

PENRITH LOCAL PLANNING PANEL

DETERMINATION AND STATEMENT OF REASONS

APPLICATION NUMBER	DA20/0423 – 682 Castlereagh Road AGNES BANKS NSW 2753
DATE OF DETERMINATION	23 September 2020
PANEL MEMBERS	Jason Perica (Chair) John Brunton (Expert) Mary-Lynne Taylor (Expert) Stephen Welsh (Community Representative)
DECLARATIONS OF INTEREST	No conflicts of interest were declared
LISTED SPEAKERS	Emma Rogerson (Town Planner) Vikash Parikh (behalf of Owner) Himanshu Shah (behalf of Owner) Kelly Duncan Wesley Alan Pembroke Daphne Dell Pembroke Kareena Gale Yvonne Hatk Belinda-Jayne Davis Jeanette Wilkins Lew McDonnell Joanne Muscat Geoffory Whittaker Janice Farrell Anton Maas Frank & Victoria Muscat Wayne Burton Tony Bonham & Vicki Bonham Jasmine Stratton & Allan Stratton

LISTED ATTENDEES	Michelle Jakobsson Kerrie-Anne Walsh & Brett Walsh Monica Burton Regan Pembroke Manish Ashar

Public Meeting held via video conference on Wednesday 23 September 2020, opened at 4:00pm.

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

Development Application DA20/0423 at Lot 2 DP 252556, 682 Castlereagh Road AGNES BANKS NSW 2753 - Alterations and Additions to an Existing Dwelling and Change of Use to a Community Facility with Associated Car Parking & On-Site Waste Water Management System

Panel Consideration

The Panel had regard to the assessment report prepared by Council Officers, supplementary memorandum dated 23 September 2020 prepared by Council officers, submissions received, and the following plans;

- Local Environmental Plan 2010 (Amendment 4)
- Development Control Plan 2014
- State Environmental Planning Policy No 55 – Remediation of Land
- Sydney Regional Environmental Plan No 20 – Hawkesbury Nepean River
- State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017

In terms of considering community views, the Panel noted there was one (1) submission received in support and twenty-eight (28) submissions received in objection, from the public notification of the Development Application.

Panel Decision

Development Application DA20/0423 at Lot 2 DP 252556, 682 Castlereagh Road AGNES BANKS NSW 2753 - Alterations and Additions to an Existing Dwelling and Change of Use to a Community Facility with Associated Car Parking & On-Site Waste Water Management System to be refused for the following reasons below:

1. The proposed use and associated structures are not consistent with the objectives of the RU1 Primary Production Zone of Penrith Local Environmental Plan 2010.

2. The proposal has not demonstrated that the proposed development is permissible in the zone. Based on various sources of information, the Panel was of the view it was reasonable to conclude the proposal is for a Place of Public Worship rather than a Community Facility. This is important, as a Place of Public Worship is a prohibited development in the zone. However, even if the proposal was found to be properly characterised as a permissible use, the Panel would still refuse the application for the reasons that follow.
3. The application is unsatisfactory in terms of:
 - a. Visual impact, and impacts upon scenic character and landscape values,
 - b. Noise and privacy impacts, noting the comments and recommendations within the Acoustic Report,
 - c. Amenity impacts, and
 - d. Traffic congestion and inadequate on-site parking.
4. The site is not suitable for the proposed development as:
 - a. The size, proportion, corner location and topography increase the visual and scenic prominence of the site. This requires a careful and well considered proposal to respond to the site characteristics and the surrounding character and context. The proposal does not achieve this.
 - b. The design of the development and its streetscape presentation is not considered to be compatible with, nor complementary to, the character of the local area or the future desired character of the area.
 - c. The proposal does not adequately demonstrate that impacts related to local character, streetscape presentation, scale, noise and amenity is adequately mitigated nor managed by the design of the development.
5. The proposal is inconsistent with the following provisions of Penrith Development Control Plan 2014:
 - B - DCP Principles,
 - C1 Site Planning and Design Principles,
 - C2 Vegetation Management,
 - C3 Water Management,
 - C6 Landscape Design,
 - C7 Culture and Heritage,
 - C10 Transport, Access and Parking,
 - C12 Noise and Vibration,
 - C13 Infrastructure and Services,
 - D1.1 Rural Character,
 - D1.2 Rural Dwelling and Outbuildings,
 - D1.5 Non-Agricultural Development.
6. The application is unsatisfactory, noting a number of valid concerns within submissions and adverse precedent. The site is not suitable for the use and the proposal is not considered to be in the public interest.

Reasons for the Decision

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

The Panel considered the applicant's request for a deferral. However, given the nature of issues that needed 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 Panel noted despite a previous development application and two pre-lodgement meetings occurring, the key issues do not seem to have changed and not been adequately resolved.

Votes

The decision was unanimous

Jason Perica – Chair 	John Brunton – Expert 
Mary-Lynne Taylor – Expert 	Stephen Welsh – Community Representative 

MEMORANDUM

Reference: DA20/0423
To: Penrith Local Planning Panel
From: James Heathcote – Development Assessment Planner
Date: 22 September 2020

The following information is provided in response to the queries/requests raised by the Penrith Local Planning Panel in relation to Development Application DA20/0423, 682 Castlereagh Road AGNES BANKS NSW 2753

1. What is the list of things leading to the assumption it is a place of worship?

- Inconsistencies and discrepancies between the previous development application (withdrawn) and the submitted application. There are also discrepancies within documentation forming the current development application which indicates there may be activities on the site which involve religious worship and the congregation of a religious group, which would categorise, at least some aspects, of the development as a place of public worship.
- The Vaishnav Sangh of Sydney, owners of the subject site, are a group of Vaishnava devotees who practise the Pushti Marg faith, a sub tradition of Vaishnavism which is a Hindu denomination and the name given to the faith and practices of Hindus who hold Vishnu and other gods and goddesses, such as Krishna, as supreme deities.
- The list of annual scheduled events are, in part, Indian religious festivals. For example, Holi festival of Colour and Diwali Festival of Lights are both celebrated religious Hindu events.
- The application has not provided a detailed description of the nature of the regular activities to be held for Council to be satisfied that they are not based on the Hindu faith or other Indian religious denomination.

The activities listed in the Statement of Environmental Effects only detail activities relating to the preparation of events. There does not appear to be any other cultural activities proposed outside of event preparation.

- The scale of the proposed outdoor area appears disproportionate to the activities listed as being undertaken on a weekly basis. The scale

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of the outdoor area indicates that this space may be used frequently by a large congregation.

- The previous application included a room to hold up to 84 statues, the use of statues in Indian culture is generally associated with the religious worshipping activities of Hinduism.

The current application has removed the statue notation and indicates this room to be used as a 'donative display area'. The description of the development and activities listed does not detail what a donatives area is or what activities are to be undertaken within this area of the development.

Furthermore, there are three other rooms which have no known use. The provision of these spaces suggest that the facility is designed to be used for regular worship.

2. If it was a community facility, would staff have recommended refusal due to other impacts apart from this?

Yes.

The site is not suitable for the proposed development, as the site cannot accommodate the scale of the development without impacts to adjoining properties and the surrounding area.

The proposed development is not of a scale that is compatible with the surrounding area. This is attributed to the visual, acoustic and traffic related impacts associated with the proposed development.

The development has not been designed nor incorporated features to protect the existing amenity of the area.

James Heathcote
Development Assessment Planner