

# PENRITH CITY COUNCIL

## MAJOR ASSESSMENT REPORT

<b>Application number:</b>	DA13/1267
<b>Proposed development:</b>	Circus (Temporary Event) Including Erection of Two Tents and Seating
<b>Property address:</b>	2 The Kingsway, ST MARYS NSW 2760
<b>Property description:</b>	Lot 2 DP 851152
<b>Date received:</b>	1 November 2013
<b>Assessing officer</b>	Mahbub Alam
<b>Zoning:</b>	SEE MEMO(S) AND/OR SEPPS CODE FOR ZONING DETAILS
<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 circus at the corner of the Kingsway and Charles Hackett Drive St Marys.

The subject site is zoned RE1 – Public Recreation Zone under the provisions of the *Penrith Local Environmental Plan 2010 (LEP 2010)*. The circus is defined as a 'recreation area' which is permissible in this zone.

An assessment under Section 79C of the *Environmental Planning and Assessment Act 1979 (EP&A Act 1979)* and SEPP 2007 has been undertaken and the application is recommended for approval.

### Site & Surrounds

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The site is located on western side of Charles Hackett Drive, bounded by The Kingsway to the north and Great Western Highway to the south. St Marys Village Shopping Centre is located to the east and Ripples Leisure Centre is located to the northeast of the site. This area consists of a mix of open space/recreation, commercial and residential developments.

The subject site forms part of Lot 2 DP 851152 which has a total site area of about 15.89 hectares. The subject lot is divided by The Kingsway into two (2) portions, north and south. The proposed family carnival is located on the southern portion where a pathway runs in a north-south direction.

## Proposal

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- This proposal is seeking permission for the temporary use of the site from 26 December 2013 to 12 January 2013. The first 4 days will be used for set up and rehearsal. Show times are as follows:
  - × 1 Performance **Monday 30 December**: 7:30pm-9:15pm
  - × 2 performances on **Tuesday 31 December**: 4.00pm-5.45pm, and 7:30pm-9:15pm.
  - × 2 performances on **Wednesday 1 January**: 4.00pm-5.45pm, and 7:30pm-9:15pm.
  - × 2 performances on **Thursday 2 January**: 4.00pm-5.45pm, and 7:30pm-9:15pm.
  - × 2 performances on **Friday 3 January**: 4.00pm-5.45pm, and 7:30pm-9:15pm.
  - × 2 performances on **Saturday 4 January**: 4.00pm-5.45pm, and 7:30pm-9:15pm.
  - × 2 performances on **Sunday 5 January**: 12.00pm-2.00pm, and 4pm-5.45pm.
  - × 2 performances on **Monday 6 January**: 4.00pm-5.45pm, and 7:30pm-9:15pm.
  - × 2 performances on **Tuesday 7 January**: 4.00pm-5.45pm, and 7:30pm-9:15pm.
  - × 2 performances on **Wednesday 8 January**: 4.00pm-5.45pm, and 7:30pm-9:15pm.
  - × 2 performances on **Thursday 9 January**: 4.00pm-5.45pm, and 7:30pm-9:15pm.
  - × 2 performances on **Friday 10 January**: 4.00pm-5.45pm, and 7:30pm-9:15pm.
  - × 2 performances on **Saturday 11 January**: 4.00pm-5.45pm, and 7:30pm-9:15pm.
  - × 2 performances on **Wednesday 12 January**: 4.00pm-5.45pm, and 7:30pm-9:15pm.
- The site will be vacated on Thursday 12 January.
- The development will involve the erection of a two 30m diameter and 20m diameter round tents. The larger tent will house the Circus show and the smaller tent will act as a foyer.
- The site will also be occupied by:
  - × a ticket both
  - × temporary portable toilet facilities for patrons
  - × 14 caravans to the perimeter of the site (used for temporary accommodation for circus management and staff).
- Temporary sanitary facilities are provided on the site. Bins will be provided for rubbish and these bins will be serviced regularly.
- Southern of the site will be set up for horses.

## Plans that apply

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- Local Environmental Plan 2010 (Stage 1 LEP)
- Development Control Plan 2010
- State Environmental Planning Policy (Infrastructure) 2007
- 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

### State Environmental Planning Policy (Infrastructure) 2007

The aims of this SEPP are as follows:

- (a) *to ensure that suitable provision is made for ensuring the safety of persons using temporary structures or places of public entertainment,*
- (b) *to encourage the protection of the environment at the location, and in the vicinity, of places of public entertainment or temporary structures by (among other things) managing noise, parking and traffic impacts and ensuring heritage protection,*
- (c) *to specify the circumstances in which the erection and use of temporary structures are complying development or exempt development,*
- (d) *to promote opportunities for buildings (including temporary structures) to be used as places of public entertainment by specifying the circumstances in which that use is complying development or exempt development,*
- (e) *to promote the creation of jobs in the public entertainment industry,*
- (f) *to increase access for members of the public to public entertainment.*

To ensure the safety of the patrons attending the carnival, the applicant has provided Council with a copy of public liability insurance. A condition is also imposed in the consent for submitting documentation that demonstrates compliance with Workcover Authority's requirements.

