

2 November 2023

NSW Department of Planning and Environment
Locked Bag 5022,
Parramatta NSW 2124

Attn: Meg D'souza – A/Senior Planning Officer

**Re: DA23/9236 PAN-350031, Change of Use – Café and Wine Bar
100 Old Castlereagh Road, Castlereagh**

We refer to the above application and the various RFI's received from the Department through the course of its assessment.

We have tabulated our responses against your queries, and these can be found after this letter at **Attachment 1**.

I am happy to meet you in relation to the application. Please don't hesitate to contact me on 0401 449 101 should you wish to organise that.

Sincerely

Stimson Urban & Regional Planning



Warwick Stimson RPIA
Director

Email: warwick@stimson.com.au

Att: Attachment 1 – Response to RFI
Updated FEMP
DPE/SES FEMP Approval
Updated Flood Assessment Report
Letter of advice – AWTS
Letter of advice – Acoustic Logic
Email Correspondence - DPE

ATTACHMENT 1

Issue	Response
1. Existing Use There is no evidence that the building has been approved as a restaurant. Please note that a health inspection conducted by Council does not authorise its use.	Noted. This issue is irrelevant given this application seeks to establish the desirable land use characterisation for the proposed use.
2. Flooding Provide copy of the approved Fire Evacuation Management Plan (FEMP) and the requisite details regarding evacuation etc and how they apply to the site.	Noted. The FEMP was updated, submitted to, and approved by the SES post consent of DA21/15298. It has been further reviewed as part of this RFI and accompanies this response. Additionally, the Flood Risk Assessment (the Northrop report) has been updated to the extent possible and is submitted through the Portal. Notwithstanding, our consultant advises: <i>We have been chasing EHG, INSW, and Council for a copy of the updated flood study to no avail. We have not updated these references from our previous report on this basis.</i> It is considered unreasonable to delay the determination of this DA given the non-responses from the agencies identified. Please note we have also included the Departments approval of the previous FEMP for the heliport application dated 20 September 2023.
3. Agency Advice Please respond to the issues raised or elaborate why a response is not required. The Department intends to liaise with the agencies about the approved FEMP	As noted above. The FEMP was updated, submitted to, and approved by the SES post consent of DA21/15298. It has been further reviewed as part of this RFI and accompanies this response. Additionally, the Flood Risk Assessment (the Northrop report) has been updated to the extent possible and is submitted through the Portal. Notwithstanding, our consultant advises: <i>We have been chasing EHG, INSW, and Council for a copy of the updated flood study to no avail. We have not updated these references from our previous report on this basis.</i> It is considered unreasonable to delay the determination of this DA given the non-responses from the agencies identified.

Issue	Response
<p>4. Noise</p> <p>As noted in the RFI, provide an assessment of the noise impacts from the helicopter movements on staff and attendees, including potential mitigation measures. Further background regarding this request is provided below:</p> <p>When reviewing the approval for DA 21/15298 – Helipad Penrith Lakes, it is noted that:</p> <ul style="list-style-type: none"> • Despite the maximum number of flights per calendar year not exceeding 750, the number of potential flights per day is capped at 23. • The proposed noise limits to helicopter movements is capped at 55dB(A) at any recreational, commercial or industrial receptor. • Potential noise mitigation measures proposed were focused on residential receivers located hundreds of metres away from the Helipad site. • The Noise Assessment (for the Helipad application) anticipated a worst case scenario of 135dB(A) for a Bell 412, with an average sound power level of 131dB(A). • Noting that there is the potential for 23 flights per day, it is essential that the Department considers the potential impacts from noise on attendees, especially staff. 	<p>The project acoustic consultant has been liaising directly with the Department on this matter. We are advised the accompanying response reflects those discussions with the Department. Please also note that no live music performances will be held on the site and are to be deleted from any of the documents supporting the application.</p>

