

PENRITH CITY COUNCIL

MAJOR ASSESSMENT REPORT

Application number:	DA18/0152
Proposed development:	Occupation of Premises as Community Facility & Construction of Timber Deck
Property address:	27 Swanston Street, ST MARYS NSW 2760
Property description:	Lot 3 DP 38566
Date received:	19 February 2018
Assessing officer	Donna Clarke
Zoning:	Zone R3 Medium Density Residential - LEP 2010
Class of building:	Class 9b , Class 10a
Recommendations:	Approve

Executive Summary

Council is in receipt of a development application for the construction of a timber deck at the rear of the existing building and continued use of the site as a community facility, occupied by the Nepean Lapidary Club.

The site is zoned R3 Medium Density Residential and a community facility is a permissible use with consent.

The application has been notified to adjoining properties and exhibited between 20 March 2018 to 3 April 2018 and no submissions received.

The site is owned by Penrith City Council.

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

The site is located on Swanston Street, within a community facility area on Council owned land, including a child care centre and youth centre.

The existing building is occupied by the Nepean Lapidary Club and is located close to Swanston Street.

The building is not immediately adjoined by residential dwellings.

Proposal

The proposal is for the construction of a timber deck at the rear of the existing building and continued use of the site as a community facility, occupied by the Nepean Lapidary Club.

The deck is located between the rear of the building and a free-standing garage, some 20m from the rear boundary and 6.9m from the side boundary. The deck is constructed of timber with a polycarbonate roof and timber balustrading. The deck assists with providing disabled access.

The applicant has outlined that the funding for the construction of the deck is provided from the Government by way of a grant.

Lapidary clubs promote popular interest and education in lapidary, the craft of working, forming and finishing stone, minerals and gemstones. These clubs sponsor and provide means for their members to engage in all forms of jewellery making, cabochon cutting and faceting, carving, glass beadmaking and craft work.

The operational details are generally as follows:

Monday 9am-12pm and 7:30pm-10pm
Tuesday 7pm-10pm
Wednesday 7pm-10pm
Friday 9am-12pm and 7:30pm-10pm

plus open days or other times by appointment.

The club cater for approximately 250 members, with approximately 20 people in attendance at any one session.

Plans that apply

- Local Environmental Plan 2010 (Amendment 4)
- Development Control Plan 2014
- Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

Planning Assessment

• Section 79C - Evaluation

The development has been assessed in accordance with the matters for consideration under Section 79C of the Environmental Planning and Assessment Act, 1979 (as amended) (EP&A Act), 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 with Sydney Regional Environmental Plan No 20—Hawkesbury-Nepean River (No 2—1997) and the application is satisfactory subject to recommended conditions of consent.

Local Environmental Plan 2010 (Amendment 4)

Provision	Compliance
Clause 2.3 Permissibility	Complies - See discussion
Clause 2.3 Zone objectives	Complies - See discussion
Clause 4.3 Height of buildings	Complies - See discussion

Clause 2.3 Permissibility

The site is zoned R3 Medium Density Residential and a community facility is a permissible use with consent, and is defined as:

"community facility means a building or place:

- (a) owned or controlled by a public authority or non-profit community organisation, and
- (b) used for the physical, social, cultural or intellectual development or welfare of the community,

but does not include an educational establishment, hospital, retail premises, place of public worship or residential accommodation."

The proposed continued use of the building as a community facility is permissible and is operated by Nepean Lapidary Club which is not for profit.

Clause 2.3 Zone objectives

The proposed development is consistent with the aims and objectives of the LEP and the R3 zone, specifically enabling other land uses that provide facilities or services to meet the day to day needs of residents, without compromising on amenity of surrounding residents.

Clause 4.3 Height of buildings

The proposed deck does not alter the height of the overall building, which remains below the 8.5m height limit.