Council's Environmental Health Officer reviewed the above information and recommended conditions be imposed in the consent to ensure compliance with relevant provisions of the Building Code of Australia and Food Act.

A condition is imposed in the consent restricting the operating hours to **9:15pm** to maintain the amenity of the residential neighbourhood.

It is considered that the additional traffic and parking demand generated by the proposal would have minimal impact on the built environment as the operating hours are after hours and parking is available in the vicinity.

As stated earlier in the report, conditions are recommended to be imposed in the consent for protecting the natural environment and they include restricting the location of the carnival, prohibition of parking on the site, provision of a sediment fence, collection and disposal of garbage and wastewater.

Approval of the carnival is consistent with objective of increasing access of the general public to public entertainment.

Clause 11 of State Environmental Planning Policy (Temporary Structures and Places of Public Entertainment) 2007 (SEPP 2007) states that development comprising the erection of temporary structures may be carried out with development consent unless it is prohibited under another environmental planning instrument. It is further stated that the existing provisions of an environmental planning instrument are taken to prohibit the erection of a temporary structure only if temporary structures are expressly referred to.

Clause 12 of the SEPP further states that Council must consider the following matters prior to granting consent to the erection of a temporary structure:

- (a) *Whether the number of persons who may use the structure/place of public entertainment be limited.*

A condition is imposed in the consent restricting the maximum number of patronage to 550 persons.

- (b) *Any adverse impact on persons in the vicinity of any noise likely to be caused by the proposed erection or use of the structure and any proposed measures for limiting the impact*

The immediate properties surrounding this site are vacant. St Marys Village Shopping Centre is located to the east of the site and Ripples Leisure Centre is located to the northeast. The nearest residential development is about 150m to the northeast in Kungala Street.

This application is not supported by a noise impact assessment report. The operating hours cease at **9:15pm** which is in keeping with the sleep disturbance criteria under the provisions of the Environmental Criteria for Road Traffic Noise 1999 of the Department of Environment and Climate Change

Furthermore, the applicant will be required to contact details for the period of the carnival to facilitate any complaints received can be addressed promptly.

(c) *whether the hours during which the structure is used should be limited*

As stated above, the operating hours of the show shall cease at 9:15pm.

(d) *Any parking or traffic impacts likely to be caused by the erection of the structure or its proposed use*

Issues related to additional traffic and parking demand generated by the proposed carnival have been addressed earlier in the report and it is considered that the proposal would have minimal impact on local traffic and parking conditions.

(e) *The principles for minimising crime risk set out in Part B of the Crime Prevention Guidelines*

There are four (4) principles for the assessment of development applications to minimise the opportunity for crime and they include surveillance, access control, territorial reinforcement and space management.

The positioning of the amusement rides and caravans on the perimeter of the site will provide a visual barrier defining public place from the area where the carnival will be held and this would also facilitate natural surveillance of the site and its surrounds.

In view of the above, it is considered that the proposal is consistent with the principles of surveillance, access control and territorial reinforcement.

The regular disposal of waste ensures the cleanliness and proper maintenance of the site and is consistent with the objective of space management.

- (f) *whether the proposed location of the structure is satisfactory in terms of*
- (i) *the proposed distance of the structure from public roads and property boundaries*
  - (ii) *the location of underground or overhead utilities*
  - (iii) *vehicular and pedestrian access*

The massing and location of the amusement rides and the caravans is considered satisfactory and would not give rise to visual impact when viewed from public places and would not give rise to any traffic hazard and would not impact on the sightlines of any road users.

It is considered unlikely that approval of the proposal would give rise to permanent interruption to any vehicular and pedestrian access to and from the site and the adjoining properties.

As excavation is not required for the erection of the temporary structures, interruption to underground services is not expected.

(g) *whether it is necessary to provide toilets and washbasins in association with the use of the structure*

The applicant states that sanitary facilities, garbage and wastewater collection and disposal will be provided. A condition is imposed accordingly.

