

Penrith Local Planning Panel

Determination and Statement of Reasons

DATE OF DETERMINATION	Wednesday 26 September 2018
PANEL MEMBERS	Jason Perica (Chair) Christopher Hallam (Expert) Stephen Welsh (Community Representative)
APOLOGY	Mary-Lynne Taylor (Expert)
DECLARATIONS OF INTEREST	N/A
LISTED SPEAKER(S)	Sebastian Buttigieg – Resident Ken Hansford – Resident Peter Lewis - Resident Warwick Stimson – Town Planner (Applicant) Matthew Pryce (Owner) Stephen Gauld – Acoustic consultant (Applicant)

Public Meeting held at Penrith City Council on Wednesday 26 September 2018, opened at 5:00pm

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

Development Application DA17/1344 at Lot 17 DP 223614, No. 38 – 44 Keech Road, Castlereagh – Continued Use of the Site for a Greyhound Boarding, Training and Breeding Establishment.

Panel Consideration/Reasons for the Decision

There was ambiguity regarding the Panel's role for the determination in terms of the number of submissions received, with the trigger for referral to the Panel having been based on cumulative submissions regarding the use over 5 years. This issue warranted legal advice (which could be provided by Council's legal team) as the Panel was not certain it had power to determine the application.

There was also further acoustic information provided by the applicant at the meeting, which was considered to warrant review while a legal opinion was being obtained.

There was discussion about the merits of the application despite the late information from the applicant. Mr Welsh was of the view that the application should be refused (if the Panel had power to determine it), due to the various non-compliances with the DCP, and with the following additional terms of refusal:

i) Reason 2 being amended to include the two additional objectives A & B within Section 1.4.4 of Chapter D1 – Rural Land Uses of the Development Control Plan.

ii) Incorporation of a new reason for refusal as below;

5. The use and management of the site over the past 6 years does not provide confidence that granting consent would be in the public interest.

Mr Hallam was of the view that the new acoustic information warranted review prior to anticipating a decision, given noise impacts was a key issue.

Mr Perica agreed with this view, noting legal clarification was needed and the acoustic information could be reviewed while that is being obtained, although remained concerned regarding the suitability of the use for the site.

In the circumstances, it was considered appropriate to defer the application for further advice.

In the event the matter is able to be determined by the Panel, this could occur by electronic means, without a further public meeting.

In terms of considering community views, the Panel considered the objections raised, which appeared to demonstrate issues regarding the management of the premises over some time and supported the conclusions by Council staff.

Panel Decision

That determination of Development Application DA17/1344 for Continued Use of the Site for a Greyhound Boarding, Training and Breeding Establishment be deferred for:

- (a) Written advice from Council's solicitors regarding whether the Panel is the determining authority for the Development Application, based on the number of submissions made;
- (b) Advice from Council's specialist staff regarding additional acoustic information from the applicant dated 26 September 2018.

If the Panel has authority to determine the Development Application, that determination may be made by electronic mean

Votes

The decision was 2-1, with Mr Welsh dissenting for the reasons outlined previously.

Jason Perica – Chair Person	Christopher Hallam
Stephen Welsh – Community Representative	