

# PENRITH CITY COUNCIL

## MAJOR ASSESSMENT REPORT

<b>Application number:</b>	DA15/0551
<b>Proposed development:</b>	Alterations & Additions to Australian Arms Hotel including New Function Centre & Car Parking
<b>Property address:</b>	18 Lawson Street, PENRITH NSW 2750
<b>Property description:</b>	Lot 4 DP 192127 Lot 2 DP 513015
<b>Date received:</b>	10 June 2015
<b>Assessing officer</b>	Mathew Rawson
<b>Zoning:</b>	Zone B3 Commercial Core - LEP 2010
<b>Class of building:</b>	Class 9b
<b>Recommendations:</b>	Approve

### Executive Summary

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Council is in receipt of a development application for the conversion of the Australian Arms Hotel beer garden area to a reception/function centre as well as demolish an adjoining dwelling to form new car parking area. The proposed function centre is a permissible land use with Council consent in the B3 Commercial Core zone under the Penrith Local Environmental Plan (LEP) 2010.

Key issues identified for the proposed development and site include:

- Heritage - The proposed development will have no impact on the Heritage significance of the Hotel. The main building is unchanged. The proposed development was referred to Council's Advisor Otto Cserhalmi who ultimately found that the development "will not appear to have a significant impact on the streetscape and that of the existing building"
- Car parking - The proposed development provides for 52 car parking spaces, a deficit of 2 spaces from the requirements of the Penrith Development Control Plan (DCP) 2014. Despite the deficit of 2 car parking space the development is considered to be acceptable given its location within the CBD of Penrith which affords it proximity to public car parking (Allen Street car park <100 m), proximity to Penrith railway station (<500 m) and proximity to numerous bus routes.

The application was not notified or advertised despite being nominated as development requiring both under appendix F4 of the Penrith Development Control Plan (DCP) 2014. The reason this requirement was dispensed with is due to the proposed development's minimal potential to result in adverse amenity impacts on the adjoining and surrounding land uses. The DCP retains the use of discretion when nominating development for advertising or notification through Section 4.2.2.C of Appendix F4.

An assessment under Section 79C of the Environmental Planning and Assessment Act 1979 has been undertaken and the application is recommended for approval, subject to recommended conditions.

## Site & Surrounds

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The subject site can be split between two key sites, the hotel site and the proposed car park site.

Upon the hotel site is an existing freestanding hotel (Australian Arms Hotel) building with frontage to High and Lawson St and Lawson St Lane. The building has a total area of 949 sqm with a site area of approximately 2148 sqm.

The subject site's heritage statement of significance states that as "the oldest and most intact twentieth century hotel in Penrith town centre the hotel provides a positive contribution to the street scape of High Street and contributes to defining important road intersection framed by historic buildings and near St Nicholas Catholic Church".

"The current Hotel construction circa 1940 is described as: "A two storey brick inter-war/P&O style commercial hotel with street corner location highlighted by a brick turret element. Parapet and upper floor open balcony. Original suspended cantilevered awning with decorative pressed metal awing. Original half glazed doors and terrazzo treads. Bar moderately intact. Exterior wall tiles removed".

Historically the original timber hotel building was constructed circa 1870 and "Licensed from 1872, initially by butcher Thomas Andrews. He retained the licence until his death in the 1890s. The licence was then kept by his widow. By 1902 the proprietor was R. Aughey who extensively modernised the premises. The original Hotel was demolished in 1940 and rebuilt to its present form. The hotel was sold to the Brewers Toohey's Ltd in 1960".

Apart from minor tile removal and replacement, the exterior of the brick building is mostly intact. The existing Hotel brick facade extends along Lawson St and finishes abruptly and is joined by the metal framed semi open beer garden construction to the north. At the rear is a sealed bitumen carpark area accessed from the Lawson St Lane.

Upon the proposed car park site adjoining to the north of the laneway is an existing small dwelling previously used as commercial office space but currently vacant with open gravel carpark at the rear.

## Proposal

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It is proposed to demolish the 2 car spaces at the northern end of the existing beer garden and extend the beer garden roof structure to the north up to the laneway. The walls of the structure will be widened out to the Lawson St footpath boundary and thus creating an area which will be used as a semi enclosed beer garden by day and reception/function centre by night.

The area will have a timber floor laid over the existing concrete structure with raised timber seating areas around the inside of the perimeter walls. The walls and roof will maintain the use of metal louvre systems to enable compliance with hotel smoking legislation.

