

PENRITH CITY COUNCIL

NOTICE OF DETERMINATION

DESCRIPTION OF DEVELOPMENT

Application number:	DA21/0354
Description of development:	Circus (Temporary Event) & Erection of Circus Tent
Classification of development:	N/A

DETAILS OF THE LAND TO BE DEVELOPED

Legal description:	Lot 2 DP 851152
Property address:	2 Charles Hackett Drive, ST MARYS NSW 2760 2 The Kingsway, ST MARYS NSW 2760 2 The Kingsway, ST MARYS NSW 2760

DETAILS OF THE APPLICANT

Name & Address:	Janlin Circus Trading As Stardust Circus 269 Springwood Road YARRRAMUNDI NSW 2753
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DECISION OF CONSENT AUTHORITY

In accordance with Section 4.18(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	25 August 2021
Date the consent expires	31 December 2022
Date of this decision	25 August 2021

POINT OF CONTACT

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

Assessing Officer:	James Heathcote
Contact telephone number:	+61247328378

NOTES

Reasons

The conditions in the attached schedule have been imposed in accordance with Section 4.17 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 Division 8.2 of the Environmental Planning and Assessment Act 1979 within twelve months of receiving this Notice of Determination.

These provisions do not apply to designated development, complying development or crown development pursuant to Section 8.2(2) of the Environmental Planning and Assessment Act 1979.

Appeals in the Land and Environment Court

The applicant can appeal against this decision in the Land and Environment Court within twelve months of receiving this Notice of Determination.

There is no right of appeal to a decision of the Independent Planning Commission or matters relating to a complying development certificate pursuant to clause 8.6(3) of the Environmental Planning and Assessment Act 1979.

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 56 days after the date of this notice.

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 56 days after the date of this appeal notice to attend the appeal and make submissions at that appeal.

Sydney Western City Planning Panels

If the application was decided by the Sydney Western City Planning Panel, please refer to Section 2.16 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 approved plans and by the following conditions.

Description	Reference	Prepared By	Date
Site Plan	SP01	Janlin Circuses Pty Ltd	01.05.2018
Event Risk Management Plan	ERMP01	Janlin Circuses Pty Ltd	01.05.2018
Waste Management Plan	WMP01	Janlin Circuses Pty Ltd	01.05.2018

- 2 **The development shall not be used or occupied until an Occupation Certificate has been issued.**
- 3 A separate development application for the erection of a sign or advertising structure, other than an advertisement listed as exempt development, is to be submitted to Penrith City Council, complying with the requirements of Penrith Development Control Plan-Advertising Signs.
- 4 A hotline to receive complaints shall be established for the duration of the event. The hotline phone number(s) shall be provided to Penrith City Council with a contact name. The applicant shall address the complaints and amend any practice in consultation with Penrith City Council.
- 5 This consent permits the temporary use of the land for the purpose of a circus in accordance with the provisions of Clause 2.8 Temporary Use of Land, for a maximum period of 28 days (whether or not consecutive days) in any period of 12 months.

This consent expires on 31 December 2022.

- 6 The circus is to abide by the National Consultative Committee for Animal Welfare (NCCAW) Position Statement No. 26 "Recommended National Circus Standards".
- 7 Prior to the event being held, the operator shall book the use of the land through Council's Community Facility and Recreation Department. Fees and charges may apply.
- Please contact Council's Community Facility and Recreation Department on (02) 4732 7777 for more information.
- 8 This consent permits a maximum of **680 patrons** on the site at any give time; this includes patrons within the tent structure.
- 9 The following Crime Prevention Through Environmental Design requirements are to be complied with:

Lighting

- Temporary lighting must be provided to illuminate key areas, including entry and exit points, toilets, the car park and designated access routes around the site. All areas intended to be used at night should allow appropriate levels of visibility.
- Lighting should have a wide beam of illumination, which reaches to the beam of the next light, or the perimeter of the site or area being traversed.

Building Security & Access Control

- Access control measures should be in place to restrict public access to designated areas only (e.g. security/staff at entrances to backstage and performance areas; mobile homes, caravans and trailers well secured).
- Office and ticket sales areas should be secure and accessible to staff only, with appropriate cash-handling procedures in place to avoid large amounts of cash being kept in office areas.
- After hours security patrols or a static guard are recommended to reduce opportunities for unauthorised access to the site and enhance property security.

