

# PENRITH CITY COUNCIL

## MAJOR ASSESSMENT REPORT

<b>Application number:</b>	DA15/0375
<b>Proposed development:</b>	Outdoor Dining Area & Associated Food Servery
<b>Property address:</b>	127 - 141 Station Street, PENRITH NSW 2750
<b>Property description:</b>	Lot 12 DP 1176987
<b>Date received:</b>	21 April 2015
<b>Assessing officer</b>	Mathew Rawson
<b>Zoning:</b>	RE2 Private Recreation - 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 a new outdoor dining area and food servery for the clubhouse of the Penrith Paceway. Under the Penrith Local Environmental Plan 2010 the subject site is zoned RE2 Private Recreation and the proposal is ancillary to the existing permissible land use of the site.

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 is located on Station Street in the vicinity of Penrith Rugby League Stadium, the Panthers entertainment precinct, Mountain View Retirement Village and Centro Nepean. The site is bounded by public roads to the east, west and south and low density residential development to the north.

The site is 13.38ha in area, has an irregular formation with the majority of the land screened from view by existing vegetation along the Mulgoa Road frontage as well as by the existing brick walls and storage structures along Ransely Street.

The site is currently used by the local agricultural society as a showground and horse racing track. The site currently includes a grandstand, function venue, clubhouse and a race track.

### Proposal

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The proposed development consists of the construction of an outdoor eating area at the southern side of the clubhouse in proximity to the entrance and existing playground as well as converting an outdoor gaming area into a new food servery to service a proposed outdoor dining area.

The works will involve removing existing louvre panels, constructing new masonry walls where a steel mesh enclosure now exists, constructing new servery hatches to external areas and one internal area within the club, cement rendering and tiling interior walls and floors and installing a new flush plasterboard ceiling. There will be no additional roof area and the existing roof and roof drainage will be utilised.

The food servery will be constructed to food premises standards although there will be no food preparation or washing facilities provided. This will all be done in the existing Club kitchen and transferred to the servery as required. A hand washing and domestic style sink will also be provided.

## Plans that apply

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- Local Environmental Plan 2010 (Amendment 4)
- 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

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

### Development Control Plan 2010

Provision	Compliance
Part B - DCP Principles	Complies
Part C 1 - Site planning and design principles	Complies
Part C2 - Vegetation management	N/A
Part C3 - Water management	N/A
Part C4 - Land management	N/A
Part C5 - Waste management	Complies
Part C6 - Landscape design	N/A
Part C7 - Culture and heritage	N/A
Part C8 - Public domain	N/A
Part C9 - Advertising and signage	N/A
Part C10 - Transport, access and parking	Complies
Part C11 - Subdivision	N/A
Part C12 - Noise and vibration	N/A
Part C13 - Infrastructure and services	N/A

## 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***

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

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

### ***Impacts raised in submissions***

No submissions received or issues of concern raised.

### ***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.

## 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 land uses.
- The grade of the site is suitable for the design proposed.
- 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
Environmental - Public Health	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

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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, the relevant Local Environmental Plan, relevant State Environmental Planning Policies and the Penrith Development Control Plan 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 DA15/0375 for an outdoor dining area and associated food servery at 127-141 Station Street, Penrith, be approved subject to the attached conditions.

# CONDITIONS

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## General

### 1 A001

The development must be implemented substantially in accordance with the plans numbered 15 888 (DA01 & DA02), drawn by McDivitt Group Architects, dated April 2015, and 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 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.

### 5 A029 - HOURS OF OPERATION AND DELIVERY TIMES

The operating hours are to be consistent with the those of the existing clubhouse.

### 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.

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

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

### 8 A Special (Outdoor eating requirements)

The approved outdoor eating area shall comply with the following requirements:

- The furniture shall be high quality in design and construction, and complement the existing club. Lightweight plastic furniture, which may become airborne on windy days if not adequately weighted, is not permitted.
- The furniture is to be maintained in a clean and hygienic state at all times.
- The eating area is not to cause inconvenience or to disrupt pedestrian traffic along the footpath or thoroughfare. A clear distance of at least 2.0 metres is to be made available at all times either side of the premises doorway.
- The outdoor dining areas must be defined by a barrier, with no sharp edges or protruding feet that may cause a trip hazard to pedestrians or patrons. This barrier must be of sturdy construction, a minimum of 60 cm high and complementary in colour to the seating.
- No food is to be prepared or stored outside. No hot food counters, boilers or urns shall be placed on public areas or areas external to the premises.
- All furniture which is not fixed in place must be put away inside the premises when it is closed.

### 9 A Special (Shade Sails)

Details of the proposed shade sails shall be submitted to the Principal Certifying Authority prior to the issue of a Construction Certificate and commencement of works. These shade sails must:

- be at least 2.1 m high but no higher than the existing clubhouse.
- be finished in a colour which complements that of the existing building.
- be erected strictly in accordance with the manufacturers specifications.

## Demolition

### 10 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**.

## Environmental Matters

### 11 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.

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

All wastes generated as a result of the development are to be re-used, recycled or disposed of at a lawful waste management facility.

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.

## BCA Issues

### 13 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.

### 14 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

### 15 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*.

16 **F022 - Commercial kitchen(exhaust system)**

Cooking appliances which exceed a total maximum power input of 8kw for electrical, or a total gas input of 29MJ/h for a gas appliance are required to have a kitchen exhaust system installed in accordance with Clause F4.12 of the Building Code of Australia and Australian Standard 1668, Parts 1 & 2.

The exhaust hood must completely cover the equipment to be ventilated and extended at least 200mm beyond the perimeter of the equipment. The exhaust hood must be provided with a condensation gutter around its base. The gutter must be at least 50mm wide by 25mm deep. Where abutting walls are located the hood must be constructed so as to finish flat against the wall surface.

