

PENRITH CITY COUNCIL

MAJOR ASSESSMENT REPORT

Application number:	DA18/0568
Proposed development:	Fit-Out & Use as Restaurant & Associated Signage (Tenancy T3 & T4)
Property address:	78 - 88 Tench Avenue, JAMISONTOWN NSW 2750
Property description:	Lot 3 DP 30354
Date received:	4 June 2018
Assessing officer	Sufyan Nguyen
Zoning:	SP3 Tourist - LEP 2010
Class of building:	Class 6
Recommendations:	Approve

Executive Summary

Council is in receipt of a development application for a fit-out and use as a restaurant including associated signage at 78 - 88 Tench Avenue in Jamisontown. The subject site is zoned SP3 Tourist under the *Penrith Local Environmental Plan 2010* and the proposed development is permissible with Council consent.

The key issues identified and addressed as part of the assessment of the proposal were in regard to the kitchen floor plan details. The subject premises (Tenancy T3 + T4) is a part of an approved restaurant and café development for the Coffee Club site. The proposal is of a minor scale and is considered to be a compatible land use.

The site is identified as a bushfire prone land, however the premises is distant from the nearest bushfire hazard and the proposal does not warrant any specific construction requirements. In addition, the site is within the Nepean River floodplain, however the site will be subject to a flood evacuation plan to address flooding risks.

An assessment of the proposal under Section 4.15 of *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 known as the Coffee Club site at 78 - 88 Tench Avenue, Jamisontown and is legally described as Lot 3 DP 30354. The site is located on the south-eastern side of Tench Avenue and it is rectangular in shape, has a frontage of 131.16m and has a land area of 3.34ha. The subject premises (Tenancy T3 + T4) forms part of an approved restaurant and cafe development and is located in the north-western part of building 1 (of 3). The premises has a gross floor area of 359m² with outdoor seating presenting to the street.

The site is situated within the Nepean River floodplain and is located directly opposite the boat ramp and associated car parking area which forms part of the larger open space network identified as Tench Reserve. The surrounding land uses are typically rural-residential on large land holdings.

Proposal

The applicant seeks development consent for a fit-out and use as a restaurant and associated signage at Tenancy T3 and Tenancy T4 at the Coffee Club site, 78 - 88 Tench Avenue, Jamisontown. The proposed development involves:

- Kitchen fit-out
- Curved rafters with hanging lanterns along the top section of the facades
- External timber panelling
- Extensive glazing including bi-fold windows
- Bench seating (450mm high)
- 2 GOJI Modern Asian Cuisine illuminated signs: 800mm x 800mm sign above the front entrance door and 2m x 2m sign attached to the rear wall

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 79BA - Bushfire prone land assessment

The site is identified as bushfire prone land due to the vast green open space corridors adjoining the property. Although the rear portion of the subject premises is situated within a bushfire zone, the nearest vegetation is greater than 100m from the premises. Therefore, there is insufficient threat to warrant any specific construction requirements and the proposal raises no bushfire risk.

• Section 79C - Evaluation

The proposed development has been assessed in accordance with the matters for consideration under Section 4.15 (formerly Section 79C) of the *Environmental Planning and Assessment Act 1979*, and having regard to those matters, the following issues have been identified for further consideration.

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

Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

An assessment has been undertaken of the 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 (Amendment 4)

Provision	Compliance
Clause 1.2 Aims of the plan	Complies
Clause 2.3 Permissibility	Complies
Clause 2.3 Zone objectives	Complies
Clause 5.10 Heritage conservation	Complies - See discussion
Clause 7.2 Flood planning	Complies - See discussion
Clause 7.7 Servicing	Complies

Clause 5.10 Heritage conservation

The site is not subject to any Heritage Order nor is it identified as a heritage listed item.

Clause 7.2 Flood planning

The site is marginally affected by mainstream flooding from the Nepean River and from local overland flow paths, however the subject premises is well clear of the extent of the flooding flows. Furthermore, the development site is subject to a flood evacuation and management plan as part of the development consent issued for the building (DA15/0335) which will ensure that there will be minimal flooding risks.

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

There are no draft environmental planning instruments applying to the proposed development.

Section 79C(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	N/A
C5 Waste Management	Complies
C6 Landscape Design	N/A
C7 Culture and Heritage	N/A
C8 Public Domain	N/A
C9 Advertising and Signage	Complies
C10 Transport, Access and Parking	Complies
C11 Subdivision	N/A
C12 Noise and Vibration	Complies
C13 Infrastructure and Services	Complies
E13 Riverlink Precinct controls	Complies - see Appendix - Development Control Plan Compliance

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

There are no planning agreements applying to the proposed development.

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

The relevant prescribed conditions of the Regulations, such as the requirement for compliance with the Building Code of Australia and fire safety requirements, will be imposed as conditions of consent where applicable. Subject to the recommended conditions of consent, the proposed development complies with the requirements of the *Environmental Planning and Assessment Regulation 2000*.

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

Context & Setting

The proposal is for a commercial kitchen fit-out for a new food and drink premises and includes signage. Given that the premises is part of a restaurant and café development, the proposal is a compatible land use.