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

Development Control Plan 2014

Provision	Compliance
C1 Site Planning and Design Principles	Complies - see Appendix - Development Control Plan Compliance
C2 Vegetation Management	N/A
C3 Water Management	N/A
C4 Land Management	N/A
C5 Waste Management	Complies - see Appendix - Development Control Plan Compliance
C6 Landscape Design	N/A
C7 Culture and Heritage	N/A
C8 Public Domain	Complies - see Appendix - Development Control Plan Compliance
C9 Advertising and Signage	N/A
C10 Transport, Access and Parking	Complies - see Appendix - Development Control Plan Compliance
C11 Subdivision	N/A
C12 Noise and Vibration	Complies - see Appendix - Development Control Plan Compliance
C13 Infrastructure and Services	Complies - see Appendix - Development Control Plan Compliance

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

Fire safety

In accordance with Section 143 of the Environmental Planning and Assessment Regulation 2000, an assessment of the fire protection and structural capacity of the proposed building is necessary. With the change of use of the dwelling into a Lapidary Club Council must consider the Category 1 provisions as required by Clause 93 of the Environmental Planning and Assessment Regulation 2000. The only essential services required for a building of this size is portable fire extinguishers. A condition for installation will be included in the consent conditions. Additionally the dwelling is more than 3m from the side and rear boundaries. The proposed deck/awning and garage are Class10a structures and it is considered they will not increase the fire safety of the occupants. The garage faces side boundaries that adjoin vacant allotments.

The application has been referred to Council's Building Surveyors for assessment and subject to conditions complies with the requirements of the Regulations.

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

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

Context and Setting

The proposal is in keeping with the existing community character of the locality. Therefore the application is supported for the following reasons:

- The proposal is a permissible land use in the zone;
- The proposed deck is consistent with the surrounding built environment;
- The proposal is consistent with the character of the locality;
- The proposal will maintain the amenity of the surrounding developments.

Access, traffic and transportation impacts

The proposal will have minimal impact on local traffic and parking conditions given the community use, limited hours of operation, small member base and the existing community uses parking available in the immediate vicinity. Swanston Street (being a local road) has good access the broader road network and therefore the site has the capacity to accommodate the minimal traffic generated by the proposal.

Utilities/Water and Energy

The site has connections to all utility services.

Noise and vibration

To maintain the acoustic privacy and amenity of the surrounding developments, the standard condition restricting work hours is recommended. The general hours of operation of the club are limited and do not extend beyond 10pm, consistent with noise regulations.

Socioeconomic impacts

The proposal provides for the community and has a wider public benefit.

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

The subject site is suitably zoned for community uses and the existing building is located within an area dedicated to community uses, including a child care centre and youth centre. The design and siting of the deck is considered responsive to the site attributes and is not located within close proximity of residential dwellings. The proposed development is suitable for the site.

Section 79C(1)(d) Any Submissions

Community Consultation

In accordance with the Act and Regulations, consideration has been given to any necessary referrals and any submissions made.

Community consultation

In accordance with Chapter 2.7 of the Penrith Development Control Plan the application was notified for 14 days between 20 March 2018 to 3 April 2018 and no submissions were received.

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 instruments being Penrith LEP 2010 and Penrith DCP 2014, the proposal satisfies the aims and objectives of the relevant EPI and satisfies the heads of consideration under Section 79C of the EP&A Act.

The land is owned by Penrith City Council and the building is currently used as a community facility, with this application legitimising the use. The proposed built form of the deck is site responsive, complies with key development standards and is in the public interest. Furthermore, it will have a positive impact on the surrounding character of the area as delivers an amenable development outcome to its users as well as the community.

The site is suitable for the proposed development. Subject to conditions of consent there is unlikely to be negative impacts arising from the proposed development.

Therefore, the application is worthy of support and is recommended for approval.

Recommendation

That DA18/0152 for Community Facility - Occupation of Premises as Community Facility & Construction of Timber at 27 Swanston Street, St Marys, be approved subject to the attached conditions (Development Assessment Report Part B).