- (h) *whether the structure is proposed to be erected on land that comprises or on which there is*
- (i) *an item of environmental heritage that is listed on the State Heritage Register, or that is subject to an interim heritage order under the Heritage Act 1977 or*
  - (ii) *a place, building, work, tree, relic or Aboriginal object that is described as an item of environmental heritage or as a heritage item in another environmental planning instrument, or*
  - (iii) *land identified as a heritage conservation area, an archaeological site or a place of Aboriginal heritage significance in another environmental planning instrument*

According to Council's records, there are no heritage items and Aboriginal objects in the vicinity and the site is not identified as a heritage conservation area. Therefore approval of the proposal would not give rise to any heritage impact.

(i) *the duration for which the structure should be permitted to remain on the land concerned*

A condition is imposed in the consent requiring the removal of all structures from the site in a safety manner at the conclusion of the hiring period of the site and the site shall be returned to Council in a clean and tidy condition.

(j) *whether any conditions should be imposed on the granting of consent in relation to the dismantling or removal of the structure in view of any safety issues*

Not applicable.

The proposal is also assessed against Clause 14 of the SEPP Matters for Consideration for Use of Buildings as Places of Public Entertainment as the definition of buildings under the *EP & A Act 1979* includes temporary structures which in turn include booths, tents or other temporary enclosures. The matters for consideration under Clause 14 are:

(a) *the maximum number of persons who should be permitted to be in the part of the building used as a place of public entertainment at any one time while entertainment is being provided and how that number should be monitored,*

A condition is imposed in the consent for the erection of a sign displaying the maximum number of patrons attending the carnival at any one time.

(b) *the principles for minimising crime risk set out in Part B of the Crime Prevention Guidelines,*

The assessment under Clause 12 concludes that the proposal is compliant with the principles outlined under Crime Prevention Guidelines.

(c) *any adverse impact on persons in the vicinity of any noise likely to be emitted as a result of the use of the building as a place of public entertainment and any proposed measures for limiting the impact,*

It is anticipated that the likely noise impact on the adjoining development will be associated with the music, PA system, operation of the rides, traffic and patrons attending the carnival. Therefore it is recommended that the operating hours shall cease at **9:15pm** to minimise the impact.

(d) *whether the hours during which the building is used as a place of public entertainment should be limited,*

The operating hours is restricted to **9:15pm**.

(e) *any parking or traffic impacts likely to be caused as a result of the use of the building as a place of public entertainment,*

Although the proposed carnival will generate additional traffic to the area, it is considered that there is adequate capacity for the local road system to cater for the additional traffic generated by the proposed event and there are parking available in the area to cater for the event. In this case, Council is satisfied that its approval would have a negligible impact on local traffic and parking conditions.

(f) *whether the use is proposed to be carried out on land that comprises, or on which there is:*

(i) [an item of environmental heritage that is listed on the State Heritage Register, or that is subject to an interim heritage order, under the Heritage Act 1977,](#) or

(ii) a place, building, work, tree, relic or Aboriginal object that is described as an item of environmental heritage or as a heritage item in another environmental planning instrument, or

(iii) land identified as a heritage conservation area, an archaeological site or a place of Aboriginal heritage significance in another environmental planning instrument.

As stated earlier in the report, there are no heritage items on the site and in the vicinity of the site and the area is not identified as a conservation area. Therefore approval of the proposal would not give rise to any heritage impact.

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

The aim of the plan is to protect the environment of the Hawkesbury – Nepean River system by ensuring that the impacts of future land uses are considered in a regional context.

It is noted that the site forms part of the South Creek Catchment Area. South Creek is identified as a scenic corridor of regional significance under the provisions of SREP No. 20.

Clause 11(16) of SREP No. 20 outlines relevant development controls for land uses in riverine scenic areas. It is stated that erection of a structure greater than 50sqm in area or over 1 storey in height requires development consent.

The consent authority is required to consider the following additional matters during assessment of the development application:

*(a) The need to prevent large scale, high density or visually intrusive development on waterfront land or on slopes and ridgetops which are visible from the river or the surrounding visual catchment. (This requires consideration of the proposed form and siting of buildings, of the colours and building materials used, and of landscaping.)*

The site is relatively level and it is considered that the temporary structures would not protrude into the skyline. Therefore it would have minimal visual impact when viewed from the adjoining developments including St Marys Village Shopping Centre, Ripples Leisure Centre and South Creek.

*(b) Whether the materials used in stabilising the banks are consistent with the scenic character of the area as described in the Scenic Quality Study.*

Not applicable.

*(c) Whether the development will damage the banks of the river or creeks.*

Most of the activities of the circus including the “Big Top” (circus enclosure), two animal enclosures, foyer tents, castle, rides, clown stall, the canteen, toilets and caravan and truck parking will take place on the eastern side of the pathway on the site which will minimise the likely damage to the banks of South Creek.

*(d) Whether the development is adequately set back from the river.*

It is considered that by limiting the carnival to the eastern side of the pathway would provide adequate separation from South Creek.

