

PENRITH CITY COUNCIL

MAJOR ASSESSMENT REPORT

Application number:	DA17/1199
Proposed development:	External Building Alterations, Internal Fit-Out & Use of "Kentucky" Villa Heritage Item as a Cafe/Restaurant & Associated Signage
Property address:	146 Station Street, PENRITH NSW 2750
Property description:	Lot 11 DP 715161
Date received:	23 November 2017
Assessing officer	Clare Aslanis
Zoning:	Zone B4 Mixed Use - 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 of a restaurant at 146 Station Street, Penrith. Under Penrith Local Environmental Plan 2010, the proposal is defined as a restaurant or café. The subject site is zoned B4 Mixed Use and the proposal is a permissible land use in the zoning with Council consent.

Key issues identified for the proposed development and site include:

- The subject site is listed under Schedule 5 Environmental Heritage of the Penrith Local Environmental Plan 2010 as 'Kentucky Villa'

The application has been notified to adjoining properties and exhibited between 30 November and 14 December 2017.

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 at 146 Station Street, Penrith and comprises a single lot legally described as Lot 11 DP 715161. The site is regular in shape with a frontage of 23m, a depth of 51m and a total site area of approximately 1,150m². The site is bound by Station Street to the north with Nepean Village car park to the south and east. To the west are food and drink premises. Opposite the site is Penrith Paceway.

The site is a local heritage item under the Penrith Local Environmental Plan 2010 (LEP 2010).

The subject site currently contains a single storey building originally constructed as a dwelling and later approved for use as a restaurant. At the rear of the site is a building occupied by a Gloria Jeans café.

Proposal

The proposed development involves:

- Fitout and use of the site for a licensed restaurant with 117 seats;
- Hours of operation 6am - 5pm Monday to Sunday;
- Maximum of 20 staff at any time;
- External landscaping works;
- Signage;
- internal painting;
- Partial demolition of some internal walls.

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, 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 1.2 Aims of the plan	Complies
Clause 2.3 Permissibility	Complies - See discussion
Clause 2.3 Zone objectives	Complies
Clause 4.3 Height of buildings	Complies
Clause 4.4 Floor Space Ratio	Complies
Clause 5.9 Preservation of trees or vegetation	Complies
Clause 5.10 Heritage conservation	Complies
Clause 7.7 Servicing	Complies

Clause 2.3 Permissibility

The subject site is zoned B4 Mixed Use and Restaurant or cafes are permitted with Council's consent within the zone.

- *A restaurant or café means a building or place the principal purpose of which is the preparation and serving, on a retail basis, of food and drink to people for consumption on the premises, whether or not liquor, take away meals and drinks or entertainment are also provided.*

Note.

Restaurants or cafes are a type of food and drink premises - see the definition of that term in this Dictionary.

- *food and drink premises means premises that are used for the preparation and retail sale of food or drink (or both) for immediate consumption on or off the premises, and includes any of the following:*

- (a) a restaurant or café,*
- (b) take away food and drink premises,*
- (c) a pub,*
- (d) a small bar.*

Note.

Food and drink premises are a type of retail premises - see the definition of that term in this Dictionary.

- *retail premises means a building or place used for the purpose of selling items by retail, or hiring or displaying items for the purpose of selling them or hiring them out, whether the items are goods or materials (or whether also sold by wholesale), and includes any of the following;*

- (a) bulky goods premises,*
 - (b) cellar door premises,*
 - (c) food and drink premises,*
 - (d) garden centres,*
 - (e) hardware and building supplies,*
 - (f) kiosks,*
 - (g) landscaping material supplies,*
 - (h) markets,*
 - (i) plant nurseries,*
 - (j) roadside stalls,*
 - (k) rural supplies,*
 - (l) shops,*
 - (m) timber yards,*
 - (n) vehicle sales or hire premises,*
- but does not include highway service centres, service stations, industrial retail outlets or restricted premises.*

Note.

Retail premises are a type of commercial premises - see the definition of that term in this Dictionary.

- *commercial premises means any of the following:*

- (a) business premises,*
- (b) office premises,*

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

There are no draft Environmental Planning Instruments that apply to the proposal.

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

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

There are no planning agreements applying to this application.

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

In accordance with Section 143 of the Environmental Planning and Assessment Regulation 2000, an assessment of the fire protection and structural capacity of the proposed building is necessary.

The application has been referred to Council's Building Surveyors for assessment no objections were raised to the development subject to conditions of consent.

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

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

- **Heritage conservation**

The property is identified as heritage item.

The proposed development satisfied the objectives and requirement of the relevant aspects of the planning instrument. The alterations to the heritage item are sympathetic and provide opportunity for future restorations.

