

PENRITH CITY COUNCIL

MAJOR ASSESSMENT REPORT

Application number:	DA19/0774
Proposed development:	Alterations & Additions to Existing KFC Store
Property address:	123 Mulgoa Road, PENRITH NSW 2750 405 Jamison Road, PENRITH NSW 2750 123 Mulgoa Road, PENRITH NSW 2750 123 Mulgoa Road, PENRITH NSW 2750 123 Mulgoa Road, PENRITH NSW 2750 123 Mulgoa Road, PENRITH NSW 2750 123 Mulgoa Road, PENRITH NSW 2750 123 Mulgoa Road, PENRITH NSW 2750 123 Mulgoa Road, PENRITH NSW 2750 123 Mulgoa Road, PENRITH NSW 2750
Property description:	Lot 55 DP 1246141
Date received:	6 November 2019
Assessing officer	Gemma Bennett
Zoning:	RE1 Public Recreation - LEP 2010 RE2 Private Recreation - LEP 2010 SP3 Tourist - LEP 2010
Class of building:	Class 6 , Class 10b
Recommendations:	Approve

Executive Summary

Council is in receipt of a development application for alterations and additions to a KFC restaurant, including signage and internal modifications, at 123 Mulgoa Road, Penrith. Under Penrith Local Environmental Plan 2010, the proposal is defined as a Food and Drink premises. The subject site is zoned SP3 Tourist and the proposal is a permissible land use in the zoning with Council consent.

Under Appendix F4 of Penrith Development Control Plan 2014 the application was required to be notified to adjoining and nearby residents, and was exhibited between 12 November to 26 November 2019. During that time no submissions were received by Council.

An assessment under Section 4.15 of the Environmental Planning and Assessment Act 1979 has been undertaken and the application is recommended for approval, subject to recommended conditions.

Site & Surrounds

The subject site is situated on the south-eastern corner of the Penrith Panthers site on the intersection of Mulgoa Road and Jamison Road. The restaurant is located amongst open carparking, accessed via a common driveway to the rear that is shared with other restaurants on the Panthers site. There is no direct access to the restaurant from Mulgoa Road.

History

The existing KFC premises was most recently modified under DA13/0768. This DA has had two subsequent modifications, most recently involving an extension to trading hours and modifications to the pylon sign situated on Mulgoa Road which was approved in 2017.

Proposal

The proposed development involves:

- Minor demolition works to the existing building,
- Refurbishment works, including replacement of indoor and outdoor seating, installation of fixed glass to outdoor seating area, new entry door, new drive through pay window and vehicle height bar,
- Minor changes to façade materials and finishes,
- Replacement of pylon sign on Mulgoa Rd and other directional and ordering signage within the site.

Plans that apply

- Local Environmental Plan 2010 (Amendment 4)
- Development Control Plan 2014
- State Environmental Planning Policy No 64—Advertising and Signage
- Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

Planning Assessment

• Section 4.15 - Evaluation

The development has been assessed in accordance with the matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979, and having regard to those matters, the following issues have been identified for further consideration:

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

State Environmental Planning Policy No 64—Advertising and Signage

The proposal includes demolition of existing signs and installation of the following signs with KFC branding on the site:

- 8.5m high pylon sign on Mulgoa Rd,
- 1.75m high directional signage x 2 within carpark,
- 1.2m wide illuminated, wall mounted sign over entry door on northern elevation,
- 2m wide x 2m high illuminated above awning sign on northern and eastern elevations,
- 900mm high illuminated, wall mounted letters on southern and eastern elevations,
- 4 x 1.76m high freestanding illuminated promotional/menu boards adjacent to drive through,
- Existing garden banner to remain.

It is noted that the proposed signage is largely a replacement of the existing signage, designed within the same footprint and dimensions.

Clause 18 Advertisements greater than 20 square metres and within 250 metres of, and visible from, a classified road

The application did not require referral to the RMS under Clause 18, with the applicable signage adjacent to Mulgoa Rd being less than 20m² in area.

