

PENRITH LOCAL PLANNING PANEL

DETERMINATION AND STATEMENT OF REASONS

APPLICATION NUMBER	DA19/0888 – 1-3 Hope Street PENRITH NSW 2750
DATE OF DETERMINATION	24 February 2021
PANEL MEMBERS	Mary-Lynne Taylor (Chair) John Brunton (Expert) Christopher Hallam (Expert) Stephen Welsh (Community Representative)
DECLARATIONS OF INTEREST	No conflicts of interest were declared
LISTED SPEAKERS	Peter Morson – Applicant

Public Meeting held via video conference on Wednesday 24 February 2021, starting at 2:00pm.

Matter Determined pursuant to Section 4.16 of the Environmental Planning and Assessment Act 1979

Development Application DA19/0888, Lots 20 and 21 DP 31239, 1-3 Hope Street PENRITH NSW 2750 - Demolition of Existing Structures & Construction of Mixed Use Development including Part Five (5) Storey & Part Six (6) Storey Building, 24 Residential Apartments, Two (2) Medical Centre Suites, Two (2) Levels of Basement Car Parking & Ancillary Civil & Landscaping Works.

Panel Consideration

The Panel had regard to the assessment report prepared by Council Officers, documentation from the applicant submissions received, and the following plans;

- Penrith Local Environmental Plan 2010
- Penrith Development Control Plan 2014
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- State Environmental Planning Policy (Infrastructure) 2007
- State Environmental Planning Policy (Western Sydney Aerotropolis) 2020
- State Environmental Planning Policy No. 55 – Remediation of Land
- State Environmental Planning Policy No. 64 – Advertising and Signage
- State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development and Apartment Design Guide
- Sydney Regional Environmental Plan No 20 – Hawkesbury Nepean River

In terms of considering community views, the Panel noted there were 2 submissions received from the public notification of the Development Application.

Panel Decision

Development Application DA19/0888, Lots 20 and 21 DP 31239, 1-3 Hope Street PENRITH NSW 2750 - Demolition of Existing Structures & Construction of Mixed Use Development including Part Five (5) Storey & Part Six (6) Storey Building, 24 Residential Apartments, Two (2) Medical Centre Suites, Two (2) Levels of Basement Car Parking & Ancillary Civil & Landscaping Works be refused for the following reasons below:-

1. The proposal is not satisfactory for the purpose of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 as the proposal is inconsistent with the following provisions of Penrith Local Environmental Plan 2010:
 - (a) The proposal is inconsistent with the aims of the plan (Clause 1.2) in particular, those relating to Council's commitment to the provision of healthy, safe communities, environmental protection and enhancement. The application fails to demonstrate how the design meets the current and emerging needs of Penrith's communities and safeguards residential amenity.
 - (b) The proposal is inconsistent with the zone objectives for the R4 High Density Residential zone, specifically:
 - the proposal does not ensure that a high level of residential amenity is achieved and maintained; and
 - the proposal does not represent or reflect the desired future character of the area
 - (c) Clause 4.3 - Height of Buildings is not satisfied.
 - (d) Clause 4.6 - Exceptions to Development Standards is not satisfied.
 - (e) Clause 7.4 - Sustainable Development is not satisfied.
 - (f) Clause 7.7 - Servicing is not satisfied.
2. The proposal cannot be supported because the development standard for maximum building height is not satisfied and the request to vary the development standard under Clause 4.6 of the Penrith LEP does not demonstrate that compliance with the development standard is unreasonable or unnecessary, and the proposed development is not in the public interest.
3. The proposal is not satisfactory for the purpose of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 as the proposal does not satisfy the relevant criteria within State Environmental Planning Policy No. 55 - Remediation of Land.
4. The proposal is not satisfactory for the purpose of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 as the proposal is inconsistent with the following provisions of the State

Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development and the accompanying Apartment Design Guide:

- (i) The proposal fails to demonstrate that the design is representative of the following Design Quality Principles listed under Schedule 1:
 - (a) Principle 1: Context and Neighbourhood Character
 - (b) Principle 2: Built Form and Scale
 - (c) Principle 3: Density
 - (d) Principle 4: Sustainability
 - (e) Principle 5: Landscape
 - (f) Principle 6: Amenity
 - (g) Principle 7: Safety
 - (h) Principle 9: Aesthetics
 - (ii) The proposal does not satisfy the applicable provisions of the Apartment Design Guide including the objectives and design guidance statements related to:
 - (a) 3D-1 Communal Open Space
 - (b) 3E-1 Deep Soil Zones
 - (c) 3F-1 Visual Privacy - Separation Distances
 - (d) 4A-1 Solar Access
 - (e) 4B-1 Natural Ventilation
 - (f) 3C-2 and 4W-1 Waste Management
 - (g) 4G-1 Storage
 - (h) 4M-1 Building Facades
 - (i) 4D-2 Room Depth
 - (j) 4V-2 Water Quality
5. The proposal is not satisfactory for the purpose of Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 as the proposal is inconsistent with the following provisions of Penrith Development Control Plan 2014:
- (a) Part D2.5 Residential Flat Buildings
 - (b) Part C1 Site Planning and Design Principles, in particular context, amenity and streetscape character
 - (c) Part C3 Water Management
 - (d) Part C5 Waste Management
 - (e) Part C6 Landscape Design
 - (f) Part C8 Public Domain
 - (g) Part C10 Transport, Access and Parking
 - (h) Part C12 Noise and Vibration

6. The proposal is not satisfactory for the purpose of Section 4.15(1)(a)(iv) of the Environmental Planning and Assessment Act as the proposed development was not accompanied by all of the information as required under Schedule 1 Forms of the Regulations, including inadequate information with respect to stormwater, water quality, waste, acoustics, manoeuvring and building design, and due to inconsistencies between documentation and plans.
7. The proposal is not satisfactory for the purpose of Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979 due to the negative impacts likely to result from the proposed development related to:
 - (i) streetscape, local character and urban design
 - (ii) traffic, access and car parking
 - (iii) solar access and privacy
 - (iv) waste management
 - (v) amenity, safety and security
 - (vi) communal open space
 - (vii) landscaping
 - (viii) drainage and water quality
 - (ix) land contamination
 - (x) acoustics
8. The proposal is not satisfactory for the purpose of Section 4.15(1)(d) of the Environmental Planning and Assessment Act 1979 due to matters raised in public submissions which include disruption to use of the helipad and for emergency vehicles at the nearby Nepean Hospital.
9. The proposal is not satisfactory for the purpose of Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979 as the proposal is not in the public interest.

Reasons for the Decision

The Panel agreed with the assessment contained with Council's Assessment Report.

The Panel notes that a Pre DA meeting was held with Council's Urban Design Review Panel who expected a further meeting to occur prior to lodgement as numerous design changes had been recommended. This second meeting did not occur, ultimately leading to the conclusion that the application was deficient in terms of design and did not meet State Environmental Planning Policy 65 principles and Apartment Design Guide.

The Panel further notes that the requirements under State Environmental Planning Policy 55 Remediation of Land have not been met and accordingly the Panel cannot approve the application in these circumstances.

The Panel considered a submission under Clause 4.6 of the Penrith Local Environment Plan and was not satisfied that the variation to the development

standard is justified given that the proposed development is not in the public interest.




The development site occupies a prominent corner to Parker Street immediately to the west of Nepean Hospital. The Panel was mindful of the importance of development along this section of Parker Street and its relationship with the Hospital. The Panel noted that this site is not within the Health and Education Precinct. This gave rise to concerns about the appropriateness of the development particularly the ground floor uses.

The Panel considered the applicant's request for a deferral. However, given the nature, volume and breadth of issues that still need to be resolved, the likely time this would take and the likelihood an acceptable proposal would be considerably different, the Panel was of the view that deferral was not warranted or appropriate in this instance. The matter has been with the Council in excess of 12 months and the Panel did not agree that this was appropriate for deferral, even though the delay may have come about through the COVID restrictions, in the knowledge that there's been an extension to the amount of time available for a Review because of the COVID delays.

In terms of considering community views the Panel had regard to written submissions made. The Panel agreed with the assessment of issues raised, as outlined in the Council report.

Votes

The decision was unanimous.

Mary-Lynne Taylor – Chair 	John Brunton – Expert 
Christopher Hallam – Expert 	Stephen Welsh – Community Representative 