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

The site is suitable for the proposed adaptive reuse of the Kentucky Villa building given its prominent location on Station Street and Ample car parking available adjacent the site.

Section 79C(1)(d) Any Submissions

Community Consultation

In accordance with Clause 4.4 of Appendix F4 of Penrith Development Control Plan 2014, the proposed development was notified to nearby and adjoining residents.

Council notified 6 residences in the area and the exhibition period we between 30 November and 14 December 2017. Council has received no submissions in response.

Referrals

The application was referred to the following stakeholders and their comments have formed part of the assessment:

Referral Body	Comments Received
Building Surveyor	No objections - subject to conditions
Heritage	Not supported
Environmental - Public Health	No objections - subject to conditions

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

The proposed development will not generate any significant issues of public interest.

Conclusion

In assessing this application against the relevant environmental planning policies, being Penrith Local Environmental plan 2010 and Penrith Development Control Plan 2014, the proposal satisfies the aims, objectives and provisions of these policies.

In its current form, the proposal will have a positive impact on the surrounding character of the area as it will provide additional food and drink premises to the area whilst making use of an historic building.

The proposed design is site responsive, complies with key development standards and is in the public interest.

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

1. That DA17/1199 for External Building Alterations, Internal Fit-Out & Use of "Kentucky" Villa Heritage Item as a Cafe/Restaurant & Associated Signage at 146 Station Street PENRITH , be approved subject to the attached conditions.

CONDITIONS

General

1 [A001](#)

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

<u>Plan</u>	<u>Numbered</u>	<u>Drawn By</u>	<u>Dated</u>
Site Plan	01 Issue D	-	20 December 2017
Demolition Floor Plan	03 Issue D	-	20 December 2017
Details Plan	09 Issue D	-	20 December 2017
Elevations Plan	11 Issue D	-	20 December 2017
Elevations Plan	12 Issue D	-	20 December 2017
Internal Elevations Plan	21 Issue D	-	20 December 2017
Signage Plan	31 Issue D	-	20 December 2017
Materials and Finishes Plan	91 Issue D	-	20 December 2017
Landscape Plan	-	A Greener Pathway	-
Heritage Impact Statement	-	Modern Heritage Matters	November 2017

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 issuing of the occupation certificate and operation of the business.

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

The approved operating hours are from 6am am to 5pm Mondays to Sundays.

6 [A038 - LIGHTING LOCATIONS](#)

Prior to the issue of an Occupation Certificate, a lighting system shall be installed for the development to provide uniform lighting across common areas and driveways. 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.

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

No shipping containers are permitted to be kept on the site.

Demolition

9 [B002 - AS FOR DEMOLITION AND DISPOSAL TO APPROVED LANDFILL SITE](#)

All demolition works are to be conducted in accordance with the provisions of AS 2601-1991 "The Demolition of Structures". **Prior to demolition**, all services shall be suitably disconnected and capped off or sealed to the satisfaction of the relevant service authority requirements.

All demolition and excavated material shall be disposed of at a Council approved site or waste facility. Details of the proposed disposal location(s) of all excavated material from the development site shall be provided to the Principal Certifying Authority **prior to commencement of demolition**.

Heritage/Archaeological relics

10 C001 - Employment of conservation architect

Prior to the commencement of works on site:

- An appropriately qualified conservation architect shall be employed to oversee the construction of the approved development, including any approved demolition works.
- Details of the conservation architect employed to oversee the construction of the development shall be submitted to Penrith City Council with the 'Notification of Commencement' 2 days before works are to commence on site.

The conservation architect should have prior experience in the conservation of similar heritage items and shall ensure that the work is in accordance with the Heritage Impact Statement written by Modern Heritage Matters and dated November 2017

11 C002 - ARCHIVAL RECORDING

Two (2) complete copies of the archival recording are to be submitted to Penrith City Council, including a set of photographic negatives Prior to the Issue of a Construction Certificate. The archival recording shall be prepared by an experienced heritage consultant and is to be in accordance with the Archival Recording Standards described below:

