

PENRITH CITY COUNCIL

MAJOR ASSESSMENT REPORT

Application number:	DA15/0794
Proposed development:	Use as Education Centre & Signage
Property address:	134 - 138 Henry Street, PENRITH NSW 2750
Property description:	Lot 1 DP 164798 Lot 1 DP 252457
Date received:	20 July 2015
Assessing officer	Clare Aslanis
Zoning:	Zone B3 Commercial Core - LEP 2010
Class of building:	Class 1b
Recommendations:	Approve

Executive Summary

Council is in receipt of a development application for an Education Centre and signage on 134 Henry Street, Penrith and the proposal is a permissible land use with Council consent.

Site & Surrounds

The subject site is situated on the corner of Henry Street and Greymark Lane, Penrith. It is 252.9m² in area and is orientated in a northern direction. It is within a building with several commercial tenancies such as a dry cleaner, café and body improvement clinic.

An inspection of the site was undertaken on 26 August 2015 and the site is currently occupied by a by several tenancies.

The surrounding area is characterised by small and large scale commercial development.

Proposal

The proposed development involves:

Use of the existing shop as a Kip McGrath learning centre with associated fit out and signage.

Plans that apply

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

Planning Assessment

• 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 2.3 Permissibility	Complies - See discussion

Clause 2.3 Permissibility

The site is zoned B3 Commercial Core under the Penrith Local Environmental Plan 2010 and Commercial premises are permitted with Council consent.

A Commercial premises is defined as:

any of the following:

- (a) business premises,*
- (b) office premises,*
- (c) retail premises.*

business premises means a building or place at or on which:

- (a) an occupation, profession or trade (other than an industry) is carried on for the provision of services directly to members of the public on a regular basis, or*
- (b) a service is provided directly to members of the public on a regular basis,*

and includes a funeral home and, without limitation, premises such as banks, post offices, hairdressers, dry cleaners, travel agencies, internet access facilities, betting agencies and the like, but does not include an entertainment facility, home business, home occupation, home occupation (sex services), medical centre, restricted premises, sex services premises or veterinary hospital.

The use is therefore considered to fall within this definition as services will be provided directly to the public on a regular basis.

Section 79C(1)(a)(ii) The provisions of any draft environmental planning instrument

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

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 4 - Accessing, parking and servicing	Does not comply - see Appendix - Development Control Plan Compliance

Section 79C(1)(a)(iiia) The provisions of any planning agreement

There are no planning agreements applying to this application.

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

Fire safety

In accordance with Section 143 of the Environmental Planning and Assessment Regulation 2000, an assessment of the fire protection and structural capacity of the proposed building is necessary.

The application has been referred to Council's Building Surveyors for assessment with the following comments being provided:

The proposal is to use existing rooms on the first floor of a building for education training rooms. 5 staff and a maximum of 15 students is stated. There are 2 male and 2 female facilities which will cater for the occupancy rate. Only minor cosmetic works are proposed. The floor is under 500m² and has a concrete floor. Travel distances are within the max required of 20m.

The classification will be Class 9b Education Facility.

No objection is raised to the application subject to the recommended building conditions being included should consent be granted.

The proposed development complies with the requirements of the Regulations.

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

Likely impacts of the proposed development as identified throughout the assessment process include:

(i) Context and Setting (environmental impacts and impacts on built environment)

The proposal is consistent with the bulk, scale, colour and design of other development in the locality.

The development will have only minor impact on the amenity of the area and the streetscape.

The development is compatible with the surrounding and adjacent land uses.

It is considered the development will have no / or minimal impact on the amenity of the area in terms of Sunlight Access (overshadowing) / visual and acoustic privacy / views or vistas

The development will have no impacts on natural environment.

(ii) Access and transport

The development will have no or minimal impact on the local road system.

The existing / proposed access arrangements and car parking on site will be adequate for the development.

(iii) Heritage

The property is not subject to any Heritage Order or identified as a heritage item under a planning instrument.

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

The site is suitable for the following reasons:

- The site is zoned to permit the proposed use
- The use is compatible with surrounding/adjoining land uses
- The existing building has the capacity to cater for 15 students seated at desks with 5 teaching staff roaming between desks
- The signage is compatible with the adjoining land uses.

Section 79C(1)(d) Any Submissions

Community Consultation

In accordance with Clause 4.4 of Appendix F4 of Penrith Development Control Plan 2014, the proposed development did not have to be notified to nearby and adjoining residents.

