

Our reference: P-541336-V2C5  
Contact: Hannah Vousden  
Telephone: (02) 4732 7646.

31 August 2023

Attn: Meg D'Souza  
Email: [meg.dsouza@planning.nsw.gov.au](mailto:meg.dsouza@planning.nsw.gov.au)

Dear Meg D'Souza,

**Council Response to Notice of Exhibition - DA 23/9236 PAN-350031-  
Change of Use - Café and Wine Bar at 100 Old Castlereagh Road,  
Castlereagh, NSW, 2749**

Thank you for providing Penrith City Council with the opportunity to comment on the abovementioned Notice of Exhibition.

Council has reviewed the documents and provide the below advice for the Department's consideration in relation to this matter.

**1. Planning and Evacuation Considerations**

- It is noted that there are various land uses on the subject lot including a commercial helicopter operator providing charter flights and tours. It is recommended that the applicant address how the different uses operate concurrently on the site particularly with regards to the utilisation of parking by staff and visitors and ensuring safe operation of each use (including any noise or airflow created by helicopter operations).
- The application does not indicate the provision of any bike or motorcycle parking on the site in accordance with 4.9.2 of the Penrith Lakes DCP. This should be addressed.
- The applicant has indicated that the Plan of Management be finalised at OC stage, however a draft Plan of Management should be finalised prior to the granting of any consent to ensure any supporting technical reports provided, and operational details provided, are consistent with what is proposed on site and considered in the assessment of the proposal to inform suitability.

- The Statement of Environmental Effects and Draft Plan of Management identify that waste will be collected by a commercial operator. It is recommended the applicant provide details with regards to waste storage on the site including provisions for various waste streams.
- Penrith LEP 2010 has specific mandated flood planning provisions, required by DPE via Clause 5.21 that must be considered and satisfied. This includes specific address on clause 5.21(2) which states that development consent must not be granted unless the consent authority has considered specific requirements that relate to flood behaviour, safe occupation and safe evacuation. It is recommended that engagement with SES and Infrastructure NSW be considered in assessing this aspect, noting the broader strategic intentions for the Penrith Lakes Scheme Precinct as a whole. Based on Council Nepean Flood Study, the subject property is affected by the 1% AEP flood, however, the proposed development site is outside the extent of 1% AEP flooding. As per the Flood Risk Assessment Plans, the development site is located at approx. 26m AHD. This however does not preclude evacuation considerations within the flood extent.

## 2. Environmental Health Considerations

Council's Environmental Health Department have reviewed the proposal and have raised the following considerations:

### a) Environmental Management Considerations

#### a) Noise Management

The application has been supported by a Noise Impact Assessment prepared by Acoustic Logic. This assessment has been based on a maximum of 70 patrons attending the café and wine bar, with 20 of these utilising the outdoor veranda space. In addition, only the noise impacts associated with the use of background music internally have been assessed, rather than any live music performances or an amplified music system in operation on the veranda. The assessment has concluded that these operations will not have any impact on nearby sensitive

receivers. In turn, these parameters should be incorporated into the development approval to ensure ongoing compliance with the noise criteria.

However, it is noted that the Plan of Management makes reference to 'performers,' and live performances have not been assessed in the Noise Impact Assessment. Also, the Noise Impact Assessment has not considered the potential noise impacts associated with the use of the driveway and carpark, deliveries and garbage collection.

Further, Table 1 of the SEE outlines several matters raised through the pre-lodgement meeting held between DPE and the applicant. Under the 'Noise and Vibration' heading, it is suggested that DPE requested that the applicant's noise and vibration assessment give consideration to the impacts of neighbouring land uses. The assessment has not addressed the potential impacts on the café and wine bar associated with the operation of the helipad on the site.

#### b) Plan of Management

A Draft Plan of Management has been appended to the SEE. The hours of operation put forward in the Plan of Management reflect those considered in the Noise Impact Assessment. However, it is noted that the 'Venue Capacity' section states that it will be finalised at the Occupation Certificate stage, with staff, patron and performer numbers yet to be confirmed. Given that the acoustic assessment has been based on a specific venue capacity, the Plan of Management should reflect the patron numbers used in the assessment (i.e.. 70 patrons – with a maximum of 20 on the external veranda). In addition, the Noise Impact Assessment has not assessed any noise associated with 'performers.' Should any performances be proposed, these should also be addressed through the Noise Impact Assessment.

#### c) On-site Sewage Management

The application has not demonstrated that the on-site sewage management system servicing the site has the appropriate

capacity to cater for the proposed development. From Table 1 of the SEE, it appears that DPE requested the applicant to provide “a report from a suitably qualified person” that addresses “the suitability of the existing On-Site Sewage Management System”. This report has not been provided, with the applicant only acknowledging that the site is “suitably serviced.” This report should again be requested, and it should address both the treatment and disposal of all wastewaters produced on the entire site to ensure that the system has sufficient capacity to manage any additional wastewater loads. For guidance, the applicant could be referred to Council’s ‘On-site Sewage Management and Greywater Reuse Policy.’

It is important to note that the on-site sewage management system has historically been regulated by the NSW Environment Protection Authority through Environment Protection Licence No. 2956. However, this Licence has been varied in response to changes in land ownership, with the conditions relating to the on-site sewage management system removed from the Licence. Council has not yet issued an approval to operate a system of sewage management under Section 68 of the Local Government Act. Council does not have detailed knowledge or records of the system currently in use on the site and has significant concerns given its proximity to a primary contact waterbody and other watercourses.

#### **b) Public Health Considerations**

The following conditions are recommended to be included as the proposal includes the installation and fit out of a commercial kitchen to ensure compliance with the relevant legislative requirements.

##### **a) Standard Recommended Conditions**

- The proprietor of the food business shall ensure that the requirements of the NSW Food Act, 2003, NSW Food Regulation, 2015 and the Australian and New Zealand Food Standards Code are met at all times. This includes 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.

- 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.
- Prior to the issuing of the Occupation Certificate and commencement of trade, the occupier must register their food business with Penrith City Council by completing Council's "Registration of Premises - Food" Form. The occupier of the premises must notify Council within 7 days of any change of details.
- The construction, fit out and finishes of the food premises must comply with Food Safety Standard 3.2.3 of the Australian and New Zealand Food Standards Code, and AS4674-2004 Design, Construction and Fitout of Food Premises.
- The storeroom must be constructed in accordance with AS4674-2004.
- Smooth and impervious surfaces (walls and floors) must be provided to all waste storage areas and rooms. Floor areas must be graded and drained to a floor waste gully connected to the sewer. Open waste storage areas must be appropriately covered and bunded to avoid stormwater entering the sewer. Waste storage rooms must be adequately ventilated and proofed against pests. The area or room must be provided with water service hose connectors to enable easy cleaning.
- Bins, hoppers, and other containers used for storing garbage or recyclable material shall be:
  - a) constructed of impervious material such as metal or plastic;
  - b) have tight fitting lids,
  - c) bins that cannot be lifted for draining after cleaning shall have drainage bungs at the base.

- 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.
- 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 National Construction Code 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.
- 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.

Should you wish to discuss this matter further, please contact Hannah Vousden on (02) 4732 7646.

Yours sincerely,



**Gavin Cherry**  
Development Assessment Coordinator