

PENRITH LOCAL PLANNING PANEL

DETERMINATION AND STATEMENT OF REASONS

APPLICATION NUMBER	DA24/0729
DATE OF DETERMINATION	28 May 2025
PANEL MEMBERS	Graham Brown (Chair) Patrick Hurley (Expert) Chris Young (Expert) Vanessa Howe (Community Representative)
DECLARATIONS OF INTEREST	Patrick Hurley declared a non-pecuniary and non-significant interest in the application. The declaration was not considered to preclude an impartial determination of the application.
LIST OF REGISTERED SPEAKERS	Anthony Paikan (Online) Sam Sumer (Online)
LIST OF ADDITIONAL ATTENDEES	Donna Clarke – External Consultant Planner (In Person) Sandra Fagan – Council – Principal Planner (In Person) Gavin Cherry – Council – Development Assessment Coordinator (In Person) Katelyn Davies- Council – Panel Management Support Officer (In Person) Maya Goldsmith – Council – Business Operations Coordinator (In Person) Hannah Vousden – Council – Development Assessment Officer (In Person) Joanne Taylor (Online)

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Hybrid Public Meeting held in person and via video conference on Wednesday, 28 May 2025, starting at 2.00pm

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

DA24/0729, Demolition of Existing Structures, Tree Removal and Construction of a Childcare Facility for 100 Children with At-Grade Parking, Signage, and Associated Works at Nos. 124-126 Explorers Way, ST CLAIR, NSW, 2759.

Panel Consideration

The Panel had regard to the assessment report prepared by Council staff, supporting plans and information, and the following environmental planning instruments and policies:

- State Environmental Planning Policy (Biodiversity & Conservation) 2021
- State Environmental Planning Policy (Industry and Employment) 2021
- State Environmental Planning Policy (Precincts – Western Parkland City) 2021
- State Environmental Planning Policy (Resilience & Hazards) 2021
- State Environmental Planning Policy (Transport and Infrastructure) 2021
- Penrith Local Environmental Plan 2010
- Penrith Development Control Plan 2014

In terms of considering community views, the Panel noted there were twelve (12) submissions received in response to the public notification of the Development Application, whilst the Panel also listened to registered speakers at the public meeting. The nature of the submissions were also addressed within the Council's Assessment Report.

The Panel also noted that on 9 May 2025, the Applicant uploaded a request to the NSW Planning Portal seeking that the application revert to the proposal as originally lodged (and removing all reliance on subsequent amendments and additional information lodged throughout the assessment process). In accordance with Section 38(1) of the Environmental Planning and Assessment Regulations (2021), the consent authority accepts the request to amend the

application dated 9 May 2025 and as such, this determination is based on the information originally lodged via the NSW Planning Portal.

Panel Decision

In accordance with Section 4.16 of the Environmental Planning and Assessment Act 1979, DA24/0729, Demolition of Existing Structures, Tree Removal and Construction of a Childcare Facility for 100 Children with At-Grade Parking, Signage, and Associated Works at Nos. 124-126 Explorers Way, ST CLAIR, NSW, 2759 be refused as recommended by Council Staff.

Reasons for the Decision

- The Panel agreed with the reasons for refusal outlined within the Council's Assessment Report.
- The proposed development is considered to be an overdevelopment for 100 children. This is reflected by insufficient setbacks and an unsupportable spatial arrangement with respect to car parking, built form layout and architectural design, landscape design and the location and arrangement of play areas. The proposal has insufficient regard to the local context and character which is a key consideration and requirement as outlined within Statement Environmental Planning Policy (Transport and Infrastructure) 2021 and the Child Care Planning Guideline.
- The proposed development does not comply with key provisions within State Environmental Planning Policy (Biodiversity and Conservation) 2021.
- The proposed development does not comply with key provisions within State Environmental Planning Policy (Transport and Infrastructure) 2021 and the Child Care Planning Guideline as outlined within the Council's assessment report. This includes identified non-compliant play area calculations without concurrence from the applicable concurrence authority which also prevents the Panel from favourably determining the application.
- The proposal development does not comply with State Environmental Planning Policy (Hazards and Remediation) 2021, due to the absence of a detailed site investigation report as required by the submitted preliminary site investigation report. As a result, the Panel cannot be




satisfied that the site is suitable, or can be made suitable, for the proposed change of use.

- The proposed development does not comply with the Penrith Local Environmental Plan 2010 as outlined within the assessment report, most notably Clause 7.30 – Urban Heat, Clause 7.4 – Sustainable Development and the broader aims and objectives of the R2 – Low Density Residential zone.
- The proposed development does not comply with the Penrith Development Control Plan 2014 as outlined within the Council's Assessment Report, most notably Chapter C2 – Vegetation Management, Chapter C3 – Water Management, Chapter C5 – Waste Management, Chapter C6 – Landscape Design, Chapter C10 – Transport, Access & Parking, Chapter C12 – Noise and Vibration, Chapter C13 – Infrastructure and Services, Chapter C14 – Urban Heat Management and Chapter 5, Part 5.2 – Child Care Centres.
- The proposal provides excessive dependency on stacked car parking well in excess of the maximum stacked parking allowance as required by the PDCP 2014. The proposal warrants a redesign of the parking arrangements. Dependency on stacked parking should be limited to staff parking only (without visitor parking in front) and should be limited to 10% as per the DCP or sufficiently justified having regard to the objectives of the control. This is also required as child care centres operate with open days and special events where parents and grandparents are invited to attend for extended duration. It cannot be assumed that visitor parking is short stay only.
- The proposal presents a general design and spatial arrangement which does not sufficiently respond to and enhance the qualities of the local area including adjacent sites, streetscapes and the broader residential neighbourhood as outlined within the Child Care Planning Guideline.
- The proposed development is not considered to be in the public interest.

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Votes

The decision was unanimous.

<p>Graham Brown (Chair)</p> 	<p>Patrick Hurley (Expert)</p> 
<p>Chris Young (Expert)</p> 	<p>Vanessa Howe (Community Representative)</p> 