*(e) Whether it is necessary and appropriate to increase public recreational and visual access to the river.*

In view of the temporary nature of the carnival, it is not necessary and appropriate to increase public recreation and visual access to South Creek.

*(f) The need for conditions of consent to protect the scenic character, such as conditions requiring tree planting.*

To minimise the likely impact on the scenic character of South Creek the following conditions are imposed in the consent:

- Restriction of the most of the carnival to the eastern side of the pathway
- Protection of existing vegetation on the site
- Provision of a 70m sediment fence along the pathway
- Collection of garbage by a licensed waste transporter and disposed of to a approved waste

disposal facility

· Collection of wastewater from toilets, caravan wastes and temporary stalls by a licensed waste transporter and disposed of to a approved waste disposal facility.

(g) *Whether any proposed works will improve scenic quality by repairing degradation.*  
Not applicable.

In view of the above assessment, Council is satisfied that the proposal is consistent with the aims and objectives of SREP 20.

### Local Environmental Plan 2010 (Stage 1 LEP)

Provision	Compliance
Clause 1.2 Aims of the plan	Complies - See discussion
Clause 2.3 Zone objectives	Complies - See discussion
Clause 2.3 Permissibility	Complies - See discussion
Clause 2.5 Additional permitted uses for particular land	N/A
Clause 2.6 Subdivision - consent requirements	N/A
Clause 2.7 Demolition requires development consent	N/A
Clause 2.8 Are the temporary use of land requirements achieved?	Complies
Clause 4.1 - the minimum lot size	N/A
Clause 4.1AA Minimum subdivision lot size for community title schemes	N/A
Clause 4.2 Rural Subdivision	N/A
Clause 4.3 Height of buildings	N/A
Clause 4.4 Floor Space Ratio	N/A
Clause 4.5 Calculation of floor space ratio and site area	N/A
Clause 4.6 Exceptions to development standards	N/A
Clause 5.1 Relevant acquisition authority	N/A
Clause 5.10 Heritage conservation	N/A
Clause 5.11 Bush fire hazard reduction	N/A
Clause 5.12 Infrastructure development and use of existing buildings of the Crown	N/A
Clause 5.13 Eco-tourist facilities	N/A
Clause 5.2 Classification and reclassification of public land	N/A
Clause 5.3 Development near zone boundaries	N/A
Clause 5.4 Controls relating to miscellaneous permissible uses	N/A
Clause 5.5 Development within the coastal zone	N/A
Clause 5.6 Architectural roof features	N/A
Clause 5.7 Development below mean high water mark	N/A

Clause 5.8 Conversion of fire alarms	N/A
Clause 5.9 Preservation of trees or vegetation	Complies
Clause 5.9AA Trees or vegetation not prescribed by development control plan	N/A
Clause 6.1 Earthworks	N/A
Clause 6.10 Villages of Mulgoa and Wallacia	N/A
Clause 6.11 Orchard Hills	N/A
Clause 6.12 Twin Creeks	N/A
Clause 6.13 Waterside Corporate	N/A
Clause 6.14 Development of land in the flight paths of the site reserved for the proposed Second Sydney Airport	N/A
Clause 6.15 Location of sex services premises and restricted premises	N/A
Clause 6.2 Salinity	N/A
Clause 6.3 Flood Planning	Complies
Clause 6.4 Development on natural resources sensitive land	N/A
Clause 6.5 Protection of scenic character and landscape values	Complies
Clause 6.6 Servicing	Complies
Clause 6.7 Dwelling houses on certain land in Llandilo and Mulgoa	N/A
Clause 6.8 Dual occupancies and secondary dwellings in certain rural and environmental zones	N/A
Clause 6.9 Mulgoa Valley	N/A
Schedule 1 Additional permitted uses	N/A



### Permissibility

The subject site is zoned RE1 – Public Recreation Zone under the provisions of the *Penrith Local Environmental Plan 2010 (LEP 2010)*. The circus is defined as a ‘recreation area’ which is permissible in this zone with consent.

A recreation area is defined as

- (a) a children’s playground; or
- (b) a building or place used for sporting activities or sporting facilities; or
- (c) a building or place used by the council to provide recreational facilities for the physical, cultural or intellectual welfare of the community; or
- (d) a building or place used by a body of persons associated for the purposes for the physical, cultural or intellectual welfare of the community to provide recreational facilities for those purposes, but does not include a racecourse.

The proposal is a place to be used by the Loritz Circus for the cultural/intellectual welfare of the community to provide a recreational facility. The proposal is therefore permitted with consent.