Way Finding/Finding Help

- Internal and external signage shall be large and legible with strong colours, standard symbols (e.g. for toilets and entrances/exits) and simple graphics.
- Signs will assist with way-finding and indicate where to go for help or assistance.
- Signage should be erected to denote areas not intended for public access.

Amenities

- Toilets should be clearly visible and signposted.
- Entrances to toilets should be clear of all screening to allow surveillance by the public and staff. This increases patrons' sense of safety and decreases the likelihood of inappropriate activities occurring in the toilets.
- Doors should also have spring-opening hinges to allow doors to remain open when not in use.

Graffiti/Vandalism

- Bins will need to be stored within a secure position and not at risk of vandalism or graffiti.
- Graffiti to circus structures must be promptly removed.

- 10 The site shall be rehabilitated at the cessation of occupancy to the satisfaction of Council. All structures associated with the circus must be removed from the site in a safe manner at the conclusion of the event. The site shall be free of all structures and be returned to its original condition (free of all rubbish and debris) with grass cover established prior to the last day of use.

- 11 **Prior to the circus commencing operation, the event structures and associated facilities are to be inspected by Penrith City Council 24 hours before the event operates for the public.**

Fees for the inspection are to be paid, as detailed in Council's Fees and Charges, prior to the inspection being carried out. Please contact Penrith City Councils Development Services and

Environmental Health Department to arrange the inspection (02) 4732 7991.

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- 12 A sign is to be displayed in a prominent position in the tent that specifies the following:
- a. The maximum number of persons as specified in the development consent, that are permitted in the tent as a place of public entertainment;
 - b. The name, address and telephone number of the council of the area in which the building is located.
Penrith City Council Civic Centre
601 High Street
Penrith NSW 2750
(02) 4732 7777
- 13 **The operating hours of the circus are restricted to:**
- Monday to Thursday - 10:00am to 4:30pm,
Friday to Sunday - 10:00am to 9:30pm.
- 14 Prior to the issue of an Occupation Certificate, an up-to-date (non-expired) Animal Permit, and other relevant documentation and approvals required by the NSW Department of Primary Industries, shall be submitted to Penrith City Council. No Circus events or performances shall occur without an operating Animal Permit.
- 15 The following Public Health requirements are to be implemented prior to the commencement of circus operations and/or be maintained for the duration of the operation of the circus:
- 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.
 - Solid and liquid waste storage and disposal must be carried out in accordance with the Food Act 2003, Local Government Act 1993 and Protection of the Environment Operations Act 1997. All vans - including but not limited to mobile food vans, accommodation vans or vehicles - must include any waste water (including grey water) is discharged to the sewer, or collected and pumped out by a NSW EPA licensed contractor and taken to a licensed facility for disposal.
 - Toilets used by food handlers must have within, or immediately adjacent to them, a hand wash basin with warm running water through a single outlet, soap and single use paper hand towel. These handwash basins are **in addition** to the hand wash facilities which are required to be located within each mobile food van or food stall.
 - All construction and operation of temporary food outlets and mobile food vans shall be carried out in accordance with the requirements of the Food Act 2003, Food Regulation 2010, Food Safety Standards under the Australian and New Zealand Food Standards Code and the current guidelines for temporary events produced by the NSW Food Authority. **All temporary food outlets must complete and return Council's "Application to Sell Food" form at least 14 days prior to operating.**
 - 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.
 - Hand wash facilities must be provided in **each** temporary food stall and mobile food van. All hand washing facilities are to be serviced with warm water and provided with liquid soap and single use paper hand towel.
- 16 The following Building Code of Australia requirements are to be implemented prior to the issue of an Occupation Certificate and/or be maintained for the duration of the operation of the circus:
- The development shall comply with the Building Code of Australia at all times with respect to smoke and flame index of materials, emergency lighting, exit signs and firefighting facilities.
 - The seating in the tent shall comply with Clause NSW H102.10 of the Building Code of Australia.
 - The tent structure, when erected, is to comply with Part B1 of the Building Code of Australia.
 - Prior to the issue of the Occupation Certificate, access for persons with disabilities shall be provided to the tent in accordance with AS1428.1-2021.
 - Prior to the issue of the Occupation Certificate, portable fire extinguishers shall be provided in the tent in accordance with AS2444-2001.
 - Prior to the issue of the Occupation Certificate, emergency lighting and illuminated exit signs are to be installed in the tent in accordance with AS2293.1-2018.
 - Prior to the issue of the Occupation Certificate, a structural engineers certificate is to be submitted to Council certifying the structural adequacy of the tent and seating platforms.
 - Prior to the issue of the Occupation Certificate, documentary evidence that the tent fabric complies with the Building Code of Australia Specification C1:10 Fire Hazard Properties shall be submitted to Council.
 - Prior to the issue of the Occupation Certificate, certification is to be submitted to Council verifying that all electrical services comply with Building Code of Australia, Clause NSW H102.14.
 - Prior to the issue of the Occupation Certificate, temporary sanitary facilities are to be provided for the patrons and employees. The facilities are to be in accordance with the Building Code of Australia, Table F2.3 Class 9(b) - public halls, function rooms or the like. Additionally, facilities for persons with disabilities shall be provided in accordance with AS1428.1-2021.