- Title page (with subject, author, client, date and copyright).
- Statement of why the record was made.
- Outline history of the item and associated sites, structures and people.
- Statement of heritage significance of the items using the State Heritage Inventory criteria.
- Inventory of archival documents related to the item (eg. company records, original drawings) when available.
- Location plan (show relationship to surrounding geographical features, structures, roads, vegetation etc. Include a north point).
- Base plans, drafted or hand-drawn base plans including:
 - (i) cross references to photographs;
 - (ii) name the relevant features, structures and spaces;
 - (iii) a north point.
- Black and white photographic record, including one set of 35mm black and white negatives labelled and cross referenced to base plans and accompanied by informative catalogues, and two copies of proof sheets and select medium format prints showing important details. The images shall include:
 - (i) views to and from the site (possibly from four compass points);
 - (ii) views showing relationships to other relevant structures and landscape features;
 - (iii) all external elevations;
 - (iv) views of all external and internal spaces (eg. courtyards, rooms, roof spaces etc.); and
 - (v) external and internal details (eg. joinery, construction joints, decorative features, paving types etc.). All photographic images shall be mounted and labelled.
- Colour slides (two copies mounted in archivally stable slide pockets, clearly labelled and cross referenced to base plans). Images shall include:
 - (i) view to and from the site and/or the heritage item, and
 - (ii) views and details of external and internal colour schemes as appropriate.Selected colour prints may be required. They should be mounted and labelled.
- Measured drawings, with appropriately scaled drawings printed on archivally stable paper. For a built item, this may include:
 - (i) site plan (1:500 or 1:200),
 - (ii) floor plan(s) (1:100 or 1:50),
 - (iii) elevations and sections (1:100 or 1:50),
 - (iv) roof plan(s) (1:100 or 1:50),
 - (v) ceiling and joinery details (1:20 or 1:10), and
 - (vi) machinery and services details eg. drainage lineshafts.
- Presentation
- The archival recording shall be presented to Council as a single bound document preferably in A4 format. Large maps shall be folded and inserted as map pockets attached to the document. Similarly, all photographic images shall be fixed to the document and labelled.

Unbound documents or loose supporting materials such as maps, plans, slides, negatives or prints are not acceptable.

Environmental Matters

12 D009 - Covering of waste storage area

All waste materials stored on-site 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 are to be fully enclosed when the site is unattended.

BCA Issues

13 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.

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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.

14 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

15 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*.

16 **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 AS1668 Parts 1 & 2.

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

The exhaust hood must completely cover the equipment to be ventilation and extended 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 2000 mm above floor level.

Prior to the issuing 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 Australian Standard AS1668 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

17 **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.

18 **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.

19 **F046 - Cleaners sink**

A cleaners/mop sink must be provided in addition to any wash up sinks, food preparation sinks and hand wash basins. The cleaners sink is to 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.

20 **F050 - Light bulbs & tubes**

Light bulbs or tubes are to be shatterproof or fitted with approved light diffusers (covers or shields) to prevent contamination of food by glass from a broken light globe or tube. Light fittings must be free from any feature that would collect dirt or dust, harbour insects or make the fitting difficult to clean. Light fittings must be recessed into ceilings or equipment where possible. Heat lamps must be protected against breakage by a shield extending beyond the bulb.

21 **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.

22 **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.

23 **F060 - Grease Arrestor**

The grease arrestor must not be installed in any kitchen, food preparation or food storage area. The grease arrestor shall be installed in accordance with Sydney Water's requirements.

Construction

24 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.

25 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.

26 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.

Landscaping

27 L001 - General

All landscape works are to be constructed in accordance with the stamped approved plan and Penrith Development Control Plan 2014.

Landscaping shall be maintained:

- in accordance with the approved plans, and
- in a healthy state, and in perpetuity by the existing or future owners and occupiers of the property.

If any of the vegetation comprising that landscaping dies or is removed, it is to be replaced with vegetation of the same species and, to the greatest extent practicable, the same maturity as the vegetation which died or was removed

28 L002 - Landscape construction

The approved landscaping for the site must be constructed by a suitably qualified and experienced landscape professional

29 L003 - Report requirement

The following series of reports relating to landscaping are to be submitted to the nominated consent authority at the appropriate time periods as listed below. These reports shall be prepared by a suitably qualified and experienced landscape professional.

i. Implementation Report

Upon completion of the landscape works associated with the development and prior to the issue of an Occupation Certificate for the development, an Implementation Report must be submitted to the Principal Certifying Authority attesting to the satisfactory completion of the landscaping works for the development. The report is to be prepared by a suitably qualified and experienced landscape professional

An Occupation Certificate should not be issued until such time as a satisfactory Implementation Report has been received. If Penrith City Council is not the Principal Certifying Authority, a copy of the satisfactory Implementation Report is to be submitted to Council together with the Occupation Certificate for the development.

ii. Maintenance Report

On the first anniversary of the date of the Occupation Certificate issued for the development, a Landscape Maintenance Report is to be submitted to Penrith City Council certifying that the landscape works are still in accordance with the development consent and the plant material is alive and thriving.

This report is to be prepared by a suitably qualified and experienced landscape professional

30 L005 - Planting of plant

All plant material associated with the construction of approved landscaping is to be planted in accordance with the Tree Planting Specification prescribed in Penrith Development Control Plan 2014.

