



# Penrith Local Planning Panel

## Determination and Statement of Reasons

<b>APPLICATION NUMBER</b>	DA21/0691 – 10 & 11 Railway Street, WERRINGTON NSW 2747
<b>DATE OF DETERMINATION</b>	24 November 2021
<b>PANEL MEMBERS</b>	David Ryan (Chair) John Brunton (Expert) Mary-Lynne Taylor (Expert) Geoff Martin (Community Representative)
<b>DECLARATIONS OF INTEREST</b>	No conflicts of interest were declared
<b>SPEAKERS</b>	Representatives on behalf of the applicant - Ms. Minoo Samadi, Patrick Waite, Principal Planner, TBA Urban, Megan Surtees, Graduate Planner, TBA Urban George Wehbe – Owner Elaine Talbert - Resident

Public Meeting held via video conference on Wednesday 24 November 2021, commencing at 1:00pm.

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

Development Application DA21/0691, Lot 6 Sec A DP 1605 & Lot 5 Sec A DP 1605 at Nos. 10 & 11 Railway Street WERRINGTON NSW 2747 - Construction of Boarding House containing 69 Boarding Rooms & Manager's Room with Two Levels of Basement Parking & Associated Works.

### **Panel Consideration**

The Panel had regard to the assessment report prepared by Council Officers, supplementary memorandum dated 24 November 2021 prepared by Council Officers, submissions received, and the following plans;

- Penrith Local Environmental Plan 2010
- Penrith Development Control Plan 2014
- State Environmental Planning Policy (Affordable Rental Housing) 2009
- State Environmental Planning Policy (Western Sydney Aerotropolis) 2020
- State Environmental Planning Policy No. 20 – Hawkesbury Nepean River
- State Environmental Planning Policy No. 55 – Remediation of Land

In terms of considering community views, the Panel noted there were 3 submissions received from the public notification of the Development Application and the Panel had regard to the issues raised in these and in the presentations made in the meeting.

### **Panel Reasons & Decision**

DA21/0691, Lot 6 Sec A DP 1605 & Lot 5 Sec A DP 1605 at Nos. 10 & 11 Railway Street WERRINGTON NSW 2747 - Construction of Boarding House containing 69 Boarding Rooms & Manager's Room with Two Levels of Basement Parking & Associated Works is refused for the following reasons:-

1. The Panel considers this application to be an unsatisfactory over development of the site, noting that there are non-compliances with Council's Local Environmental Plan and Development Control Plan that have unsatisfactory impacts on the amenity of the neighbourhood.
  2. The development is unsatisfactory in relation to State Environmental Planning Policy (Affordable Rental Housing) 2009, particularly its incompatibility with the character of the local area.
  3. Whilst boarding houses are permissible in the zone and this site would be suitable for a boarding house use, the proposed scale and design of this development is unacceptable.
  4. The Panel agrees with the Council officer's assessment of the application and refuses this application for the following reasons;
1. The application 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 provisions of Penrith Local Environmental Plan 2010 as follows:
    - Clause 2.3 Zone objectives: The proposal is inconsistent with the following objectives of the R3 Medium Density Residential zone:
      - To provide for the housing needs of the community within a medium density environment;
      - To enhance the essential character and identity of established residential areas;
      - To ensure that a high level of residential amenity is achieved and maintained; and
      - To ensure that development reflects the desired future character and dwelling densities of the area.
    - Clause 4.3 Height of Buildings: The proposal is non-compliant with the maximum height of buildings allowed for the site.
    - Clause 4.6 Exceptions to development standards: The written request provided by the applicant to contravene the maximum height of the building standard in Clause 4.3(2) of Penrith Local Environmental Plan 2010 under Clause 4.6 of that Plan, does not demonstrate that compliance with the development standard is unreasonable or unnecessary in the circumstances and that there are sufficient environmental planning grounds to justify contravening the development standard. The development is not in the public interest because is it not consistent with the objectives of the standard or the objectives of the zone.
  2. The application 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 provisions of :  
State Environmental Planning Policy (Affordable Rental Housing) 2009 as follows:
    - Part 2, Division 3, Clause 29 (2)(a) Building Height
    - Part 2 Division 3, Clause 29 (2)(c) Solar Access

- Part 2, Division 3, Clause 29(2)(e) Parking
  - Part 2, Division 3, Clause 30A Character of local area
3. The provisions of State Environmental Planning Policy No. 55 - Remediation of Land as follows:
    - the application does not provide sufficient information to demonstrate the contamination status of the site.
  4. The development application 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:
    - Chapter C1 Planning and Design Principles
    - Chapter C3 Water Management
    - Chapter C5 Waste Management and accompanying Waste Management Guideline
    - Chapter C10 Transport, Access and Parking
    - Chapter C12 Noise and Vibration
    - Chapter D2 Residential Development
    - Chapter D4 Other Land Uses
  5. The application is not satisfactory for the purpose of Section 4.15(1)(b) of the Environmental Planning and Assessment Act in terms of the likely impacts of the development, including:
    - The design and scale of the proposed development is not compatible with the existing and desired future character of the immediate locality.
    - The proposal provides inadequate landscaped setbacks to provide quality planting alongside boundaries, to assist in providing visual buffer and an appropriate landscape treatment of the site which suitably integrates the development into the existing local character, and that maintains surrounding residential amenity.
    - The proposal provides an inadequate design of the car parking areas/driveway, being insufficient for proper and safe manoeuvring within the development site.
    - The development is , an over-development of the site.
    - The stormwater drainage design is unacceptable, as the site falls to the rear, requiring an easement along the rear adjoining property for drainage to be in accordance with Council requirements.
    - The accompanying Acoustic Assessment report provides insufficient information, as the report does not provide details of internal noise management of the patrons and mechanical ventilation's expected noise levels within the basement area of the development. As such, Council is unable to be satisfied that the noise levels associated with the use of these areas will comply with relevant noise criteria.
    - Poor amenity in relation to ceiling heights, manager's room and the quality and location of the common room.
  6. The application is not satisfactory for the purpose of Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979 as the site is not suitable for this proposed development.
  7. The application is not satisfactory for the purpose of Section 4.15(1)(e) of the Environmental Planning and Assessment Act as the proposal would create an undesirable precedent and is therefore not considered to be in the public interest.

**Votes**

The decision was unanimous.

<p>David Ryan – Chair</p> 	<p>John Brunton – Expert</p> 
<p>Mary-Lyne Taylor – Expert</p> 	<p>Geoff Martin – Community Representative</p> 