### LEP and Zones Objectives

The general aim of LEP 2010 is to encourage proper management, development and conservation of valuable natural and man-made resources within the rural lands of the City of Penrith.

The proposed development is consistent with the aims and objectives of both the LEP and the zone itself.

### Development Standards

There are no statutory development standards of specific relevance to the proposed circus.

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

There are no draft environmental planning instruments applicable to the subject site.

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

### Development Control Plan 2010

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

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

As stated previously in the report, conditions are imposed in the consent restricting the maximum of patrons to 536 people and to ensure compliance with the structural adequacy, fire safety and sanitary facility provisions of the Building Code of Australia.

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

The likely impacts of the proposed development upon the surrounding area are discussed as follows:

### *Privacy*

The proposal would have a negligible impact on the visual privacy of the adjoining properties. To ensure acoustic privacy of the surrounding developments, conditions are imposed in the consent restricting the operating hours to **9:15pm**.

### *View Corridors/View Sharing*

There are no iconic views to and from the site and the adjoining properties. Therefore approval of the proposal would not give rise to obstruction of view corridors.

### *Traffic generation, parking and loading*

The approval of the proposal would have minimal impact on local traffic and parking conditions.

### *Noise Impact*

Relevant conditions are imposed in the consent to minimise the likely noise impact on the surrounding developments.

### *Bulk and Scale*

It is considered that the bulk and scale of the circus would not have a detrimental impact on the established character of the area and would not have an adverse visual impact when viewed from the surrounding developments.

### *Floor Space Ratio*

Not applicable.

### *Side Setbacks*

Not applicable.

### *Streetscape and urban character*

The surrounding area consist a mix of parks/recreation, commercial/retail and residential developments. It is anticipated that this mixed land use character and streetscape will be maintained in the future environmental planning instruments. It is considered that the proposal is consistent with the existing and desired future character of the locality.

### *Intensity of Use*

It is considered that the temporary nature of the proposal would have a negligible impact in terms of intensifying the use of the subject site.

### *Social/Economic*

It is considered that the proposal would promote access of the general public to public entertainment.

### *Landscaping/Tree Removal*

As stated above, a condition is imposed in the consent to ensure existing vegetation is protected during occupation of the site.

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

The site is considered suitable for the development subject to conditions.

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

## Community Consultation

In accordance with Appendix F4 Notification and Advertising of the Penrith Development Control Plan 2010, the proposed development was notified to nearby and adjoining residents from 07 November 2013 to 21 November 2013. Council notified surrounding property owners and residence and did not receive any submission.

St Marys Police was notified and received verbal comment and raised no objection for the proposed development.

## 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
Community Safety Officer	
Development Engineer	No objections
Environmental - Environmental management	No objections - subject to conditions
Environmental - Public Health	No objections - subject to conditions
Parks and recreation	No objections

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

The proposed development is consistent with the objectives of the *Environmental Planning and Assessment Act 1979* in so far as it promotes the co-ordinated and orderly, and economic use and development of the land. As a result Council may be satisfied that the development subject to conditions is consistent with the public interest.

## **Conclusion**

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The proposed development is appropriately located within a RE1 – Public Recreation Zone under the provisions of the *Penrith Local Environmental Plan 2010 (LEP 2010)* and is consistent with the aims and objectives of the Local Environmental Plan 2010 and RE1 zone.

Further, the development performs adequately in terms of its relationship to the surrounding built and natural environment, particularly in relation to likely impacts upon surrounding properties. Consequently, the proposal is supported from an environmental planning perspective.

## **Recommendation**

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The proposed development is appropriately located within a RE1 – Public Recreation Zone under the provisions of the *Penrith Local Environmental Plan 2010 (LEP 2010)* and is consistent with the aims and objectives of the Local Environmental Plan 2010 and RE1 zone.

Further, the development performs adequately in terms of its relationship to the surrounding built and natural environment, particularly in relation to likely impacts upon surrounding properties. Consequently, the proposal is supported from an environmental planning perspective.

# CONDITIONS

## General

### 1 A001

The development must be implemented substantially in accordance with the following plans

Drawing Title	Drawing No.	Prepared By	Dated
Site Plan	-	-	-
Emergency Lighting Plan	-	-	-
Waste Management Plan	-	Loritz Circus Pty Ltd	-
32m 4 Pole Circus Tent Perspective	15.242.111 (Revision G)	Baytex Manufacturing Company Ltd	19-12-12
32m 4 Pole Circus Tent Views for wire angle	15.242.112 (Revision G)	Baytex Manufacturing Company Ltd	08.06.12
32m 4 Pole Circus Tent Ball Ring & Cupola Details	15.242.113	Baytex Manufacturing Company Ltd	22.01.13
Plan & Elevation (20m Foyer Tent)	15.026.002	Baytex Manufacturing Company Ltd	21.06.2004
Seating Layout Plan	C:\DWG\WEBER\BROS\6471-24DIA-NZ-G.DWG (Sheet 1)	Loritz Circus Pty Ltd	27/02/2006
Sections	C:\DWG\WEBER\BROS\6471-24DIA-NZ-G.DWG (Sheet 9)	Loritz Circus Pty Ltd	27/02/2006

and any supporting information received with the application, except as may be amended in red on the attached plans and by the following conditions.

