

# PENRITH CITY COUNCIL

## MAJOR ASSESSMENT REPORT

<b>Application number:</b>	DA21/0734
<b>Proposed development:</b>	Internal Maintenance & Restoration Works to Living Room Gallery of Penrith Regional Gallery
<b>Property address:</b>	84 - 88 River Road, EMU PLAINS NSW 2750
<b>Property description:</b>	Lot 34 DP 1114973
<b>Date received:</b>	11 October 2021
<b>Assessing officer</b>	Donna Clarke
<b>Zoning:</b>	Zone R2 Low Density Residential - LEP 2010
<b>Class of building:</b>	Class 9b
<b>Recommendations:</b>	Approve

## Executive Summary

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Council is in receipt of a development application that proposes internal maintenance and restoration works to the Living Room Gallery of Penrith Regional Gallery at 84 - 88 River Road, Emu Plains.

The proposal seeks to undertake maintenance and refurbishment works including replacement of floor boards, re-building the floor structure, installing ventilation and repairing the ceiling.

Under Penrith Local Environmental Plan 2010 (LEP 2010), the proposal is defined as a '*Community Facility*'. The subject site zoned R2 Low Density Residential and the proposal is a permissible land use in the zone with development consent.

The subject land is listed as a Heritage Item under LEP 2010 known as Lewers Bequest and Regional Art Gallery, houses and garden (item no. 69). A Heritage Impact Statement was submitted with the application and the proposal is supported by Council's Heritage Advisor.

Consideration has been given to the potential environmental and amenity impacts that are relevant to the proposed development and the development application addresses these impacts.

The proposed refurbishment will improve the function and operation of the community facility whilst continuing to be consistent with the planning principles and controls applying to the site and continues to represent an efficient use of well located land.

In accordance with Appendix F2 of the Penrith Development Control Plan 2014, the application was notified to owners and occupiers of adjoining and nearby properties who were invited to inspect the proposal from 8 November to 22 November 2021. No submissions were received in response.

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.

### **Background**

The subject site is owned by Penrith City Council and the Council is the applicant for the development application.

A review of the Minister's Local Planning Panels Direction indicates that the Penrith Local Planning Panel (LPP) is not the determining authority for the application in accordance with Schedule 2 of the Direction, as per Clause 1 relating to conflicts of interest. This clause excludes development applications relating to works which involve "maintenance and restoration of a heritage item". As such, the application can be determined by Council staff under delegated authority.

Notwithstanding, as the application relates to land in the ownership of Penrith City Council, the proposal has been assessed by an independent town planning consultant.

## Site & Surrounds

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The subject site is known as the Penrith Regional Gallery, and is located at Lot 34 DP 1114973, 84-88 River Road, Emu Plains, on the western side of River Road, which runs parallel to the adjacent Nepean River.

The site has an area of approximately 6,437m<sup>2</sup> and is a square shaped parcel of land.

The Penrith Regional Gallery is owned by Penrith City Council.

The Living Room Gallery comprises the former kitchen wing of the nearby Lewers House, and was converted to a living room in 1950. It is a single storey, single room space, with painted white brick walls and hipped roof with gablets at each end. The building was significantly altered in the 1950s, with the addition of a flat roofed verandah, pergola and extensive glazing to the western elevation. A recent stone paved concrete ramp links the Living Room Gallery to the Lewers Gallery verandah, enclosing much of the subfloor on the southern and western side.

## Proposal

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The proposal seeks to undertake refurbishment works to an existing community facility building known as the Living Room Gallery of the Penrith Regional Gallery. A description of the proposed works is provided below.

### Replace Floor Boards:

- Take up existing floor, removing knotty pine boards in central area and salvaging kauri pine boards elsewhere;
- Rebuild floor using salvaged kauri pine in same location, using recycled kauri pine where salvaged boards cannot be used. Replace portion of floor that is presently knotty pine with cypress pine.

### Rebuild Floor Structure:

- Salvage and re-use all joists and bearers and rebuild floor structure in new configuration on new concrete pads and brick piers;
- Install new damp proofing and termite proofing;
- Install four hinged floor access panels.

### Ventilation:

- Install new removable sub-floor brick vent to southern external wall with mechanical exhaust ventilation attached;
- Install new ventilation fan in sub-floor connected to south-eastern vent;
- Install new sub-floor brick vent to northern external wall, equally spaced between the two existing vents;
- Install new brass slotted vent in floor to southern side of Living Room Gallery and strip any lacquer from brass to allow to tarnish evenly.

### Ceiling:

- Strip paint from ceiling and remove flat panels;
- Repair ceiling where required with matching pressed metal panels in zinc and repaint ceiling in white;
- All existing ceiling services to be retained and reinstated.

### Other:

- Carefully strip paint from cupboards and shelves and restore polish to match original finish;
- Install scratch-resistant poly-carbonate sheet over hearth mosaic, set into timber frame to detail;
- Install two LED spot lights under floor to illuminate sandstone paving below with switch lights to turn on when local floor hatch opened.

## Plans that apply

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

## Planning Assessment

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### • **Section 4.15 - Evaluation**

The proposed 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 4.15(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 proposal against relevant criteria within Sydney Regional Environmental Plan No. 20 - Hawkesbury/Nepean River (No. 2 - 1997) and the proposal is satisfactory subject to recommended conditions of consent.