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

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

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

Conclusion

In assessing this application against the relevant environmental planning policies, being the Penrith Local Environmental Plan 2010 and Development Control Plan 2014, the proposal satisfies the aims, objectives and provisions of these policies.

The proposed design is site responsive, complies with key development standards and is in the public interest.

The site is suitable for the proposed development, the proposal is in the public interest, and there is unlikely to be negative impacts arising from the proposed development.

Therefore, the application is worthy of support, subject to recommended conditions.

Recommendation

1. That DA15/0794 for the use of an existing building as a tutorial centre with associated signage at 134-138 Henry Street, Penrith, be approved subject to the attached conditions.

General

1 [A001](#)

The development must be implemented substantially in accordance with the plans numbered Sheets 1-3 and dated 9 September 2015, as 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.

2 [A019 - OCCUPATION CERTIFICATE \(ALWAYS APPLY\)](#)

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

3 [A023 - Limit customers on site \(for home business\)](#)

Clients shall be arranged on an appointment only basis so that:

- no more than 15 clients are being taught at any one time, and
- no more than 5 staff are on the site at any one time.

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

The approved operating hours are from 8:30 am to 9 pm Mondays to Saturdays, and 9 am to 1 pm Sundays.

5 [A032 - Goods in buildings](#)

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

6 [A039 - Graffiti](#)

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

BCA Issues

7 [E003 - Structural alterations](#)

In accordance with the requirements of Clause 94 of the Environmental Planning and Assessment Regulation 2000, the following works shall be completed to ensure the fire safety of the premises:

- a) Emergency and exit lighting is to be provided in accordance with Part E4 of the Building Code of Australia (BCA).
- b) Hand railing and balustrades are to be provided in accordance with Clause D2.16 of the BCA.
- c) All exit doors are to be provided with latching devices in accordance with D2.21 of the BCA.
- d) Suitable portable fire extinguishers are to be installed in accordance with the BCA.

Upon completion suitable installation certificates are to be submitted to Council.

8 [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.

9 E01A - BCA compliance for Class 2-9

All aspects of the building design shall comply with the applicable performance requirements of the Building Code of Australia so as to achieve and maintain acceptable standards of structural sufficiency, safety (including fire safety), health and amenity for the on-going benefit of the community. Compliance with the performance requirements can only be achieved by:

(a) complying with the deemed to satisfy provisions, or

(b) formulating an alternative solution which:

- complies with the performance requirements, or
- is shown to be at least equivalent to the deemed to satisfy provision, or

(c) a combination of (a) and (b).

It is the owner's responsibility to place on display, in a prominent position within the building at all times, a copy of the latest fire safety schedule and fire safety certificate/ statement for the building.

Construction

10 H041 - Hours of work (other devt)

All works that are carried out in accordance with an approved consent that involve the use of heavy vehicles, heavy machinery and other equipment likely to cause offence to adjoining properties shall be restricted to the following hours in accordance with the NSW Environment Protection Authority Noise Control Guidelines:

- Mondays to Fridays, 7am to 6pm
- Saturdays, 7am to 1pm (if inaudible on neighbouring residential premises), otherwise 8am to 1pm
- No work is permitted on Sundays and Public Holidays.

Other construction works carried out inside a building/tenancy and do not involve the use of equipment that emits noise are not restricted to the construction hours stated above.

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

Certification

11 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 operation of the commercial premises.

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

Two external signs have been proposed. One sign is proposed to be placed over an existing window sign on the first floor of the building and is 1250mmX1800mm.

The second sign is 700mmX800mm and is to be placed beside the entrance door where existing signage is located.

Both signs identify the business and show phone numbers. The colours and sizes are compatible with the adjoining land uses and existing signage within the immediate vicinity.

4 Access, Parking and Servicing

11.4.2 Onsite Parking Options

The applicant proposes to provide parking at the rear of the site within the council's Allen Street car park. This car park is used by many surrounding developments within the Penrith City Centre and often reaches capacity. The site is also located within close proximity to Penrith rail station and Penrith Westfield, reducing the need for onsite car parking. In addition to this, the nature of the business means that most customers would be parking for other purposes and would attend the pizza shop in passing or would only be parking momentarily whilst they collect food orders.

Whilst the development does not explicitly provide onsite car parking, it is considered adequate for the proposed use as other parking and transport options are available within a reasonable walking distance.