### 2 A019 - OCCUPATION CERTIFICATE (ALWAYS APPLY)

**The circus shall not commence its operation to the public until an Occupation Certificate has been issued.**

### 3 A019 (amended) - OCCUPATION CERTIFICATE (ALWAYS APPLY)

A satisfactory on site inspection of the food van and any associated areas from an authorised officer of Council's Environmental Health Department is required. The occupier is to contact the Environmental Health Department to organise an appointment at least 72 hours prior to the requested inspection time on (02) 4732 8055.

### 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-Advertising Signs.

### 5 A Special (BLANK)

A hotline to receive complaints shall be established for the duration of the event. The hotline phone number(s) shall be provided to Penrith City Council with a contact name. The applicant shall address the complaints and amend any practice in consultation with Penrith City Council.

6 [A Special \(BLANK\)](#)

This consent permits a maximum of 536 patrons on the site at any give time; this includes patrons within the tent structure.

7 [A Special \(BLANK\)](#)

The premises shall comply with the requirements of the WorkCover Authority of NSW, with documentation to indicate compliance being submitted to Council prior to the commencement of the circus.

8 [A Special \(BLANK\)](#)

A sign is to be displayed in a prominent position in the tent that specifies the following:

i. The maximum number of persons as specified in the development consent, that are permitted in the tent as a place of public entertainment;

ii. The name, address and telephone number of the council of the area in which the building is located.

Penrith City Council Civic Centre

601 High Street

Penrith NSW 2750

(02) 4732 7777

9 [A Special \(BLANK\)](#)

The circus is to abide by the National Consultative Committee for Animal Welfare (NCCAW) Position Statement No. 26 "Recommended National Circus Standards".

10 [A Special \(BLANK\)](#)

Dust suppression and minimisation strategies must be employed to manage potential dust nuisance within the sites. This is to apply to parking areas, access roads and with the event site.

11 [A Special \(BLANK\)](#)

The circus is to operate in accordance with letter dated 1 October 2013, prepared by Loritz Circus Pty Ltd and submitted in support of the Development Application.

Notwithstanding this, the circus is only permitted to operate between 26 December 2013 until 12 January 2014 without further consent from Council.

12 [A special BLANK](#)

Temporary sanitary facilities are to be provided for the use by patrons and employees whilst the temporary tent structure is on site. The temporary sanitary facilities are to be provided in accordance with the Building Code of Australia 2008, Table F2.3 – Class 9(b) – public halls, function rooms or the like. In addition, a temporary disabled person's W.C. complying with Australian Standard AS1428.1-2001, shall also be provided for patrons.

13 [A special BLANK](#)

No noise generating activities are to occur on the site between 10.00pm and 9.00am.

14 [A special BLANK](#)

Access and parking areas are to be managed to reduce any potential nuisances to surrounding properties. Soil, dirt or other material from these areas is not to be deposited on the road.

15 [A Special BLANK](#)

All electrical services shall comply with Clause NSW H102.14 of the Building Code of Australia with certification to be submitted to Council prior to occupation.

16 [A Special BLANK](#)

The premises shall comply with the requirements of the WorkCover Authority of NSW, with documentation to indicate compliance being submitted to Council prior to the commencement of the circus.

17 [A Special BLANK](#)

Appropriate signage is to be displayed to reinforce designated vehicle circulation and parking arrangements.

18 [A Special BLANK](#)

Temporary parking spaces for people with accessibility issues are to be made available.

19 [A Special BLANK](#)

Attendants are to supervise the use of the parking areas and the surrounding grounds to ensure the orderly behaviour of customers and to ensure that customers do not park on the nature strips of the surrounding roads.

20 [A Special BLANK](#)

The applicant is to discuss parking arrangements with surrounding businesses.