Access to the function centre and the hotel will be via the existing carpark with new kerb ramps in accordance with AS 2890.1 to enable disabled access from the carpark to the building. Currently this is enabled via a long external ramp up the Lawson St frontage from the disabled parking spaces at the northern end which will be demolished.

It is also proposed to demolish the adjacent small building previously used as offices on 18 Lawson St and create a carpark area for use of the Function Centre.

The centre will provide seating for 110 patrons and will directly employ 6-10 persons for cooking, table service, front of house and security. Indirectly further employment will be generated for cleaning, laundry, decoration activities.

## Plans that apply

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- Local Environmental Plan 2010 (Amendment 4)
- Development Control Plan 2007 (City Centre)
- Development Control Plan 2010
- Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

## Planning Assessment

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### • Section 79C - Evaluation

The development has been assessed in accordance with the matters for consideration under Section 79C of the Environmental Planning and Assessment Act 1979, and having regard to those matters, the following issues have been identified for further consideration:

### Section 79C(1)(a)(i) The provisions of any environmental planning instrument

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

An assessment has been undertaken of the application against relevant criteria within 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 (Amendment 4)**

Provision	Compliance
Clause 1.2 Aims of the plan	Complies
Clause 2.3 Permissibility	Complies
Clause 2.3 Zone objectives	Complies
Clause 2.7 Demolition requires development consent	Complies
Clause 4.3 Height of buildings	Complies
Clause 4.4 Floor Space Ratio	Complies
Clause 5.9 Preservation of trees or vegetation	Complies
Clause 5.10 Heritage conservation	Complies - See discussion
Clause 7.1 Earthworks	Complies
Clause 7.4 Sustainable development	Complies
Clause 7.6 Salinity	Complies
Clause 7.7 Servicing	Complies
Clause 7.8 Active street frontages	Complies
Clause 8.1 Application of Part	Complies
Clause 8.2 Sun access	N/A
Clause 8.3 Minimum building street frontage	Complies
Clause 8.4 Design excellence	Complies
Clause 8.5 Building separation	Complies
Clause 8.6 Serviced apartments	N/A

### **Clause 5.10 Heritage conservation**

The existing Australian Arms Hotel 359 High St, Penrith is listed in Schedule 5 of Penrith LEP 2010 as being of local significance.

The proposed development will have no impact on the Heritage significance of the Hotel. The main building is unchanged. The additions are low scale hip roofed with brick and light weight wall construction continuing the single storey end wing of the existing building while being sympathetic to the original building. The design of the addition to the Hotel continues the face brickwork below the window sill line with metal louvres and windows above the section. This, then provides a continuation of the strong horizontal brick theme of the existing Hotel at the lower level with the lightweight section of windows and louvres at the higher levels.

The horizontal louvres will reinforce the lightweight nature of the addition which provides visual separation from the solidity of the main hotel building facade. This also provides a degree of privacy and separation for patrons in the function centre from the street and footpath and provides for the ventilation requirements for the use of the area as an unenclosed smoking area. The pitched roof will maintain the integrity of the existing building roof at its northern end and its simple structure is sympathetic to the existing roof at this end of the main building, whilst reinforcing it as a separate structure to the main roof.

The proposed development was referred to Council's Advisor Otto Cserhalmi who ultimately found that the development "will not appear to have a significant impact on the streetscape and that of the existing building"

## Section 79C(1)(a)(iii) The provisions of any development control plan

### Development Control Plan 2007 (City Centre)

Provision	Compliance
Part 2 - Building form	Complies - see Appendix - Development Control Plan Compliance
Part 3 - Pedestrian amenity	Complies
Part 4 - Accessing, parking and servicing	Does not comply - see Appendix - Development Control Plan Compliance
Part 5 - Sustainable development	Complies
Part 6 - Residential development controls	N/A

### Development Control Plan 2010

Provision	Compliance
Part B - DCP Principles	Complies
Part C 1 - Site planning and design principles	Complies
Part C2 - Vegetation management	Complies
Part C3 - Water management	Complies
Part C4 - Land management	Complies
Part C5 - Waste management	Complies
Part C6 - Landscape design	Complies
Part C7 - Culture and heritage	Complies
Part C8 - Public domain	Complies
Part C9 - Advertising and signage	N/A
Part C10 - Transport, access and parking	Does not comply - see Appendix - Development Control Plan Compliance
Part C11 - Subdivision	N/A
Part C12 - Noise and vibration	Complies
Part C13 - Infrastructure and services	Complies
Part D3 - Commercial and retail development	Complies