An assessment has been undertaken of the proposal against relevant criteria within State Environmental Planning Policy No. 64—Advertising and Signage and the proposal is satisfactory subject to recommended conditions of consent.

Criteria	Yes/No
1. Character of the area	

<i>Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?</i>	Yes. The proposal is consistent with the existing use and character of the precinct. While the future character of the Panthers Precinct is likely to undergo change in the medium to long term future in accordance with Section E13 of the DCP, the signage proposal is not inconsistent and will not inhibit future development of the area.
<i>Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?</i>	Yes
2. Special areas	
<i>Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?</i>	No
3. Views and vistas	
<i>Does the proposal obscure or compromise important views?</i>	No
<i>Does the proposal dominate the skyline and reduce the quality of vistas?</i>	No
<i>Does the proposal respect the viewing rights of other advertisers?</i>	Yes
4. Streetscape, setting or landscape	
<i>Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?</i>	Yes
<i>Does the proposal contribute to the visual interest of the streetscape, setting or landscape?</i>	Yes
<i>Does the proposal reduce clutter by rationalising and simplifying existing advertising?</i>	Yes
<i>Does the proposal screen unsightliness?</i>	Yes
<i>Does the proposal protrude above buildings, structures or tree canopies in the area or locality?</i>	The existing signage protrudes above the building. The proposed signage is a replacement of the existing signage and does not increase the visual impact of the development.
<i>Does the proposal require ongoing vegetation management?</i>	No
5. Site and building	
<i>Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?</i>	Yes
<i>Does the proposal respect important features of the site or building, or both?</i>	Yes
<i>Does the proposal show innovation and imagination in its relationship to the site or building, or both?</i>	Yes
6. Associated devices and logos with advertisements and advertising structures	

<i>Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?</i>	Yes
7. Illumination	
<i>Would illumination result in unacceptable glare?</i>	No
<i>Would illumination affect safety for pedestrians, vehicles or aircraft?</i>	No
<i>Would illumination detract from the amenity of any residence or other form of accommodation?</i>	No
<i>Can the intensity of the illumination be adjusted, if necessary?</i>	Yes
<i>Is the illumination subject to a curfew?</i>	No
8. Safety	
<i>Would the proposal reduce the safety for any public road?</i>	No
<i>Would the proposal reduce the safety for pedestrians or bicyclists?</i>	No
<i>Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?</i>	No

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 7.1 Earthworks	Complies
Clause 7.2 Flood planning	Complies
Part 9 Penrith Panthers site	Complies
Clause 9.1 Objectives of Part	Complies
Clause 9.2 Application of Part	Complies
Clause 9.3 Density of retail premises (including outlet premises)	Complies
Clause 9.4 Minimum lot size for outlet centers for community title schemes or strata plan	N/A
Clause 9.5 Campus style office development	N/A
Clause 9.6 Development control plan for land to which this Part applies	Complies

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

Draft Environment SEPP

The Draft Environment SEPP was exhibited from 31 October 2017 to 31 January 2018. This consolidated SEPP proposes to simplify the planning rules for a number of water catchments, waterways, urban bushland, and Willandra Lakes World Heritage Property. Changes proposed include consolidating a total of seven existing SEPPs being:

- State Environmental Planning Policy No. 19 – Bushland in Urban Areas
- State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011
- State Environmental Planning Policy No. 50 – Canal Estate Development
- Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment
- Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (No.2-1997)
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005
- Willandra Lakes Regional Environmental Plan No. 1 – World Heritage Property.

It is noted that the proposed amendments to Sydney Regional Environmental Plan No. 20 – Hawkesbury – Nepean River (No. 2 – 1997) do not impact the modified proposal. In this regard, the modified development is not inconsistent with the provisions of this Draft Instrument.

Draft Remediation of Land SEPP

The Department of Planning and Environment has announced a Draft Remediation of Land SEPP, which will repeal and replace the current State Environmental Planning Policy No 55—Remediation of Land.