Site Design & Internal Design

The proposed floor plan layout permits access and mobility for all types of users. Adherence to Standard 3.2.3 of the Australian and New Zealand Food Standards Code and AS 4674-2004 Design, Construction and Fit-out of Food Premises and compliance with BCA requirements will provide for the health and safety of all users of the premises.

Access & Transport

The premises will be serviced by sufficient off-street parking spaces on the site and by the Tench Reserve public car park opposite the site. The proposal is of a small scale and is unlikely to result in any adverse impacts on traffic flows. In addition, bus stops are directly opposite the site to the north-west.

Utility Services

The premises has connections to sufficient utility services. A Section 73 Compliance Certificate from Sydney Water will be required via a condition of consent.

Environmental Impacts

The proposal is for minor works only. There will be no major impacts on water resources or soil quality and the development does not involve the removal of any significant biodiversity or threatened species. The amounts of waste to be generated by the proposal are considered to be manageable.

Hazards

Approximately 80% of the rear of the site is identified as bushfire prone land which consequently affects the rear part of the subject premises. However, given the large separation distances to the nearest bushfire hazards, the proposal does not warrant any bushfire protection measures. In addition, the site will be subject to a flood evacuation plan and appropriate measures will be in place to respond to a flood event. To maintain the acoustic privacy and amenity of the surrounding area, a standard condition restricting construction work hours is recommended.

Socio-Economic impacts

The proposal aims to establish a new business which will in turn generate economic activity in the locality. The proposal being of a minor scale is not considered likely to adversely impact on local businesses or nearby property values.

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

The proposal is of a small scale and is a permissible land use in the SP3 Tourist zone. The site has access to sufficient facilities and services. In consideration of the nature and scale of the development, it is unlikely to result in any adverse impacts on the surrounding natural and built environments, including local traffic flows. The natural hazards affecting the site raise no concerns and the site does not contain any significant flora or fauna or valuable natural resources. The site is therefore suitable for the proposed development.

Section 79C(1)(d) Any Submissions

Community Consultation

In accordance with Appendix F4 of *Penrith Development Control Plan 2014*, the proposal did not warrant notification and no public submissions were received in regards to the 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
Environmental - Public Health	No objections - subject to conditions

Environmental - Public Health

The application initially did not provide sufficient details in regards to the kitchen floor plan layout, such as the location of all sinks and the grease trap. The finishes of the floors, walls, cabinets and benches in addition to the location of staff toilets was also required. The applicant submitted the relevant details and has proposed to use communal toilets for staff which has been deemed satisfactory by Council's Environmental Health Officer.

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

The proposal is compliant with the applicable development controls and will not impact on the health and safety of the public. In addition, there will be no significant environmental impacts as a result of the proposal. The proposal will therefore not generate any significant issues of public interest.

Conclusion

In assessing this proposal against the relevant environmental planning policies, being *Penrith Local Environmental Plan 2010*, *Penrith Development Control Plan 2014* and *Sydney Regional Environmental Plan No. 20—Hawkesbury-Nepean River (No. 2—1997)*, the proposal satisfies the aims, objectives and provisions of these policies. The proposal does not contravene any development standards and is unlikely to have any significant impacts on the natural, social or economic environments. The site is suitable for the development and the proposal is in the public interest. Therefore, the application is worthy of support and is recommended for approval subject to conditions.

Recommendation

That DA18/0568 for a fit-out and use as a restaurant and associated signage at Tenancy T3 + T4 at the Coffee Club site, 78 - 88 Tench Avenue, Jamisontown be approved subject to the attached conditions.

General

1 [A001](#)

The development must be implemented substantially in accordance with the following 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 stamped approved plans and by the following conditions.

Drawing Title	Prepared By	Reference No.	Dated	Revision
Site Plan	Morson Group	TP112	06-04-2018	1
Floor Plan	Drafting Services	BLA-370 (Sheet 1)	01-05-2018	A
Elevations	Drafting Services	BLA-370 (Sheet 2)	01-05-2018	A
Signage	–	–	–	–

2 [A012 - Food Act](#)

The proprietor of the food business shall ensure that the requirements of the *NSW Food Act 2003*, *NSW Food Regulation 2010* and the Australian and New Zealand Food Standards Code are met at all times.

3 [A019 - Occupation Certificate](#)

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

A satisfactory inspection from an authorised officer of Council's Environmental Health Department is required prior to the issue of the Occupation Certificate. The occupier is to contact the Environmental Health Department to organise an appointment at least 72 hours prior to the requested inspection time.

4 [A021 - Business Registration](#)

The business is to be registered with Penrith City Council by completing the "Registration of Premises" form. This form is to be returned to Council prior to the issue of the Occupation Certificate and operation of the business.

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

The approved operating hours are to be in accordance with the hours of operation approved via DA15/0335.

6 [A032 - Goods in buildings](#)

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

7 [A039 - Graffiti](#)

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

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

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

Environmental Matters

9 [D009 - Covering of waste storage area](#)

All waste materials stored on the site during construction 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.