- 21 [A Special BLANK](#)  
Access control measures should be in place to restrict public access to designated areas only (e.g. security/staff at entrances to backstage and performance areas; mobile homes, caravans and trailers well secured).
- 22 [A Special BLANK](#)  
Office and ticket sales areas should be secure and accessible to staff only, with appropriate cash-handling procedures in place to avoid large amounts of cash being kept in office areas.
- 23 [A Special BLANK](#)  
Toilets should be clearly visible and signposted.
- 24 [A Special BLANK](#)  
Entrances to toilets should be clear of all screening to allow surveillance by the public and staff. This increases patrons' sense of safety and decreases the likelihood of inappropriate activities occurring in the toilets.
- 25 [A Special BLANK](#)  
Doors should also have spring-opening hinges to allow doors to remain open when not in use.
- 26 [A Special BLANK](#)  
Temporary (or existing lighting) shall be provided to illuminate key areas, including entry and exit points, toilets, the car park and designated access routes around the site.
- 27 [A Special BLANK](#)  
Lighting should be of a wide beam of illumination so as to prevent shadowing or glare.
- 28 [A Special BLANK](#)  
Internal and external signage shall be large and legible with strong colours, standard symbols (e.g. for toilets and entrances/exits) and simple graphics.
- 29 [A Special BLANK](#)  
Signs will assist with way-finding and indicate where to go for help or assistance.
- 30 [A Special BLANK](#)  
Signage should be erected to denote areas not intended for public access.
- 31 [A Special BLANK](#)  
· All waste should be secured within the property. Bins will need to be stored within a secure position and not at risk of vandalism.

## **Demolition**

- 32 [B Special Blank](#)  
Prior to the circus being occupied, the structure is to be inspected by Council. Fees for this inspection are to be paid, as detailed in Council's Fees and Charges, prior to the inspection being carried out.
- 33 [B Special Blank](#)  
The seating in the tent shall comply with Clause NSW H102.10 of the Building Code of Australia.

## **Environmental Matters**

- 34 [D Special BLANK](#)  
Disabled person's access shall be provided to the tent in accordance with Australian Standard AS1428.1-2001.
- 35 [D Special BLANK](#)  
Portable fire extinguishers shall be provided in the tent in accordance with Australian Standard AS 2444-2001 and fire blankets shall be provided in the kitchen, with certification submitted to Council prior to occupation
- 36 [D Special BLANK](#)  
All rubbish material is to be collected and stored in enclosed (lidded) bins and is to be disposed of to a licensed waste management facility. Waste bins are to be located in a secure position that is not at risk of vandalism.
- 37 [D Special BLANK](#)  
No rubbish materials are to enter the stormwater system or neighbouring properties.
- 38 [D Special BLANK](#)  
Litter patrols are to be conducted after each performance to collect litter disposed of by patrons. The litter patrols are to include the circus site and the associated car park.
- 39 [D Special BLANK](#)  
Animal manure is to be removed from the yards daily and disposed of to a licensed waste management facility.

40 **D special condition - Private water supplies generally**

Use of any private water supply shall be in accordance with the *Local Government Act 1993, Public Health Act 2010, Public Health Regulation 2012, Food Act 2003* (where applicable) and the NSW Health *Private Water Supply Guidelines*. A copy of these guidelines is available for download from the NSW Health website [www.health.nsw.gov.au](http://www.health.nsw.gov.au).

41 **D special condition - 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.

## **BCA Issues**

42 **E Special BLANK**

Emergency lighting and illuminated exit signs shall be provided in the tent in accordance with Australian Standard AS 2293.1–2005, with certification submitted to Council prior to occupation.

43 **E Special BLANK**

The temporary tent structure and seating platforms, when erected, are to fully comply with Part B1 of the Building Code of Australia. A Structural Engineer's Certificate is to be submitted to Council, certifying the structural adequacy of the tent and seating platforms, prior to the structure being occupied.

## **Health Matters and OSSM installations**

44 **F002**

All temporary food outlets must complete and return Council's "Application to Sell Food" form at least 14 days prior to operating.

Solid and liquid waste storage and disposal must be carried out in accordance with the Food Act 2003, Local Government Act 1993 and Protection of the Environment Operations Act 1997.

45 **F Special BLANK**

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

46 **F Special BLANK**

The portable toilets are to be cleaned and serviced regularly. All wastewater is to be disposed of to an authorised waste facility. No contaminated water is to enter the stormwater system or be discharged into any watercourse or onto land.

47 **F Special condition**

Prior to the operation of the food business the business must notify the NSW Food Authority of their details including:

(a) Contact details for the food business, including the name and address of the business and the proprietor of the business.

(b) The nature of the food business.

(c) The location of any other food premises associated with the food business, within the jurisdiction of NSW Food Authority.

Should these details change during the operation of the business the business operator must provide the NSW Food Authority with an update of these details.

Notification can be completed free of charge on the NSW Food Authority's Food Notify website at [www.foodnotify.nsw.gov.au](http://www.foodnotify.nsw.gov.au).

