



# Penrith Local Planning Panel

## Determination and Statement of Reasons

<b>DATE OF DETERMINATION</b>	13 June 2018
<b>PANEL MEMBERS</b>	Jason Perica (Chair) John Brunton (Expert) Mary- Lynne Taylor (Expert) Geoff Martin (Community Representative)
<b>APOLOGY</b>	N/A
<b>DECLARATIONS OF INTEREST</b>	N/A
<b>LISTED SPEAKER(S)</b>	N/A

Public Meeting held at Penrith City Council on 13 June 2018, opened at 4pm.

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

Development Application DA18/0334 at Lot A DP 152452, Lot 2 DP 1127305, Lot 1 DP 1127305, Lot C DP 152452, Lot B DP 152452, No. 32-52 Harris Street North St Marys - Occupation and Fitout of a Business Premises - Training and Counselling Services.

### **Panel Consideration/Reasons for the Decision**

The Panel was provided with further staff advice prior the meeting (memo dated 12 June 2018) relating to questions from the Panel regarding reasons for referral, definitions and hours of operation. The Panel generally agreed with the assessment of environmental considerations outlined within the Council staff report. The use was suited to the site and area and would provide a public service and benefit to the health and welfare of the community.

The proposal will facilitate a use consistent with a specific additional use provision in Schedule 1 of Penrith Local Environmental Plan 2010 for the currently vacant tenancy (improving public safety and well being), is well served by public transport and provides a use that meets community needs.

In terms of considering community views, the Panel noted there were no submissions received from the public exhibition of the DA.

### **Panel Decision**

Pursuant to the provisions of Section 4.16 & 4.17 of the Environmental Planning and Assessment Act, 1979, Development Application DA18/0334 for Occupation and Fitout of a

Business Premises - Training and Counselling Services be approved subject to the conditions in the Council staff assessment report to the Local Planning Panel meeting of 13 June 2018, subject to the typographical and grammatical errors in Conditions 11, 12, 13, 14, 15, 20, 22, 27, 32 and 33 being corrected (as discussed with Council staff).

**Votes**

The decision was unanimous.

Jason Perica – Chair 	John Brunton - Expert 
Mary-Lynne Taylor - Expert 	Geoff Martin – Community Representative 



# MEMORANDUM

To: Penrith City Council Local Planning Panel  
 From: Lucy Goldstein, Graduate Development Assessment Planner  
 Date: 12 June 2018  
 Subject: DA18/0334 (No.32-52) Harris Street, North St Marys  
 Occupation and Fitout of a Business Premises – Training and Counselling Services

I refer to the above matter scheduled for determination with the Penrith City Council Local Planning Panel on 13 June 2018 and an email from Jason Perica dated 12 June 2018 and provide the following clarification on the matter/recommend the following;

LPP comment	Assessment Officer Comment
Why is this coming to us? Couldn't see from report – assume Council-owned?	<ul style="list-style-type: none"> <li>The development application has been reported to the Local Planning Panel as the site is owned by Penrith City Council.</li> </ul>
Was the definition of "medical centre" considered and either way confirmation business premises more suitable in comparison	<ul style="list-style-type: none"> <li>Consideration has been given to the definition of a 'medical centre' and the proposal is inconsistent with this definition, as detailed below:</li> <li>Under Penrith Local Environmental Plan 2010, a <i>medical centre means premises that are used for the purpose of providing health services (including preventative care, diagnosis, medical or surgical treatment, counselling or alternative therapies) to out-patients only, where such services are principally provided by health care professionals. It may include the ancillary provision of other health services.</i></li> <li>'<b>services are principally provided by health care professionals.</b>' Although the programmes are designed by health professionals (dietitians, physiotherapists, occupational therapists) the programmes are delivered by the businesses' Healthy Lifestyle Counsellors. This arrangement means that, primarily, the health care professionals are not directly involved with the delivery of the programs. Given this, the proposal is inconsistent with the definition of a medical centre.</li> <li>Further to the above, the definition of a medical centre specifies that services are to be provided to 'out-patients only'. The programs are available to all members of the public, and participants do not require a referral.</li> </ul> <p>With consideration to the above matters, the proposal is considered to be more closely aligned with the definition of a business premise, specifically in that "a service is provided directly to members of the public on a regular basis" in the form of holistic, health education programs.</p>
Recommended hours (Cond 5) start at 4am – it that right?	<ul style="list-style-type: none"> <li>The applicant seeks operating hours between 4:00am to 10:00pm Mondays to Sundays. Justification for these hours has been provided,</li> </ul>



# MEMORANDUM

	<p>with the applicant stating that many participants of the programs would be shift-workers and require non-standard hours.</p> <ul style="list-style-type: none"> <li>In considering the site's location and the surrounding land uses, the proposed hours are not considered to result in adverse amenity impacts.</li> </ul>
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## Additional Information

The following land uses were considered as part of the assessment of the application:

Land Use	Definition under Penrith Local Environmental Plan 2010	Comment in relation to the proposal
<b>Community Facility</b>	<i>means a building or place:</i> <i>(a) owned or controlled by a public authority or non-profit community organisation, and</i> <i>(b) used for the physical, social, cultural or intellectual development or welfare of the community,</i> <i>but does not include an educational establishment, hospital, retail premises, place of public worship or residential accommodation.</i>	<ul style="list-style-type: none"> <li>Development is privately owned and controlled.</li> </ul>
<b>Educational Establishment</b>	<i>means a building or place used for education (including teaching), being:</i> <i>(a) a school, or</i> <i>(b) a tertiary institution, including a university or a TAFE establishment, that provides formal education and is constituted by or under an Act.</i>	<ul style="list-style-type: none"> <li>Proposed use is not a school or tertiary institution</li> </ul>
<b>Health Consulting Room</b>	<i>means premises comprising one or more rooms within (or within the curtilage of) a dwelling house used by not more than 3 health care professionals at any one time.</i>	<ul style="list-style-type: none"> <li>Development not within curtilage of a dwelling house</li> </ul>
<b>Medical Centre</b>	<i>means premises that are used for the purpose of providing health services (including preventative care, diagnosis, medical or surgical treatment, counselling or alternative therapies) to out-patients only, where such services are principally provided by health care professionals. It may include the ancillary provision of other health services.</i>	<ul style="list-style-type: none"> <li>Proposed services are not principally provided by Health Care Professionals</li> </ul>
<b>Recreational Facility (Indoor)</b>	<i>means a building or place used predominantly for indoor recreation, whether or not operated for the purposes of gain, including a squash court, indoor swimming pool, gymnasium, table tennis centre, health studio, bowling alley, ice rink or any other building or place of a like character used for indoor recreation, but does not include an entertainment facility, a recreation facility (major) or a registered club.</i>	<ul style="list-style-type: none"> <li>Proposed use is not for recreational purposes.</li> <li>The proposal is not a gymnasium, in that its primary use is providing education programmes</li> </ul>

Lucy Goldstein  
Graduate Development Assessment Planner