The low edge of a canopy type exhaust hood must be at least 2000 mm above floor level.

Prior to the issue of an Occupation Certificate, and operation of the business, the exhaust system shall be certified by an appropriately qualified person to comply with the Building Code of Australia and Australian Standard AS 1668, Parts 1 & 2. A copy of the certification and supporting documentation must be provided to Council's Environmental Health Department if Council is not the Principal Certifying Authority

17 **F027 - Hand basins**

Hand basins must be no further than 5 meters from any place where open food is handled, at bench height, freestanding or permanently fixed to the wall or set in a bench top, serviced with hot and cold water through a single outlet, able to be mixed at a temperature of at least 40°C and fitted with a hands free operation. Where sensor taps are installed the basin must not be more than 6 metres from the hot water system. Disposable paper hand towels and soap must be provided and serviced from a dispenser adjacent to each hand basin.

18 **F031 - Floor & floor waste**

The floor of the food premises must be finished in an approved non absorbent material, evenly laid, or graded and drained to a trapped floor waste. All floor wastes in the food preparation, service and scullery area must be fitted with a sump removable basket and grate, a minimum 200mm in diameter, and finished in all stainless steel.

19 **F032 - Floor covering**

Approved, recessed coving must be provided at all intersections of the floor with the walls within all food preparation, service, storage and scullery areas. All coving must have a minimum concave radius of 25mm and be installed so as to be integral to the surface finish of both floor and wall in such a manner as to form a continuous, uninterrupted surface.

20 **F033 - Walls – food prep area**

The walls of the food preparation area must be of solid construction and finished with glazed ceramic tiles or other approved material to a height of 2 metres. The intersection of tiles and render must have a flush finish, or be splayed at a 45 degree angle to eliminate a ledge that would allow dust and grease to accumulate.

21 **F035 - Ceilings**

The ceiling in the preparation, service and scullery areas must be constructed with a rigid, non-absorbent, smooth faced material free from open joints, cracks and crevices and be painted with a light coloured washable paint. The intersection of the walls and ceiling must be tight jointed, sealed and dust proofed. Drop-in panel style ceilings are not permitted.

22 **F036 - Service pipes**

Service pipes, electrical conduits, refrigeration condensate pipes shall be enclosed or chased into walls, floors or plinths. Where it can be demonstrated that this is not feasible pipes and conduits fixed on brackets, providing a minimum of 25 mm clearance from the adjacent wall and 100 mm from the floor or adjacent horizontal surface, can be used. All openings in walls, floors and ceilings, through which service pipes and conduits pass, must be vermin proof.

23 **F041 - Roller door**

The drum of the roller door situated in the service area must be enclosed in a frame sheet with compressed cement sheet, and finished smooth and sealed. The enclosure must be accessible for pest control inspection and maintenance.

24 **F043 - Hot & cold water at sinks**

All wash sinks and food preparation sinks must be serviced with hot and cold water through a single outlet. Wash sinks must be supplied with water at a temperature of not less than 54 °C for washing.

25 **F044 - Sink & splashback construction**

The sink must be constructed of stainless steel, be fitted with a draining area, and have a splashback as part of the unit at least 300mm up the wall.

## 26 F047 - Fixtures & fittings

All fixtures, fittings and equipment must be provided with smooth and impervious surfaces, free from cracks and crevices to enable easy cleaning.

All fittings and fixtures must be built into the wall and floor so as to be free from joint, gaps and cavities to enable easy cleaning or alternatively, supported on one of the following:

- a. Plinths – plinths must be an integral part of the floor, constructed of solid materials similar to the floor at least 75mm in height and coved at the intersection with the floor. All plinths must have a smooth and impervious finish. All fittings and fixtures must be properly sealed to the plinth so to be free from gaps, cracks and cavities.
- b. Wheels or castors – fittings and fixtures can be supported on wheels or castors. The wheels and castors must be capable of supporting and easily moving a full loaded fitting. All wheels and castors must be provided with a restraining device.
- c. Legs – fittings and fixtures can be supported on legs but must be constructed of a non-corrosive, smooth metal or moulded plastic. All legs must be free from cracks and crevices. All legs must have a clearance space between the floor and the underside of the fitting of at least 200 mm.

NOTE: False bottoms under fittings are not permitted (AS 4674-2004 – Sections 4.2 and 4.3).

## 27 F050 - Light bulbs & tubes

Light bulbs or tubes are to be shatterproof or fitted with approved light diffusers (covers or shields) to prevent contamination of food by glass from a broken light globe or tube. Light fittings must be free from any feature that would collect dirt or dust, harbour insects or make the fitting difficult to clean. Light fittings must be recessed into ceilings or equipment where possible. Heat lamps must be protected against breakage by a shield extending beyond the bulb.

## 28 F051 - Shelving

Shelves must be smooth and impervious, free from joints, cracks and crevices, and able to be easily cleaned. The lowest shelf must be at least 200mm off the floor to allow easy cleaning underneath. Approved materials must be used, such as galvanised piping, stainless steel or laminated plastic. Shelves are to be sealed to the wall or kept clear of walls to allow easy access for cleaning (>40 mm).

# Construction

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

Stamped plans, specifications, a copy of the development consent, 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.



### 30 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) If the work involved in the erection or demolition of a building is likely to cause pedestrian or vehicular traffic 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.

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

Construction and demolition 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

### 32 K016 - Stormwater

stormwater generated by new hardstand or roof areas shall be discharged into the existing drainage system.

### 33 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 commencement of works**. The bond shall be determined 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

### 34 L012 - Existing landscaping (for existing development)

Existing landscaping and vegetation is to be retained and maintained at all times.

## Certification

35 **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.

36 **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 food servery and outdoor dining area.

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.