Environmental Matters

- 17 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.
- 18 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.
- 19 Only clean unpolluted water is to be discharged into Penrith Council's stormwater drainage system. Liquid wastes suitable for discharge to the mains sewer are to be discharged in accordance with Sydney Water's requirements. If mains sewer is not available or if Sydney Water will not allow disposal to the sewer then a licensed contractor is to remove the liquid waste from the premises to an appropriate waste facility.
- 20 No noise generating activities are to occur on the site between 10:00 pm and 9:00 am.
- 21 Amplified music is only to be used within the big top structure
- 22 The approved waste management plan must be implemented on-site and adhered to throughout all stages of the development. All rubbish material generated is to be collected and stored in enclosed (lidded) bins and is to be disposed of at a licensed waste management facility. Waste bins are to be located in a secure

position that is not at risk of vandalism. Supporting documentation / receipts shall be retained in order to verify the recycling and disposal of materials in accordance with the approved plans.

- 23 Litter Patrols are to be conducted after each performance to collect litter disposed of by patrons. The litter patrols are to include the circus site and associated carpark.
- 24 Animal manure is to be removed from the site daily and disposed of in the proposed separate animal waste bin to a licensed waste management facility.
- 25 The animal enclosure is to be kept clean and sanitary at all times to reduce any potential nuisances to surrounding properties.
- 26 Access and parking areas are to be managed to reduce any potential nuisances to surrounding properties. Mud and soil from vehicular movements to and from the site must not be deposited on the road.

Engineering

- 27 Appropriate signage and arrows are to be displayed to reinforce designated vehicle circulation and parking arrangements.
- 28 Temporary parking spaces for persons with a mobility impairment are to be made available.
- 29 Attendants are to supervise the use of the informal parking area and the surrounding grounds to ensure the orderly behaviour of customer parking and to ensure that customers do not park on the nature strips of the surrounding roads.
- 30 The applicant is to discuss overflow parking arrangements with the affected surrounding businesses.

Payment of Fees

- 31 The following fees are payable to Council **prior to use of the site** in accordance with Council's Schedule of Fees and Charges:
 - Cleaning bond (refundable),
 - Infrastructure (non refundable),
 - Casual Use (daily).

For details on the amounts payable, you are requested to contact Council's Parks and Recreation Department on (02) 4732 7777.

- 32 An Infrastructure Restoration Bond is to be lodged with Penrith City Council for use of land around Council's Public Infrastructure Assets. The bond is to be lodged with Council **prior to the use of the site**. The bond is based upon the estimated value of the development at a rate of 0.5% of the total cost of the development.

The bond is refundable once a final inspection has been carried out by Council's Works Department and the use of the site has ceased. The bond may be used to repair or reinstate any damage that occurs to Council's Public Infrastructure Assets as a result of the development works.

Contact Council's City Works Department on 4732 7777 or visit the website to obtain the form and request for final inspection.

Certification

- 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
 - (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.

- 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 site.

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.

Operation of OSSM

- 35 All wastewater from the mobile homes/caravans (including kitchen, toilets, laundry and shower water) is to be collected in a sanitary manner that does not create a nuisance or pollution event. All wastewater generated onsite is to be removed from the site and disposed of at an authorised waste management facility. No contaminated water is to enter the stormwater system or be discharged into any watercourse or onto land.

- 36 The proposed toilets are to be cleaned and serviced regularly. All wastewater generated from the toilets onsite is to be disposed of at an authorised waste management facility. No contaminated water is to enter the stormwater system or be discharged into any water course.

SIGNATURE

Name:	James Heathcote
Signature:	

For the Development Services Manager