CONDITIONS

General

1 [A001](#)

The development must be implemented substantially in accordance with the plans stamped approved by Council, the application form and any supporting information received with the application, except as may be amended in red on the attached plans and by the following conditions.

The stamped approved plan is as follows:-

Drawing No.	Title	Prepared By:	Date:	Revision
A02	Sub Floor and Ground Floor Plan	Kley'n Creations	18/12/2017	A

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

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

3 [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.

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

The community facility is required to operate in accordance with the hours of operation outlined within letter signed and dated 4th April 2018 from the Nepean District Lapidary Club Inc unless otherwise agreed to in writing by Penrith City Council - Development Services Manager.

5 [A032 - Goods in buildings](#)

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

6 [A038 - LIGHTING LOCATIONS](#)

A lighting system shall be installed for the entry and exit of the development to provide safe exit for users in the evening. Exterior lighting shall be located and directed in such a manner so as not to create a nuisance to surrounding landuses. The lighting shall be the minimum level of illumination necessary for safe operation. The lighting shall be in accordance with AS 4282 "Control of the obtrusive effects of outdoor lighting" (1997).

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

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

Environmental Matters

8 [D001 - Implement approved sediment& erosion control measures](#)

Erosion and sediment control measures shall be installed **prior to the commencement of works on site** including approved clearing of site vegetation. The erosion and sediment control measures are to be maintained in accordance with the approved erosion and sediment control plan(s) for the development and the Department of Housing's "Managing Urban Stormwater: Soils and Construction" 2004.

(Note: To obtain a copy of the publication, you should contact Landcom on (02) 98418600).

Certification that the erosion and sediment control measures have been installed in accordance with the approved erosion and sediment control plan (s) for the development and "Managing Urban Stormwater: Soils and Construction 2004" shall be obtained and issued a minimum 2 days before any other site works are to commence, including earthworks and clearing of the site.

The approved sediment and erosion control measures are to be installed **prior to and maintained throughout the construction phase of the development until the deck has been completed for the development**. These measures shall ensure that mud and soil from vehicular movements to and from the site does not occur during the construction of the development.

BCA Issues

9 E002 - BCA ISSUES TO BE ADDRESSED

A preliminary assessment of the plans submitted with the application has disclosed that the following design and/or construction issues need to be addressed prior to the issue of any Construction Certificate to ensure compliance with the Building Code of Australia:

Submit plans indicating;

- The length, width, and grade of the access ramp for persons with disabilities.
- The dimensions of the deck and awning i.e floor area/dimensions and heights.

10 E003 - Structural alterations

In accordance with the requirements of Clause 94 of then Environmental Planning and Assessment regulation 2000, the following works are to be completed to ensure the fire safety of the occupants.

- Portable fire extinguishers are to be installed in accordance with Section E of the Building Code of Australia (BCA). An installation certificate is to be submitted to Council prior to the issue of an Occupation Certificate.
- All required exit doors are to be fitted with latching devices that comply with Section D of the BCA.

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.

Construction

12 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.

13 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.

14 H020 – AS2870

All reinforced concrete footings and slabs are to be designed to suit the soil conditions in accordance with AS2870-1996 “Residential Slabs and Footings”.

15 H041 - Hours of work (other devt)

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

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

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

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

16 H18F - Timber framework

All timber frame work shall comply with AS1684-1999 “Residential Timber-Framed Construction.”

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

The proposed continued use of the building for community purposes and additional of a deck is in keeping with the requirements of DCP 2014.

The building forms part of a community uses complex and the continued use does not generate additional car parking or waste requirements.

The general hours of operation of the Nepean Lapidary Club are limited to small sessions and as such is not in regular use. As this application includes the continued use of the premises as a community facility, it has been demonstrated in practice that the use has limited impact on the surrounding area. The residential dwellings in the vicinity are approximately 80m from the building and separated by other community uses.

The deck has setbacks which exceed the DCP requirements.

There is ample community parking available in close proximity to the building and given the low number of users of the building and limited session, the existing parking is acceptable.