## Section 79C(1)(a)(iv) The provisions of the regulations

### **Fire safety**

Under Part 9 of the Environmental Planning and Assessment Regulation 2000 owners of buildings must provide the FRNSW Commissioner with a copy of the Fire Safety Certificate for the building (along with the current Fire Safety Schedule). The Fire Safety Certificate is issued when essential fire safety measures have been assessed by a qualified person as being capable of performing to the standard defined by the Schedule. A condition of consent has been imposed to ensure that this occurs on an annual basis.

### **Prescribed Conditions**

The relevant prescribed conditions of the Regulations, such as the requirement for compliance with the BCA, will be imposed as conditions of consent where applicable.

### **Section 92 - Additional Matters**

- Any demolition will be conditioned to be in accordance with the provisions of AS 2601.
- The development is not subject to Government Coastal Policy
- The development is not situated on land subject to an order made under Schedule 5 of the Act (paper subdivisions).

## Section 79C(1)(b) The likely impacts of the development

### *Impacts raised in referral comments*

No issues of concern raised, subject to the imposition of recommended conditions of consent.

### *Other impacts identified in assessment*

Subject to the recommended conditions of consent, it is not considered that the proposal will result in any significant impacts on the natural, social or economic environments of the locality due to its scale, location and consistency with surrounding uses.

Given the lack of likely impacts the advertising and notification requirement of the DCP was dispensed with as it was not likely to generate any adverse impacts subject to the recommended conditions of consent.

## Section 79C(1)(c) The suitability of the site for the development

The subject site is deemed suitable for the following reasons:

- The zone permits the proposed use.
- The use is consistent and compatible with surrounding/adjoining land uses.
- The grade of the site is suitable for the design proposed.
- Stormwater from the site is able to drain to Council's satisfaction.
- The site is adequately serviced by access, water and sewer infrastructure which has the capacity to cope with any increase in demand associated with the proposed development.
- Recommended conditions of consent will ensure that the proposal will have minimal effects on the surrounding environment during the construction stage.

## Section 79C(1)(d) Any Submissions

### 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
Heritage	No objections
Environmental - Waterways	Not supported
Environmental - Public Health	No objections - subject to conditions
Community Safety Officer	No objections - subject to conditions

### Environmental - Waterways

Council's Waterways Officer found that:

"the development will comply with Council's WSUD policy by using a combination of 1\* Enviropods and 3\* 460mm Stormwater 360 Stormfilter Cartridge devices. While the proposed treatment measure complies with Council's stormwater quality target, the proponent may wish to consider incorporating a bioretention system into the landscaping requirements."

However no information is provided on water conservation measures. As such a WSUD Strategy will be required to be prepared which outlines how the proposed development complies with Council's WSUD Policy. Requirements of the policy include a need to incorporate water conservation measures including a commitment to capture and reuse rainwater and utilise WELS rated plumbing fixtures. It is also noted that no operation and maintenance manual has been prepared for the development and the operation and maintenance manual should be included as part of the WSUD Strategy.

These requirements will be enforced by way of the imposition of a recommended condition of consent.

## Section 79C(1)(e) The public interest

The proposed development will not generate any significant issues of public interest.

## Section 94 - Developer Contributions Plans

The following Section 94 plans apply to the site and the proposed development:

- Penrith City Centre Civic Improvements Plan 2008

However the proposed development will not incur the payment of any development contributions as the additional gross floor area proposed by the development is more than offset by the loss of gross floor area as a result of the demolition of the existing dwelling which was previously used for office premises.

## **Conclusion**

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Subject to the recommended conditions of consent the proposal is considered to be consistent with the relevant sections of the Environmental Planning and Assessment Act 1979, relevant State Environmental Planning Policies, the relevant Local Environmental Plan and the Penrith Development Control Plan 2014 because it does not contravene any development standards and will not result in any significant impacts on the natural, social or economic environments.

The site is suitable for the proposed development, the proposal does not conflict with the public interest, and there is unlikely to be negative impacts arising from the proposed development. Accordingly, the application is worthy of support and recommended for approval, subject to recommended conditions.

