health (Skin Penetration) Regulation 2000, and the NSW Department of Health's "Skin Penetration Guidelines" 2000 are met at all times:

- acupuncture
- tattooing
- ear piercing
- hair removal
- any other procedure which involves skin penetration.

10 F008 - Skin Penetration regulations

Any person carrying out skin penetration procedures shall ensure that the requirements of the *Public Health Act, 2010, Public Health Regulation, 2012* and any relevant standards, guidelines or codes of practice published or endorsed by the NSW Ministry of Health are met at all times. This includes:

- The walls and floor of the treatment room/s are to be constructed of materials that are durable, smooth, impervious to moisture and capable of being easily cleaned. No exposed brickwork, timber or carpet is permitted.
- A hand wash basin in the treatment room/s is to be provided where skin penetration procedures are to be carried out. The hand wash basin is to have a supply of clean, warm, potable water provided through a single spout. The hand wash basin/s is also to be supplied with appropriate hand cleaning and drying equipment (i.e. pump pack antibacterial soap and disposable paper towels).
- Provide a designated sink (separate to the hand wash basin) that has a supply of clean, warm water provided through a single spout for the cleaning of equipment (if equipment used in skin penetration procedures at the premises is cleaned at the premises).
- Any equipment used to penetrate the skin, or which is capable of penetrating the skin, must be sterilised in a Therapeutic Goods Administration (TGA) approved autoclave in accordance with AS/NZS 4815:2006 "Office-based health care facilities - Reprocessing of reusable medical and surgical instruments and equipment, and maintenance of the associated environment" prior to reuse.
- If reusable articles are sterilised at the premises, a bench top autoclave is to be supplied and operated in accordance with Australian Standard AS2182 – 1998 "Sterilisers-Steam-Benchtop to sterilise reusable skin penetration articles". A copy of the receipt and specifications shall be submitted to Council prior to the issuing of the Occupation Certificate and commencement of the business.
- Adequate sterilization records, including the time and date the item was sterilized, the length of time the equipment was sterilised and the temperature and pressure of the autoclave must be kept on the premises. These records must be kept for at least 12 months.
- If reusable articles are sterilised off-site, the occupier of the premises must make and keep for at least 12 months, a record of the date on which each article was sent off for sterilisation and the name and address of the person who sterilised the article.
- All needles and sharps that penetrate the skin are to be sterile.
- An appropriate sharps container must be provided at the premises that complies with either AS/NZS 4261:1994 "Reusable containers for the collection of sharps items used in human and animal medical applications" if reusable sharps are used; or that complies with AS 4031:1992 "Non-reusable containers for the collection of sharp medical items used in health care areas" if non-reusable sharps are used.
- All sharps generated from the operation of the business must be disposed of at a licensed waste facility. Receipts for disposal must be kept at the premises and available for inspection by an Authorised Officer upon request. Details of how sharps will be disposed (e.g. details of waste contractor, frequency of

disposal etc) must be provided to Council prior to the issuing of the Occupation Certificate and commencement of the business.

- Ensure the foot spa is cleaned with detergent and disinfected in accordance with the manufacturer's specifications after each client.
- Staff belongings and other items not associated with the business shall be kept completely separate from skin penetration activities and equipment and maintained in a clean condition.
- Provide a toilet on the premises, available for use by clients and not the general public, that is:
(a) closed system – located in close proximity to the room in which the procedure is being carried out; or
(b) open system-located in the immediate vicinity of the room in which the procedure is being carried out.
- Ink, pigment or other liquid used in the skin penetration procedure must be decanted into a single use container and single use applicator used for each person undergoing a procedure (other than the use of wax for hair removal).
- Wax used for the purposes of hair removal and any instrument used to apply the wax (such as a spatula) must be single use and disposed of immediately after completing the procedure.
- Ensure operators carrying out skin penetration procedures (other than the use of wax for hair removal purposes) wear gloves and appropriately dispose of the gloves immediately after completing the procedure.
- Ensure operators carrying out skin penetration procedures (other than the use of wax for hair removal and colonic lavage) wear a clean gown or apron during the procedure.
- Ensure operators that carry out colonic lavage wear a clean gown made of impermeable material during the procedure

11 [F140 - Nail salons - ventilation](#)

Prior to the commencement of the business, certification must be submitted to Penrith City Council confirming the premises is ventilated to adequately remove chemical odours and dust in accordance with AS1668-2012 "The Use of Ventilation and Air-conditioning in Buildings – mechanical ventilation in buildings", the *Protection of the Environment Operations Act, 1997* and any SafeWork NSW requirements

12 [F184 - Waste disposal containers](#)

Suitably constructed waste disposal containers with securely fitting lids must be kept on the property for the storage of any clinical, contaminated waste or related waste prior to final disposal of the material at a facility approved by the Department of Planning, Industry and Environment (DPIE). A licensed clinical waste contractor must be engaged to collect and dispose of all clinical waste generated on site and produced to Council upon request. Receipts of service must be kept on site specifying the volume collected and the dates of service.

13 [F special condition - Skin Odour Complaints](#)

The use of the premises must not give rise to the emission of odour, vapours or other air impurities detected outside the business. In the event of Council receiving a complaint regarding offensive odour, the person(s) in control of the premises from where the odour is emanating may be directed by Council to at their own cost arrange for an air impact assessment investigation to be carried out (by a suitably qualified person) and submit a report to Council specifying any need for proposed methods for the control of odour emanating from the premises. The provisions of the *Protection of the Environment Operations Act, 1997* apply to the development, in terms of regulating offensive odour.