10 **D010 – Appropriate disposal of excavated or other waste**

All wastes generated as a result of the development are to be re-used, recycled or disposed of in accordance with a suitable waste management plan that is to be submitted to the Certifying Authority **prior to the issue of a Construction Certificate**.

The waste management plan shall be prepared in accordance with *Penrith Development Control Plan 2014* and shall address all waste materials likely to result from the proposed development, with details of the estimated waste volumes, on-site storage and management, proposed re-use of material and designated waste contractors, recycling outlet and/or landfill site.

The approved waste management plan must be implemented on-site and adhered to throughout all stages of the development including demolition, with supporting documentation/receipts retained in order to verify the recycling and disposal of materials in accordance with the approved 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.

11 **D014 - Plant and equipment noise**

The operating noise level of plant and equipment shall not exceed 5dB(A) above the background noise level when measured at the boundaries of the premises. The provisions of the *Protection of the Environment Operations Act 1997* apply to the development, in terms of regulating offensive noise.

BCA Issues

12 **E009 - Annual fire safety-essential fire safety (Class 2-9 buildings)**

The owner of a building, to which an essential fire safety measure is applicable, shall provide Penrith City Council with an annual fire safety statement for the building. The annual fire safety statement for a building must:

(a) deal with each essential fire safety measure in the building premises, and

(b) be given:

- within 12 months after the last such statement was given, or
- if no such statement has previously been given, within 12 months after a final fire safety certificate was first issued for the building.

As soon as practicable after the annual fire safety statement is issued, the owner of the building to which the statement relates:

- must also provide a copy of the statement (together with a copy of the current fire safety schedule) to the Commissioner of New South Wales Fire Brigades, and
- prominently display a copy of the statement (together with a copy of the current fire safety schedule) in the building.

13 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

14 F001 - General Fitout

The construction, fit out and finishes of the food premises must comply with Standard 3.2.3 of the Australian and New Zealand Food Standards Code, and AS4674-2004 *Design, Construction and Fitout of Food Premises*.

15 F022 - Commercial kitchen(exhaust system)

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

Detailed plans together with calculations for the system must be provided as part of the Construction Certificate application.

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

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

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

16 F025 - Food safety supervisor

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.

17 F026 - Kitchen bar & food prep area-certification

The bar is to comply with the requirements with Standard 3.2.3 of the Australian and New Zealand Food Standards Code and AS 4674-2004 *Design, Construction and Fit-out of Food Premises*.

At minimum the following are required which are not stipulated on the plans:

- glass washing machine
- hands free operated hand wash basin with warm water through a common spout
- single bowl wash/rinse sink

18 F027 - Hand basins

Hand basins must be freestanding, serviced with hot and cold water through a single outlet, able to be mixed at a temperature of at least 40°C and fitted with a hands free operation. Where sensor taps are installed the basin must not be more than 6 metres from the hot water system. Disposable paper hand towels and soap must be provided and serviced from a dispenser adjacent to each hand basin.

19 F039 - Fly screens

Flyscreens or other approved means of excluding flies must be provided to all window and door openings.

20 **F042 - Dishwasher**

Details of the dishwashing/glass washing machines must be submitted to Council and approved prior to installation. All utensils and equipment must undergo a washing, sanitising and rinsing cycle. The sanitising rinse cycle must achieve a water temperature of 80°C for 2 minutes or 75°C for 10 minutes.

21 **F046 - Cleaners sink**

The cleaners sink must be serviced with hot and cold water through taps fitted with hose connectors. Cleaner's sinks must be located outside of areas where open food is handled.

22 **F055 - Lockers**

Sufficient lockers must be provided in the food preparation area or store room specifically for the storage of cleaning materials, employees' clothing and personal belongings.

23 **F057 - Waste storage**

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.

Utility Services

24 **G002 - Section 73 (not for**

A Section 73 Compliance Certificate under the *Sydney Water Act 1994* shall be obtained from Sydney Water. The application must be made through an authorised Water Servicing Coordinator. Please refer to "Your Business" section of Sydney Water's website at www.sydneywater.com.au then the "e-developer" icon, or telephone 13 20 92.

The Section 73 Compliance Certificate must be submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

Construction

25 **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 the 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 the 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.

26 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 Council, or
- alternatively, any other sewage management facility approved by Council.

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

27 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 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

28 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 6.6 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 6.6 of the *Environmental Planning and Assessment Act 1979*.

29 Q05F - Occupation Certificate for Class10

An Occupation Certificate is to be obtained from the Principal Certifying Authority on completion of all works and prior to the occupation/use of the development.

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.

Appendix - Development Control Plan Compliance

Development Control Plan 2014

E13 Riverlink Precinct

E13.3.2 Active Street Frontages

The proposal incorporates decorative timber panelling, extensive glazing, curved rafters with hanging lanterns along the top section of the facades and appropriate signage. The attractive street entrance and extensive glazing will assist in activating the street and the overall design is considered to enhance the visual quality of the street. The proposal therefore satisfies the objectives for active street frontages.