## **Recommendation**

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1. That DA15/0551 for the conversion of a beer garden to a function centre and demolition of a dwelling and construction of an at grade car park at 18 Lawson Street & 359 High Street, Penrith, approved subject to the attached conditions.

## General

### 1 [A001](#)

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 No.	Dated	Author
Floor and Site Plan	1186 DA.01	03/06/15	N.F. Billyard P/L
Elevations and Sections	1186 DA.02	03/06/15	N.F. Billyard P/L
Smoking Area Calculations	1186 DA.03	03/06/15	N.F. Billyard P/L
Carpark Stormwater Drainage Details	101947-1	27/05/15	Kneebone, Beretta & Hall Pty Ltd
Waste Management Plan	--	10/06/15	Noel Billyard
Schedule of External Finishes	1186 Ext	--	N.F. Billyard P/L

### 2 [A012 - Food Act](#)

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 [A019 - Occupation Certificate](#)

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

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 2014.

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

The operating hours are to be in accordance with the existing pub's operating hours.

### 6 [A032 - Goods in buildings](#)

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

### 7 [A046 - Obtain Construction Certificate before commencement of works](#)

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

### 8 [A CPTED Lighting](#)

Prior to the issue of a Occupation Certificate the following requirements are to be incorporated into the development's design to ensure consistency with the principles of community protection through environmental design (CPTED).

#### Lighting

- All areas intended to be used at night including the car park and all entrances/exit points into the function centre should allow appropriate levels of visibility.
- Pedestrian pathways, laneways and access routes in outdoor public spaces should be lit to the minimum Australian Standard of AS 1158. Lighting should be consistent in order to reduce the contrast between shadows and illuminated areas. Lighting should be designed in accordance with AS4282 – Control of the obtrusive effects of outdoor lighting.
- 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. Moreover, lighting should clearly illuminate the faces of users of pathways.
- Lighting should take into account vegetation and landscaping that may act as an entrapment spot.
- Lighting should be designed so that it is 'vandal tough' or difficult for vandals to break.
- Where appropriate use movement sensitive and diffused lights
- Avoid lighting spillage onto neighbouring properties as this can cause nuisance and reduce opportunities for natural surveillance.
- All lighting should be maintained and kept in a clean condition with all broken or burnt out globes replaced quickly.

#### Fencing



- The proposed low metal fence surrounding some sections of the car park should maximise natural surveillance from the car park to the street and from the street to the car park, and minimise the opportunities for intruders to hide. Dark coloured, open style fencing is recommended.
- Front fences should preferably be no higher than 1.2 metres. Where a higher fence is proposed, it will only be considered if it is constructed of open materials e.g. spaced pickets, wrought iron, post and rail etc.

### **Car Parking**

- The movement of pedestrians throughout the car park should be clearly delineated by all users of the car park and minimises conflict with vehicles.
- The design of the car park should ensure that passive surveillance is possible and where appropriate, incorporate active measures such as cameras and security patrols. The car park should be designed to minimise dark areas through the provision of appropriate lighting.
- It is recommended that the gates to the car park be locked after hours to minimise opportunities for unauthorised access and any associated loitering and antisocial behaviour.
- Entrances should be easily recognisable through design features and directional signage.

### **Landscaping**

- Dense, medium height vegetation with top to bottom foliage shall be avoided, particularly around walkways. The use of low-level planting or high canopied vegetation will improve surveillance, provide clear lines of sight and avoid any potential concealment areas.
- Trees with dense low growth foliage should be spaced or crown raised to avoid a continuous barrier.
- Avoid vegetation which conceals the building or car park entrance from the street. The landscaping proposed across the front of the section of car park facing Lawson St should consist of either low level or high canopy planting to maximise surveillance into and out of the car park.
- Avoid vegetation that impedes the effectiveness of public and private space lighting.

### **Building Security & Access Control**

- Australian Standard 220 door and window locks should be installed throughout the function centre.
- If security grills are used on windows they should be operable from inside in case of emergencies.
- Ensure skylights and /or roof tiles cannot be readily removed or opened from outside.
- Monitored alarm systems should be installed in the new function centre.
- CCTV should be considered to cover the new areas. Cameras must be of sufficient standard to be useful for police in the event of criminal investigations. Lighting should be provided to support cameras at night (alternatively infra-red cameras are recommended).
- Effective management procedures should be in place to monitor access/egress by patrons and responsible service of alcohol.