The proposed new land remediation SEPP will:

- provide a state-wide planning framework for the remediation of land,
- maintain the objectives and reinforce those aspects of the existing framework that have worked well,
- require planning authorities to consider the potential for land to be contaminated when determining development applications and rezoning land,
- clearly list the remediation works that require development consent, and
- introduce certification and operational requirements for remediation works that can be undertaken without development consent.

It is also proposed that it will transfer the requirements to consider contamination when rezoning land to a direction under Section 9.1 of the Environmental Planning and Assessment Act 1979. Whilst the proposed SEPP will retain the key operational framework of SEPP 55, it will adopt a more modern approach to the management of contaminated land. Noting the above, the Draft SEPP will not alter or affect previous findings in respect to contamination of the site.

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

Development Control Plan 2014

Provision	Compliance
DCP Principles	Complies
C2 Vegetation Management	Complies
C3 Water Management	Complies
C4 Land Management	Complies
C5 Waste Management	Complies
C6 Landscape Design	Complies
C7 Culture and Heritage	N/A
C8 Public Domain	N/A
C9 Advertising and Signage	Does not comply - see Appendix - Development Control Plan Compliance
C10 Transport, Access and Parking	Complies
C11 Subdivision	N/A
C12 Noise and Vibration	N/A
C13 Infrastructure and Services	N/A
E13 Riverlink Precinct controls	Does not comply - see Appendix - Development Control Plan Compliance

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

Voluntary Planning Agreement (VPA) and Mulgoa Road widening

A VPA, known as Planning Agreement - Road Works 2012, was entered into between Penrith City Council, Panthers Rugby League Club and Roads and Maritime Services (RMS) on 28 November 2012. The VPA sets out development contributions comprising:

- (i) the carrying out and the delivery of the Road Works in accordance with the VPA and any applicable Works Authorisation Deed; and
- (ii) the dedication of the Road Works Land in accordance with the agreement.

The Panthers Precinct master plan (diagram of land uses agreed for the site), adopted as part of the VPA, includes a variety of uses and building envelopes across the precinct with trigger points for works largely based on volumes of Gross Floor Area (GFA) achieved, confirmed by the issue of a Construction Certificate for each stage or building.

The Panthers Precinct master plan has since been amended, including the location and mix of uses and building envelopes across the precinct. The amended master plan requires the VPA to be amended to allow trigger points for road works to be realigned with the new uses and gross floor areas proposed. Importantly, the amended VPA has not been signed by all parties as final traffic modelling is being undertaken. The traffic modelling will assist in confirming the allocation of trigger points for road works within the amended VPA.

Although the amended VPA has not been executed, the development proposal can be supported as the development is unlikely to be impacted by the road widening until such time as the GFA triggers are achieved under the VPA, which is likely to be in the medium to long term future. Submitted plans indicate that the development is likely to be affected by acquisition of land for the future widening of Mulgoa Road in relation to the location of the pylon sign and the drive through driveway. While so, the minor nature of the modifications proposed, comprising of replacement of existing signs, internal modifications and façade changes, will not inhibit future acquisition of the site. Additionally, the works are undertaken at the risk of the property lessee (KFC) with the consent of the property owner (Panthers).

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

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 works is necessary.

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

It is considered that the proposed development can readily achieve compliance with the relevant provisions of the BCA. Where compliance matters are proposed to comply with the Performance Requirements (rather than DtS Provisions), the development of a Performance Solution Report will be required prior to the issue of the Construction Certificate.

In addition:

- The application has been notified in accordance with the EP&A Regulation,
- A condition of consent will require compliance with the Food Act and associated Regulation.

Therefore, the proposed development has been assessed as compliant 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:

Natural resources and systems

The proposed development is likely to have minimal impact on the overland flow characteristics if the site. The modifications to the internal seating layout does not significantly impact on the number of restaurant patrons able to be on site at any one time.

The proposed development will have no impact on soil erosion and sedimentation, or on vegetation. No trees or shrubs are proposed to be pruned or removed to facilitate the building alterations or signage.

The character of the place and its local and regional context

The proposal is consistent with the bulk, scale, colour and design of other development in the locality. Branding locations and colours are to remain consistent with the existing built form and signage on site.