48 **F Special condition**

A Food Safety Supervisor, with a current Food Safety Supervisor Certificate recognised by the NSW Food Authority, must be appointed by the business prior to commencement of the business.

49 **F Special condition**

Staff toilet/s for food handlers must be provided on site that are separate and in addition to the 5 unisex and 1 disabled toilet for patron use.

50 **F Special condition**

A hand basin must be located within the toilet cubicles. Disposable paper hand towels and soap must be provided and serviced from a dispenser adjacent to each hand basin.



51 **F special condition - Mobile food vendors**

The construction and operation of the mobile food vending vehicle shall be carried out in accordance with the Food Act 2003, Food Regulation 2010, Food Safety Standards under the Australian and New Zealand Food Standards Code and the current guidelines for mobile food vendors produced by the NSW Food Authority.

52 **F special condition - Waste storage areas and rubbish bins**

All garbage must be stored in accordance with the requirements of the Food Safety Standards of the Australian and New Zealand Food Standards Code and the *Protection of the Environment Operations Act 1997* to prevent the harbourage of vermin or generation of odours.

53 **F special condition - Waste storage areas and rubbish bins**

Bins, hoppers and other containers used for storing garbage or recyclable material shall be:

- a. constructed of impervious material such as metal or plastic; and
- b. have tight fitting lids
- c. bins that cannot be lifted for draining after cleaning shall have drainage bungs at the base.

## Construction

54 **H Special BLANK**

Documentary evidence that the tent fabric has a flammability index less than 6, shall be submitted to Council prior to occupation.

55 **H Special BLANK**

The risk management plan submitted with the development application shall be implemented and complied with at all times that the circus is operating.

## Landscaping

56 **L Special (BLANK)**

All existing vegetation on the site shall not be damaged, removed, lopped, trimmed or pruned and must be retained and protected at all time.

57 **L Special (BLANK)**

All land that has been disturbed by the use of the site is to be spray grassed or similarly treated to establish a grass cover.

## Payment of Fees

58 **P002 - Fees associated with Council land (Applies to all works & add K019)**

Prior to the commencement of any works on site, all fees associated with Penrith City Council-owned land and infrastructure shall be paid to Council. These fees include Road Opening fees and Infrastructure Restoration fees.

59 **P Special (BLANK)**

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

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

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

60 **P Special (BLANK)**

All structures associated with the circus must be removed from the site in a safe manner at the conclusion of the event. The site shall be free of all structures and be returned to its original condition (free of all rubbish and debris) with grass cover established prior to the last day of use (12 January 2013).

61 **P Special (BLANK)**

The site shall be rehabilitated at the cessation of occupancy to the satisfaction of Council.

62 **P Special (BLANK)**

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

Fees for inspection are to be paid, as detailed in Council's Fees and Charges, prior to the inspection being carried out. Please contact Penrith City Council's Development Services and Environmental Health Department to arrange the inspection (02) 4732 7991.

63 **P Special (BLANK)**

Prior to the issue of an Occupation Certificate, a Dilapidation Report is to be prepared and submitted to Penrith City Council. The report shall include relevant documents and photographs of Council's infrastructure on site (footpaths etc). All damage to Council's infrastructure shall be repaired by the applicant at the applicant's cost.

64 **P Special (BLANK)**

An inspection by Council's Public Health Department will be required prior to operation of the event.

Please contact Council's Environmental Health Department on (02) 4732 7911 or (02) 4732 7991 to arrange the food inspection.

## **Certification**

65 **Q Special (BLANK)**

An Occupation Certificate is to be obtained from Penrith City Council prior to the commencement of the circus.

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.

# Appendix - Development Control Plan Compliance

## Development Control Plan 2010

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

The proposed development is affected by the provisions of Part C3 Flood Liable Land and Part C10 Car Parking of the Penrith Development Control Plan 2010.

#### *Section C3 Flood Liable Land*

To minimise the likely impact of flooding on the surrounding developments, a condition is imposed restricting any alterations to the ground levels to avoid concentration of overland flow of stormwater. To ensure the development would not increase the flood hazard or risk to the surrounding properties and any person associated with the use of the temporary structures, a condition is imposed in the consent to ensure the ground levels would not be altered causing concentrate overland flow of stormwater.

The development application was forwarded to Council's Development Engineer for review and development Engineer raised no objection.

#### *Section C10 - Car Parking*

The purpose of Section C10 is to provide guidance in relation to Council's requirements for car parking for new development. There is no specific carparking requirements identified in the DCP. No objection is raised to the proposal having considered that the circus will operate after hours and the availability of street parking and the temporary nature of the proposal.

#### *Design and Numerical Requirements*

There are no specific design and numerical requirements in the DCP for the erection of temporary structures for the purposes of a place of public entertainment.