### **Way Finding/Finding Help**

- Signs should be strategically located at entrances and near activity nodes in the new areas such as intersections of corridors or paths.
- Signs should be large and legible, with strong colours, standard symbols (e.g. for washrooms) and simple graphics. They should indicate where to go for help or assistance.

### **Amenities**

- Entrances to toilets should be clear of all screening to allow surveillance by staff.
- Toilet cubicle doors should have spring-opening hinges to allow doors to remain open when not in use.
- Rear of toilet should have hooks located half way down to ensure handbags cannot be accessed over the top of the door.
- There should be a gap between the toilet door and floor and toilet door and ceiling.

### **Graffiti/Vandalism**

- Graffiti resistant coatings must be used to external surfaces where possible, including signage, furniture, retaining walls etc.
- Procedures must be in place to ensure the prompt removal and/or repair of graffiti or vandalism to the buildings, fencing, commercial tenancies and common areas. This includes reporting incidents to police and/or relevant authorities.
- Management will be available at a mutually convenient time, at the invitation of Penrith City Council and/or the NSW Police, to discuss and action agreed Community Safety, Security or other issues in conjunction with other local stakeholders in the area should the need arise.

9 **A Special (fencing)**

If fencing or gates are proposed to be erected around the proposed car parking areas then details must be submitted to and approved by Council prior to the issue of a Construction Certificate.

10 **A Special (WSUD Requirements)**

Prior to the issue of a Construction Certificate, a WSUD Strategy must be submitted to, and approved by, Council. This WSUD Strategy must outline how the proposed development complies with Council's WSUD Policy. Requirements of the policy include a need to incorporate water conservation measures including a commitment to capture and reuse rainwater and utilise WELS rated plumbing fixtures.

It is also noted that no operation and maintenance manual has been prepared for the development. This operation and maintenance manual must be included as part of the WSUD Strategy.

## Demolition

11 **B002 - AS FOR DEMOLITION AND DISPOSAL TO APPROVED LANDFILL SITE**

All demolition works are to be conducted in accordance with the provisions of AS 2601-1991 "The Demolition of Structures". **Prior to demolition**, all services shall be suitably disconnected and capped off or sealed to the satisfaction of the relevant service authority requirements.

All demolition and excavated material shall be disposed of at a Council approved site or waste facility. Details of the proposed disposal location(s) of all excavated material from the development site shall be provided to the Principal Certifying Authority **prior to commencement of demolition**.

12 **B003 - ASBESTOS**

You should read Council's Fact Sheet titled "Handling and Disposal of Fibrous Cement Products" **before any demolition works commence on the site**.

**Prior to commencement of demolition works on site**, a portaloo with appropriate washing facilities shall be located on the site and the Principal Certifying Authority is to be satisfied that:

- Measures are in place so as to comply with the WorkCover Authority's "Short Guide to Working with Asbestos Cement" and
- The person employed to undertake the works is a licensed asbestos removal contractor and is holder of a current WorkCover Asbestos Licence.

Any demolition works involving the removal of all asbestos shall only be carried out by a licensed asbestos removal contractor who has a current WorkCover Asbestos Licence.

All asbestos laden waste, including asbestos cement flat and corrugated sheeting must be disposed of at a tipping facility licensed by the Environmental Protection Authority to receive asbestos wastes.

13 **B004 - Dust**

Dust suppression techniques are to be employed during demolition to reduce any potential nuisances to surrounding properties.

14 **B005 - Mud/Soil**

Mud and soil from vehicular movements to and from the site must not be deposited on the road.

15 **B006 - Hours of work**

Demolition works will 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 demolition work is permitted on Sundays and Public Holidays.

In the event that the demolition relates to works inside the building that do not involve external walls or the roof, and do not involve the use of equipment that emits noise then the demolition works are not restricted to the hours stated above.

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

## Environmental Matters

16 **D001 - Implement approved sediment& erosion control measures**

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.

17 **D007 - Cut and fill of land requiring Validation Certificate –limited to footprint**

Cut and fill operations on the property are only permitted in conjunction with the building works as detailed on the approved plans and specifications, and shall not extend more than 2 metres past the defined building footprint.

Before any fill material is imported to site, a validation certificate issued by an appropriately qualified person is to be provided to the Principal Certifying Authority. The validation certificate must demonstrate that the fill material is free from contaminants and weeds, that it is suitable for its intended purpose and land use, and that it will not pose an unacceptable risk to human health or the environment.