The development is unlikely to significantly impact on the amenity of the area and the streetscape as the development remains compatible with the surrounding and adjacent land uses.

The development will not impact the amenity of the area in terms of solar access, visual and acoustic privacy, access to views or vistas.

Heritage conservation

The property is not identified as having heritage significance.

Access, traffic and transportation impacts

The development is unlikely to significantly impact on the local road system. The existing access arrangements and car parking on site will be adequate for the development.

Social and economic impacts

The proposed development safeguards the health and safety of the occupants.

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

The site is suitable for the following reasons:

- The use is existing and compatible with adjoining uses,
- There are no physical site constraints that impede the alterations and additions proposed.

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 was notified and exhibited to nearby and adjoining residents between 12 November and 26 November 2019. Council has received no submissions in response.

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 State Environmental Planning Policy No. 64 - Advertising and Signage, Sydney Regional Environmental Plan No. 20 - Hawkesbury-Nepean River (No 2 - 1997), Penrith Local Environmental Plan 2010, and Penrith Development Control Plan 2014, the proposal satisfies the aims, objectives and provisions of these policies.

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

That DA19/0774 for alterations and additions to the existing KFC restaurant at 123 Mulgoa Rd, Penrith, be approved subject to the attached conditions.

CONDITIONS

General

1 A001

The development must be implemented substantially in accordance with the plans numbered in the table below 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.

Drawing Title	Ref.	Issue	Prepared By	Date
Demolition Site Plan	19157-A001	A	BD Architecture Interiors	15/10/19
Proposed Site Plan	19157-A002	A	BD Architecture Interiors	15/10/19
Signage Details	19157-A003	A	BD Architecture Interiors	15/10/19
Demolition Plan	19157-A100	A	BD Architecture Interiors	15/10/19
Proposed Floor Plan	19157-A101	A	BD Architecture Interiors	15/10/19
External Elevations – Sheet 1	19157-A200	A	BD Architecture Interiors	15/10/19
External Elevations – Sheet 2	19157-A201	A	BD Architecture Interiors	15/10/19
External Elevations – Sheet 3	19157-A202	A	BD Architecture Interiors	15/10/19
External Elevations – Sheet 4	19157-A203	A	BD Architecture Interiors	15/10/19
Section A-A	19157-A300	A	BD Architecture Interiors	15/10/19

2 A019 - OCCUPATION CERTIFICATE (ALWAYS APPLY)

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

3 A032 - Goods in buildings

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

4 A039 - Graffiti

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

5 A046 - Obtain Construction Certificate before commencement of works

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

Demolition

6 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**.

7 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 and 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

8 D009 - Covering of waste storage area

All waste materials stored onsite 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 the areas are to be fully enclosed when the site is unattended.

9 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.

BCA Issues

10 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.

11 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

12 F001 - Food shop construction & plans

All food shop construction works shall be carried out in accordance with the requirements of the Australian Institute of Environmental Health “National Code for the Construction and Fitout of Food Premises” 1993, the Food Act 2003 and Food Regulation 2004.

Construction

13 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.

14 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.

Engineering

15 [K202 - S138 Roads Act – Works and Structures - Minor Works in the public road DRIVEWAYS ROAD OPENINGS](#)

A Section 138 Roads Act application may be necessary if construction works are required in the public road.

Prior to the issue of any Construction Certificate, a Section 138 Roads Act applications, including payment of application and inspection fees, shall be lodged and approved by Penrith City Council (being the Roads Authority for any works required in a public road). These works may include but are not limited to the following:

- a) Road opening for utilities and stormwater (including stormwater connection to Penrith City Council roads and other Penrith City Council owned drainage)
- b) Road occupancy or road closures
- c) The placement of hoardings, structures, containers, waster skips, signs etc. in the road reserve
- d) Temporary construction access

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, guidelines and best engineering practice.

Contact Penrith City Council's City Works Department on (02) 4732 7777 or visit Penrith City Council's website for more information.