31 [L006 - Aust Standard](#)

All landscape works are to meet industry best practice and the following relevant Australian Standards:

- AS 4419 Soils for Landscaping and Garden Use,
- AS 4454 Composts, Soil Conditioners and Mulches, and
- AS 4373 Pruning of Amenity Trees.

32 [L007 - Tree protection measures—no TMP with DA](#)

All trees that are required to be retained as part of the development are to be protected in accordance with the minimum tree protection standards prescribed in section F5 of Penrith Development Control Plan 2014

33 [L008 - Tree Preservation Order](#)

No trees are to be removed, ringbarked, cut, topped or lopped or wilfully destroyed (other than those within the proposed building footprint or as shown on the approved plans) without the prior consent of Penrith City Council and in accordance with Council's Tree Preservation Order and Policy.

34 [L009 - Tree Preservation Order \(subdivision\)](#)

No trees are to be removed from within the subdivision without the prior consent of Penrith City Council. Any trees to be removed as part of the engineering work are to be shown on engineering plans submitted for Council's consideration and subsequent approval.

Certification

35 [Q006 - Occupation Certificate \(Class 2 - 9\)](#)

An Occupation Certificate is to be obtained from the Principal Certifying Authority on completion of all works and prior to the occupation of the building/tenancy and commencement of the approved use. The Occupation Certificate shall not be issued if any conditions of this consent, but not the conditions relating to the operation of the development, are outstanding, and the development does not comply with the provisions of the Environmental Planning and Assessment Act and Regulation.

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

36 [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

C7 Culture and Heritage

The subject site is listed under Schedule 5 Environmental Heritage of Penrith local Environmental Plan 2010. The original building, known as Kentucky, appears to have been built c1890 in the late Victorian period. While the house has contained elements of various periods, a number of later additions have been reversed and a predominant Victorian Gothic Revival style is evident. The brick residence has been built close to the street line and presents with a veranda and projecting wing with a gabled roof and bay window.

The scope of work proposed includes:

Interior

- The partial demolition of several internal walls. In all cases the nib walls will remain to allow the original floor plan to be interpreted. The non-original but appropriate ceiling and plasterwork will remain.
- Removal of non-original Victorian style fireplace in dining room, to be replaced with a contemporary marble fireplace. While the fireplace is appropriately late Victorian in style it is not a good quality reproduction piece and these tessellated tiles would not have been used on the hearth.
- Removal of existing tiled flooring in the rear enclosed verandah, to be replaced with Victorian style black and white tiling and the addition of low joinery under the windows.

Exterior

- Covered verandah with tiling to be renovated with sympathetic Victorian style black and white tiles and new joinery
- The entry area is to be located at the rear where the current gate is located. This is where the majority of clientele will enter the building from the carpark. There will be a secondary entry at the front of the house.
- The restaurant name is to be hand painted on the rear painted gable of the house, an area of lesser heritage significance.
- The existing cast aluminum columns and balustrade on the verandah are to be removed and replaced with timber columns and cross bar which incorporates a long table.
- New stairs leading from the deck to the ground level will be located in front of the two french doors on the north-eastern veranda side.
- The existing rear non original brick paving is to remain.
- The existing fenced off well is to be covered over and replaced with a new raised pond with a timber table surrounding the concrete, stools and an umbrella for shading.
- The new design will allow a modern interpretation of the existing well that is currently covered with an intrusive looking fence and despite its prominent position provides no practical or well understood interpretative role.
- The area in front of the existing paving extending diagonally along the north-eastern side of the building is to have semi permeable pebble flooring with intermittent grass planting to allow for outdoor seating. The remaining area toward the front is to be lawn.
- The paved area will have timber arbor arches installed along the perimeter with fairy lighting.
- At the front of the building in the western corner there will be a Victorian style water feature.
- There will be new perimeter planting around the front non- original pathway.

C9 Advertising and Signage

The proposed new business identification signage includes the following:

- 1 x painted wall sign on the eastern facade measuring 1,860mm (w) x 860mm (h).
- 1 x painted wall sign on the shipping container measuring approximately 2m (w) x 1 m (h).
- 1 x pole sign in front of the site on the Station Street frontage measuring 3,200mm (h) x 1100mm (w).
- The round sign is illuminated on the edge. A menu board display is also attached to the

pole.

The proposed signage is sympathetic to the heritage item and appropriate for the site and location.

C10 Transport, Access and Parking

No car parking is proposed as part of the development, however the site is surrounded by the Nepean Centro Shopping Village car park and additional on street car parking is available on Station Street.

It is noted that the current use as a restaurant on this site provides no car parking spaces and has operated in this way for several years.