If Penrith City Council is not the Principal Certifying Authority, a copy of the validation certificate is to be submitted to Council for their reference.

{Note: Penrith Contaminated Land Development Control Plan defines an appropriately qualified person as "a person who, in the opinion of Council, has a demonstrated experience, or access to experience in hydrology, environmental chemistry, soil science, eco-toxicology, sampling and analytical procedures, risk evaluation and remediation technologies. In addition, the person will be required to have appropriate professional indemnity and public risk insurance."}

18 **D009 - Covering of waste storage area**

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.

19 **D010 – Appropriate disposal of excavated or other waste**

All excavated material and other 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.

20 **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.

21 **D025 - Stormwater disposal**

Stormwater runoff from parking and open areas shall be directed to the stormwater drainage system. Stormwater pre-treatment devices shall be used to remove litter and sediment. Specifications of the stormwater pre-treatment devices including details on maintenance and cleaning of the devices are to accompany the Construction Certificate application.

22 **D Special (Noise)**

In the event of on-going noise complaints relating to the development being received by Council, the owner and/or occupier of the development may be required by Council to obtain the services of a suitably qualified acoustic consultant to undertake a noise impact assessment on the development to address the concerns of the community. The noise impact assessment report is to be prepared and provided to Council within 45 days of being requested. The assessment report is to be approved by Council, with any recommendations being implemented in accordance with the approved assessment report.

The provisions of the Protection of the Environment Operations Act 1997 apply to the development, in terms of regulating offensive noise.

## BCA Issues

### 23 E005 - Smoke detectors-interconnect

The smoke alarms shall be interconnected so that the sounding of the alarm in one detector activates the alarm in all detectors.

### 24 E006 - Disabled access and facilities

Access and sanitary facilities for persons with disabilities are to be provided and maintained in accordance with the requirements of the Building Code of Australia and AS 1428 "Design for Access and Mobility". Details of compliance are to be provided in the relevant plans and specifications accompanying the Construction Certificate application.

### 25 E009 - Annual fire safety-essential fire safety (Class 2-9 buildings)

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.

### 26 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

### 27 F001 - General Fitout

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 AS 4674-2004 *Design, Construction and Fitout of Food Premises*.

### 28 F186 - Smoke Free Environment

The construction and operation of the premises shall comply with the NSW Smoke-free Environment Act 2000 and Smoke-free Environment Regulation 2000.

## Utility Services

### 29 G002 - Section 73 (not for

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](http://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.

### 30 G004 - Integral Energy

Prior to the issue of a Construction Certificate, a written clearance is to be obtained from Endeavour Energy stating that electrical services have been made available to the development or that arrangements have been entered into for the provision of services to the development.

# Construction

## 31 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.

## 32 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.

### 33 [H003 - Traffic safety during construction or subdivision works](#)

No work is to commence on site until such time as a person accredited to prepare traffic control plans in accordance with AS1742.3 "Traffic Control Devices for Works on Roads" and the Roads and Traffic Authority's publication "Traffic Control Works on Roads" and the Roads and Traffic Authority's publication "Traffic Control at Worksites" has certified a Traffic Control Plan for the development/site. The Traffic Control Plan shall be implemented during the construction phase of the development and a copy of the plan shall be available on site at all times.

A copy of the Traffic Control Plan shall accompany the Notice of Commencement to be submitted to Penrith City Council 2 days before any work is to commence onsite.

### 34 [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 that do not involve the use of equipment that emits noise are not restricted to the construction hours stated above.

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

## Engineering

### 35 [K040 Linemarking & Signposting](#)

The location of all proposed line marking, and associated signposting shall be in accordance with AS 1742.2, and approved plans.

Prior to the issue of a Occupation Certificate installation of line marking and signage shall occur in accordance with the approved plans.

All signage and linemarking is to be undertaken at no cost to Penrith City Council.

### 36 [K202 - Section 138 Roads Act – Minor Works in the public road](#)

**Prior to the issue of a Construction Certificate**, a Section 138 Roads Act application/s, including payment of fees shall be lodged with Penrith City Council, as the Roads Authority for any works required in a public road. These works may include but are not limited to the following:

- Vehicular crossings (including kerb reinstatement of redundant vehicular crossings)
- Road opening for utilities and stormwater (including stormwater connection to Council infrastructure)
- Road occupancy or road closures

All works shall be carried out in accordance with the Roads Act approval, the development consent including the stamped approved plans, and Penrith City Council's specifications. Contact Council's **City Works Department** on (02) 4732 7777 for further information regarding the application process.