Note:

- a) Where Penrith City Council is the Certifying Authority for the development, the Roads Act approval for the above works may be issued concurrently with the Construction Certificate.
- b) Separate approvals may also be required from the Roads and Maritime Services for classified roads.
- c) All works associated with the Roads Act approval must be completed prior to the issue of any Occupation Certificate.

Landscaping

16 [L012 - Existing landscaping \(for existing development\)](#)

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

Certification

17 [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.

Appendix - Development Control Plan Compliance

Development Control Plan 2014

Part C - City-wide Controls

Section C9 Advertising and Signage

The application has been assessed against the controls for signage contained in Section C9 of Penrith Development Control Plan 2014 and found to be generally compliant. However there are two elements of non-compliance as follows:

Clause 9.1 C. 3) Inappropriate signs

a) Council will not support an application for an advertisement or sign:

(v) made of canvas, calico or the like.

There are two existing 'garden banners' indicated on the plans, which are proposed to remain. It is noted that the application does not seek consent for these banners, however they do not appear to have been granted consent under the existing DA13/0768 and do not meet the exempt development standards. It is noted that the garden banner located on the Mulgoa Rd frontage has been in place since at least 2013, with no compliance action by Council recorded. Additionally, the garden banner is located within the portion of the property likely to be impacted by the Mulgoa Rd widening. Notwithstanding, the banner signs are not recommended for approval and will be annotated in red on any plans.

(xiii) Pole or pylon signs, except for industrial, business park, service station or shopping centre uses which are permitted one pole or pylon signs with the maximum height not in excess of 7m.

The existing pylon sign is 8.5m high (approved under DA13/0768) and the replacement pylon sign remains at 8.5m in height. In this regard, it is considered that the pylon does not increase or adversely effect the visual impact of signage on the site, as detailed in the SEPP 64 assessment. The height of the pylon is consistent with the co-located pylon signs for other businesses within the Panthers Precinct. Again, it is also noted that the pylon is located within the portion of the property likely to be impacted by the Mulgoa Rd widening.

E13 Riverlink Precinct

The development application has been assessed against the objectives and controls of Part B, Section E13 Riverlink Precinct of the Penrith Development Control Plan 2014 and is found to be non-compliant with the indicative land uses indicated within the Panthers Precinct Concept Plan as illustrated at Figure E13.12. The site is identified as future residential, and also noted as a location for a landmark building, being on the intersection of Mulgoa and Jamison Roads. Therefore many of the objectives and controls contained with E13 are not able to be applied to the subject proposal.

Notwithstanding these inconsistencies with the DCP, as the application is for minor refurbishment to the existing restaurant and replacement of existing signage, it is considered supportable in the context of the scale of the development proposed.

The proposal is also supportive of the Plan's overarching objectives including:

(d) Creating an exciting core of entertainment, leisure and lifestyle uses around the existing club;

(f) Encouraging views of the Blue Mountains from the public domain;

(h) Improving connectivity;

as the development proposal is considered to display elements of design excellence in its overall site suitability, improvements to the public/private domain and streetscape presence and integration into the Panthers Precinct. Views to the Blue Mountains are maintained and connectivity is enhanced through the improved wayfinding signage.

Clause 13.7.2 Landscape Structure

The development proposal is consistent with the landscape structure diagram and provides open space in accordance with figure E13.14. Existing trees are located on the eastern and southern boundaries to Mulgoa and Jamison Road.

Mulgoa Road

The DCP requires a 5m landscaped setback to be provided along this frontage and notes that existing native canopy trees are to be retained. As detailed above, the development proposal will achieve an acceptable level of compliance with the Mulgoa Road landscaping controls.

Clause 13.7.3 Sub Precincts

Figure 13.15 Sub Precincts, identifies the subject site as being within the Mulgoa Road Precinct. Apart from the use, the development complies with the Mulgoa Road sub precinct controls.

Clause 13.7.4 Views

The long distance view corridor to the Blue Mountains is not impacted by the proposal.

Clause 13.8.4 Traffic, Parking and Site Access

The proposal complies with the clause in that no vehicular access is provided directly from Mulgoa Rd.