Issue	Response
<p>6. Structural Integrity</p> <ul style="list-style-type: none"> • Submission of a practicing structural engineers' appraisal of the building verifying structural adequacy of the existing structure for the intended use. The report is required to factor in the age of the building and existing state of load bearing elements of the building and state of repair. Reference AS 1170.1, AS 1170.2. • Due to Disability (Access to Premises – Buildings) Standards 2010 provide further information demonstrating that the front or rear access door will be modified to achieve accessibility requirements to AS 1428.1 – 2009 (the rear door is too narrow and does not provide circulation space). • Provide further information concerning path of travel requirements to the front door and the location of the proposed ramp with gradients as stated in Alpha Code Consulting BCA report. • Nominate the accessible car parking space on an amended site plan. • Nominate the installation of a urinal on an amended floor plan. • Nominate that the second bathroom will be fitted out as an ambulant toilet in accordance with AS 1428.1 – 2009 on an amended floor plan. 	<p>Matters relating to BCA compliance and structural integrity can be addressed through conditions of consent as agreed in the email correspondence from the Department dated 27 October 2023.</p>
<p>5. Penrith Lakes DCP – Masterplan requirements</p> <p>The preparation of a masterplan is required under section 5.2.2 of the draft Penrith Lakes DCP. Section 1.8.2 permits variations to this DCP requirement. Any variation to the DCP must be supported by a written statement demonstrating how the objectives of each relevant chapter of the DCP are satisfied.</p>	<p>The subject site is situated within the Tourism South Precinct. Section 5.2.2 of the Penrith Lakes DCP requires the following:</p> <p style="padding-left: 40px;"><i>Before any development or subdivision application in the Tourism South precinct, a master plan is required, which should be adopted by the consent authority.</i></p> <p>The master plan is to detail a number of aspects relating to the development of the precinct. The objectives of this requirement include:</p> <p style="padding-left: 40px;">Objectives</p> <ul style="list-style-type: none"> a) <i>Ensure that development in the precinct occurs in an orderly manner.</i> b) <i>Ensure that infrastructure, services and amenities are sufficient to support growth and development in the precinct.</i> c) <i>Ensure high quality design.</i> <p>Section 1.8.2 of the DCP permits variations to the DCP controls where an application demonstrates its compliance with the relevant objectives specified above.</p>

Issue	Response
	<p>This application seeks a variation to the DCP by waiving the need for a master plan to be adopted prior to the determination of this application. It is submitted the objectives have been satisfied on the following basis:</p> <ol style="list-style-type: none"> 1. The development proposes to utilise an existing structure on the site. No new structures are proposed as part of this application. Consequently, there is no discernible change to the physical and built characteristics of the locality. 2. The proposed development could not be described as occurring in a disorderly manner. It is considered appropriate to utilise existing structures on the site for permissible land uses. 3. The utilisation of the existing structure promotes the use or, and visitation to, the Lakes precinct. It also results in the subject site promoting 'dual uses' through the presence of the development proposed, and the approved heliport. 4. The proposed development will activate the existing structure, thus assisting in its ongoing maintenance. Additionally, the use of the existing outdoor dining space will also contribute to attracting new and ongoing visitors to the precinct. 5. No significant built form would be added to the precinct as a result of this application. 6. Given the proposal includes the use of an existing structure, there is no practical reason why a master plan is necessary in the circumstances of this case, given: <ol style="list-style-type: none"> a. There is no change proposed to the existing road network. b. The existing physical and environmental features of the site will not change. c. The existing stormwater regime will not need to change. d. The site is not considered a 'gateway site'. e. There is no need for any ongoing remediation. <p>It is submitted that the proposed development achieves the objects of and is therefore consistent with the provisions of the DCP. It is also acknowledged that any further intensification of development on this site would likely trigger the need for a master plan at that time. The variation can be supported in this instance and the application approved.</p>

A number of other issues were raised in the various RFI's received from the Department. We note the following in relation to them:

1. Parking for the approved heliport is accessed through security gates airside of the helipad, which are the old Penrith Lakes Development Corporation offices. Visitors to that business would gain access through the security gates and park in front (northern side) of the Sydney Helicopter offices. Accordingly, the proposed wine bar/café retains all available parking adjacent to its building for its patrons.
2. Bike and motorcycle parking can be provided as a recommended condition of consent.
3. A Draft PoM has been provided and this was always expected to change through the course of the assessment of this application. It is considered appropriate that it be finalised prior to the issue of any Occupation Certificate so that it includes all matters that have been raised through the assessment. The PoM may be refined once a tenant/operator is secured.
4. Commercial waste bins will be located adjacent to the helicopter hangar, within short distance from the proposed café and wine bar. It is requested details be required by way of a condition of consent prior to the issue of any Occupation Certificate. However, the general location is shown in the aerial below.



5. To clarify, background music is proposed, however live music performances will not be proposed. Conditions of consent can be included accordingly.
6. The capacity of the venue is proposed to be 50, with an additional maximum 10 staff, but more likely to be 4-5 during most operating hours. The current building therefore has plenty of capacity.