## Local Environmental Plan 2010

Provision	Compliance
Clause 2.3 Permissibility	Complies - See discussion
Clause 2.3 Zone objectives	Complies - See discussion
Clause 4.3 Height of buildings	Complies
Clause 5.10 Heritage conservation	Complies - See discussion
Clause 5.21 Flood planning	Complies
Clause 7.4 Sustainable development	Complies
Clause 7.7 Servicing	Complies

### Clause 2.3 Permissibility

Under Penrith Local Environmental Plan 2010 (LEP 2010), the proposal is defined as a 'Community Facility'. The subject site zoned R2 Low Density Residential and the proposal is a permissible land use in the zone with development consent.

### Clause 2.3 Zone objectives

The development proposal is consistent with the prescribed zone objectives which are stipulated as:

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To promote the desired future character by ensuring that development reflects features or qualities of traditional detached dwelling houses that are surrounded by private gardens.*
- *To enhance the essential character and identity of established residential areas.*
- *To ensure a high level of residential amenity is achieved and maintained.*

The proposed refurbishment works to the existing Living Room Gallery of the Penrith Regional Gallery building will improve its function and operation and ensure upgrades to comply with the necessary safety requirements, whilst protecting the heritage value and still allowing continued provision of community service to the local community.

The facility provides a facility for the residents of the wider area and the proposed development does not impact upon residential amenity.

### Clause 5.10 - Heritage conservation

The subject land is listed as a Heritage Item under LEP 2010 known as Lewers Bequest and Regional Art Gallery, houses and garden (item no. 69). A Heritage Impact Statement was submitted with the application.

The proposed works have employed an experienced heritage consulting firm, who have produced a detailed set of drawings and schedule of works. These documents have been reviewed and the works and proposed conservation methodologies are supported by Council's Heritage Advisor.

The proposal is considered to satisfy the provisions of this clause.

## Section 4.15(1)(a)(iii) The provisions of any development control plan

### Development Control Plan 2014

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

## Section 4.15(1)(a)(iv) The provisions of the regulations

In accordance with Clause 143 of the Environmental Planning and Assessment Regulation 2000, an assessment of the fire protection and structural capacity of the building is necessary. In this regard, the application was referred to Council's Building Surveyor for assessment and the proposal was found to be satisfactory, subject to conditions.

## Section 4.15(1)(b) The likely impacts of the development

### **Context and Setting**

The proposed development is limited to minor maintenance works to the building only. The proposed refurbishment works are to be undertaken exclusively within the community facility building with no works to be undertaken to the existing car parking area.

In this regard, the proposed development is considered not likely to have an adverse impact on the surrounding locality.

### **Traffic, Access & Parking**

No change is proposed to vehicle access arrangements or to existing parking arrangements.

### **Visual Impacts**

The proposed works will improve the overall appearance of the site, whilst respecting its heritage values.

### **Social Impacts**

The proposed works will have no impact on the existing operation and management of the facility.

The proposed refurbishment works will improve the function of the community facility whilst continuing to be consistent with the planning principles and controls applying to the site and continues to represent an efficient use of well located land.

## Section 4.15(1)(c) The suitability of the site for the development

The site is suitable for the development for the following reasons:

- The site is zoned to permit the proposed use and the Living Room Gallery of the Penrith Regional Gallery has been operating for many years without any unreasonable impacts to adjoining properties;
- The use is compatible with surrounding/adjoining land uses;
- The proposal will upgrade the existing facility and support demand for a community facility.

## Section 4.15(1)(d) Any Submissions

### Community Consultation

In accordance with Appendix F2 of the Penrith Development Control Plan 2014, the application was notified to owners and occupiers of adjoining and nearby properties who were invited to inspect the proposal from 8 November to 22 November 2021. No submissions were received 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
Heritage	No objections

## Section 4.15(1)(e) The public interest

The proposed development will not generate any significant issues of public interest. The proposal is unlikely to result in any adverse impacts on the natural or built environments.

## Conclusion

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In assessing this proposal against the relevant environmental planning policies, primarily being 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

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That DA 21/0734 for internal maintenance and restoration works to the Living Room Gallery of Penrith Regional Gallery at 84 - 88 River Road, Emu Plains, be approved subject to the following recommended conditions.

# CONDITIONS

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## General

### 1 [A001 - Approved plans table](#)

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

Plan / Document	Prepared By	Dated
Site Plan	Lucas Stapleton Johnson	23/9/21
Floor Plan & Sections	Lucas Stapleton Johnson	23/9/21
Reflected Ceiling Plan	Lucas Stapleton Johnson	23/9/21
Schedule of Works	Lucas Stapleton Johnson	23/9/21
Heritage Impact Statement	Lucas Stapleton Johnson	23/9/21

### 2 [A019 - OCCUPATION CERTIFICATE](#)

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

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

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

## BCA Issues

### 4 [E001 - BCA compliance](#)

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 a performance 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).

## Construction

### 5 [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 on site, 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.

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

Construction 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 that do not involve the use of equipment that emits noise are not restricted to the construction hours stated above.

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

## Certification

### 7 Q01F - Notice of Commencement & Appointment of PCA2 (use for Fast Light only)

Prior to the commencement of any construction works on site, the proponent is to:

- (a) employ a Principal Certifier 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 Certifier shall submit to Council an "Appointment of Principal Certifier" 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.

### 8 Q05F - Occupation Certificate for Class10

An Occupation Certificate is to be obtained from the Principal Certifying Authority on completion of all works.

The Certificate shall not be issued if any conditions of this consent, but not the conditions relating to the operation of the development, are outstanding.

A copy of the Occupation Certificate and all necessary documentation supporting the issue of the Certificate is to be submitted to Penrith City Council, if Council is not the Principal Certifying Authority.