Note: Approvals may also be required from the Roads and Maritime Service for classified roads.

Council (being the Roads Authority under the Roads Act) shall approve the works completed on or over the road reserve. Contact Council's **City Works Department** on (02) 4732 7777 to arrange an inspection of the works (and payment of inspection fees, if required).

### 37 [K209 - Stormwater Concept Plan](#)

The stormwater management system shall be provided generally in accordance with the stamped approved stormwater concept plan lodged for development approval.

Engineering plans and supporting calculations for the stormwater management systems are to be prepared by a suitably qualified person and shall accompany the application for a Construction Certificate.

Prior to the issue of a Construction Certificate the Certifying Authority shall ensure that the stormwater management system has been designed in accordance with Council's Stormwater Drainage for Building Developments Policy and Water Sensitive Urban Design Policy.

### 38 [K502 - Works as executed – General and Compliance Documentation](#)

Prior to the issue of an Occupation Certificate, works-as-executed drawings, final operation and maintenance management plans and any other compliance documentation shall be submitted to the Principal Certifying Authority in accordance with Penrith City Council's Engineering Construction Specification for Civil Works, WSUD Technical Guidelines and Stormwater Drainage for Building Developments.

An original set of works-as-executed drawings and copies of the final operation and maintenance management plans and compliance documentation shall also be submitted to Penrith City Council with notification of the issue of the Occupation Certificate where Council is not the Principal Certifying Authority.

### 39 [K503 - Stormwater Compliance](#)

Prior to the issue of an Occupation Certificate the Principal Certifying Authority shall ensure that the:

- a) Stormwater management systems (including on-site detention and water sensitive urban design)
  - Have been satisfactorily completed in accordance with the approved Construction Certificate and the requirements of this consent.
  - Have met the design intent with regard to any construction variations to the approved design.
  - Any remedial works required to be undertaken have been satisfactorily completed.

Details of the approved and constructed system/s shall be provided as part of the works-as-executed drawings.

### 40 [K504 - Restriction as to User and Positive Covenant](#)

Prior to the issue of an Occupation Certificate a restriction as to user and positive covenant relating to the:

- a) Stormwater management systems (including on-site detention and water sensitive urban design)

Shall be registered on the title of the property. The restriction as to user and positive covenant shall be in Penrith City Council's standard wording as detailed in Penrith City Council's Stormwater Drainage for Building Development.

### 41 [K - Waterways - Stormwater Management system operation and maintenance](#)

The stormwater management systems shall continue to be operated and maintained in perpetuity to the satisfaction of Council in accordance with the final operation and maintenance management plan. Regular inspection records are required to be maintained and made available to Council upon request. All necessary improvements are required to be made immediately upon awareness of any deficiencies in the treatment measure/s

### 42 [K Special - K041 \(Infrastructure restoration bond\) \(not adopted by Council. Used by planners\)](#)

An Infrastructure Restoration Bond is to be lodged with Penrith City Council for development involving works around Council's Public Infrastructure Assets. The bond is to be lodged with Council **prior to the issue of a Construction Certificate**. The bond shall be determined in accordance with Council's adopted Fees and Charges.

The bond is refundable once a final inspection has been carried out by Council's City Works Department and the works have been completed to Council's satisfaction. 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 Council's website to obtain the form and request for final inspection.



## Landscaping

### 43 L000 (Detailed Landscape Plan)

Prior to the issue of a Construction Certificate, a detailed Landscape Plan must be submitted for the proposed carpark area. Such landscaping shall incorporate planting of low level shrubs and grasses and high canopy trees. Four canopy trees must be incorporated in the detailed landscape plan as marked in red on the approved Site Plan.

### 44 L001 - General

All landscape works are to be constructed in accordance with the landscape plan required by the condition above and the landscaping section of Penrith Council's Development Control Plan 2014.

Landscaping shall be maintained:

- in accordance with the approved plan, and
- in a healthy state, and in perpetuity by the existing or future owners and occupiers of the property.

If any of the vegetation comprising that landscaping dies or is removed, it is to be replaced with vegetation of the same species and, to the greatest extent practicable, the same maturity as the vegetation which died or was removed.

### 45 L002 - Landscape construction

The approved landscaping for the site must be constructed by a suitably qualified landscape professional.

### 46 L003 - Report requirement

The following series of reports relating to landscaping are to be submitted to the nominated consent authority at the appropriate time periods as listed below. These reports shall be prepared by a suitably qualified landscape professional.

#### i. Implementation Report

Upon completion of the landscape works associated with the development and prior to the issue of an Occupation Certificate for the development, an Implementation Report must be submitted to the Principal Certifying Authority attesting to the satisfactory completion of the landscaping works for the development. The report is to be prepared by a suitably qualified landscape professional.

An Occupation Certificate should not be issued until such time as a satisfactory Implementation Report has been received. If Penrith City Council is not the Principal Certifying Authority, a copy of the satisfactory Implementation Report is to be submitted to Council together with the Occupation Certificate for the development.

#### ii. Maintenance Report

On the first anniversary of the date of the Occupation Certificate issued for the development, a Landscape Maintenance Report is to be submitted to Penrith City Council certifying that the landscape works are still in accordance with the development consent and the plant material is alive and thriving.

This report is to be prepared by a suitably qualified landscape professional.

### 47 L005 - Planting of plant

All plant material associated with the construction of approved landscaping is to be planted in accordance with the Tree Planting Specification prescribed in the Landscaping section of Penrith Council's Development Control Plan 2014.

### 48 L006 - Aust Standard

All landscape works are to meet industry best practice and the following relevant Australian Standards:

- AS 4419 Soils for Landscaping and Garden Use,
- AS 4454 Composts, Soil Conditioners and Mulches, and
- AS 4373 Pruning of Amenity Trees.

## Certification



49 **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.

50 **Q05F - Occupation Certificate for Class10**

An Occupation Certificate is to be obtained from the Principal Certifying Authority on completion of all works and prior to the use of the car park and function centre.

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.

# Appendix - Development Control Plan Compliance

## Development Control Plan 2007 (City Centre)

### 2 Building Form

The application has been assessed against the Penrith Development Control Plan 2014 which came into effect 17 April 2015. The proposal is generally compliant with the DCP controls however the following matters are noted for discussion.

The proposed development complies with the applicable controls with Section E11 Part A of DCP 2014.

In the B3 zone there is no requirement for setbacks from boundaries / street frontages or in relation to building depth and bulk for buildings below 12 m in height. Additionally there is limitation to site coverage.

### 4 Access, Parking and Servicing

At grade car parking does not comply with Control 11.4.2.C.2 of the Penrith City Centre Section of the DCP which requires that: On-site parking is to be accommodated in basement parking except in the blocks between Belmore and Henry Streets.

However the proposed demolition of the existing building and construction of at grade parking is considered to be consistent with the objectives of this section:

- a) To encourage economic growth in the City Centre.
- b) To enable the conversion of above ground parking to other future uses.
- c) To support the complementary use and benefit of public transport and non-motorised modes of transport such as bicycles and walking.

The car park remains an easily converted parcel of land due to its separate title from that of the Australian Arms Hotel. Additionally the existing dwelling is currently vacant and an eye sore, its demolition and replacement with formed car park complete with WSUD measures and landscaping is considered to be a better outcome than its retention, especially given the lack of impediments placed upon the parcel of land for redevelopment.

The continuation of the function centre and pub land uses are not considered to be jeopardised by the potential loss of this car park space for future development given the sites proximity to public transport, high density residential development and shared demand for car parking between the two uses.

## Development Control Plan 2010

### Part C - Controls applying to all land uses

#### Transport, Access and Parking

This section requires car parking at a rate of 1 space per 3.5 seats for the function centre and 1 space per 30 sqm GFA for the pub (pubs are a type of food and drink premises and food and drink premises are a type of retail premises).

Accordingly the parking requirement calculation is as follows:

- Function Centre -  $110 \text{ seats} / 3.5 = 31 \text{ spaces}$ .
- Pub -  $692.16 \text{ sqm} / 30 = 23 \text{ spaces}$ .
- Total -  $31 + 23 = 54 \text{ spaces}$ .

The proposed development provides for 52 car parking spaces, a deficit of 2 spaces.

Despite the deficit of 2 car parking space the development is considered to be acceptable given its location within the CBD of Penrith which affords it proximity to public car parking (Allen Street car park <100 m), proximity to Penrith railway station (<500 m) and proximity to numerous bus routes. Additionally the pub and function centre are compatible land uses which will share car parking demand.