



# Penrith Local Planning Panel

## Determination and Statement of Reasons

<b>APPLICATION NUMBER</b>	DA18/0890 – Demolition of Existing Structures & Construction of Six (6) Storey Residential Flat Building including 20 Apartments & Two (2) Levels of Basement Car Parking at 36 – 38 Rodley Avenue, Penrith
<b>DATE OF DETERMINATION</b>	22 May 2019
<b>PANEL MEMBERS</b>	Jason Perica (Chair) John Brunton (Expert) Christopher Hallam (Expert) Geoff Martin (Community Representative)
<b>DECLARATIONS OF INTEREST</b>	No conflicts of interest were declared.
<b>LISTED SPEAKER(S)</b>	Clark Stone (Resident) June Taylor (Resident) Peter Morson (Applicant) Warwick Stimson (Town Planner) Morgan Stanbury (Traffic Engineer)

Public Meeting held at Penrith City Council on Wednesday 22 May 2019, opened at 4:00pm.

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

Development Application DA18/0890 at Lots 58 & 59 DP 33490, at 36 – 38 Rodley Avenue, Penrith - Demolition of Existing Structures & Construction of Six (6) Storey Residential Flat Building including 20 Apartments & Two (2) Levels of Basement Car Parking.

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

The Panel had regard to the assessment report prepared by Council officers and site observations.

The Panel generally agreed with the assessment by Council staff although added or changed some reasons for refusal.

In terms of considering community views, the Panel considered the objections raised in submissions and at the meeting and generally agreed with the Council staff's summary and response, and with the position taken by those making a submission that the proposal should be refused.

The applicant requested the matter be deferred, in order to enable the provision of further technical or merit based information, which was unlikely to fundamentally alter the nature of the proposal. The Panel was of the view that sufficient information and clarity existed regarding key issues, in order for an informed decision to be made.

### **Panel Decision**

Pursuant to the provisions of Section 4.16 of the Environmental Planning and Assessment Act, 1979, Development Application DA18/0890 for Demolition of Existing Structures & Construction of Six (6) Storey Residential Flat Building including 20 Apartments & Two (2) Levels of Basement Car Parking at No. 36 – 38 Rodley Avenue, Penrith be refused for the following reasons.

- 1 The application fails to satisfy the development standard for building height and the request for a variation to the development standard is not supported because the proposed development will not be in the public interest as it will not ensure a high level of a residential amenity, provide a high quality urban form or reflect the desired future character of the area, being the objectives of the zone and height standard.
- 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 Penrith Local Environmental Plan 2010 as follows:
  - (i) Clause 1.2 Aims of the Plan - The proposal is inconsistent with the aims of the Plan in relation to promotion of development consistent with Council's vision for Penrith, to meet the emerging needs of Penrith's communities while safeguarding residential amenity and ensuring that the development incorporates the principles of sustainable development.
  - (ii) Clause 2.3 Zone Objectives - The proposal is inconsistent with the objectives of the R4 High Density Residential zone, particularly (d) The design of the proposed development does not ensure that a high level of residential amenity is achieved and maintained, and (f) to ensure that development reflects the desired future character and dwelling density of the area.
  - (iii) Clause 7.2 - The proposal does not comply with Council's Policy in relation to overland flow management on the site.
  - (iv) Clause 7.6 - The proposal has not provided sufficient information to assess the impact of the development on salinity.
  - (v) Clause 7.7 - The proposal does not meet the requirements for waste and stormwater servicing.

- 3 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 No 65 - Design Quality of Residential Flat Development and the accompanying Apartment Design Guide as follows:
- (vi) Clause 30(2)(a) - compliance with the design quality principles specified in the Apartment Design Guide:
    - Principle 1: Context and Neighbourhood Character
    - Principle 2: Built form and scale
    - Principle 3: Density
    - Principle 4: Sustainability
    - Principle 5: Landscape
    - Principle 6: Amenity
  - (vii) Clause 30(2)(b) - compliance with the objectives specified in the Apartment Design Guide:
    - 3B Orientation
    - 3C Public domain interface
    - 3D Communal and public open space
    - 3F Visual privacy
    - 4A Solar and Daylight Access
    - 4E Private open space and balconies
    - 4H Acoustic privacy
    - 4O Landscape design
    - 4U Energy efficiency
    - 4W Waste management
- 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:
- (viii) The application has not satisfied Council with respect to the requirements under Part B - 'DCP Principles', specifically:
    - The proposal has not been designed with consideration for the health, recreational and social needs of residents, and the proposal does not minimise its ecological footprint or promote sustainable production and consumption.
  - (ix) The application has not satisfied Council with respect to the requirements under Section C1 'Site Planning and Design Principles', specifically:
    - The built form and scale of the proposal does not adequately respond to the context of the site.
  - (x) The application has not satisfied Council with respect to the requirements under Section C5 'Waste Management', specifically:
    - The proposal provides for street collection and waste bin storage rooms on the ground floor.
  - (xi) The application has not satisfied Council with respect to the requirements under Section C6 'Landscape Design', specifically:
    - The proposal does not include landscaping to the site that responds to the context of the site, or complements the built form or minimises the impacts of the scale of the development.

- (xii) The application has not satisfied Council with respect to the requirements under Section C10 'Transport, Access and Parking', specifically:
    - The indented bay for waste collection is not supported.
  - (xiii) The application has not satisfied Council with respect to the requirements under Section C13 'Infrastructure and Services', specifically:
    - The proposal does not meet the requirements for engineering works in relation to the stormwater easement.
  - (xiv) The application has not satisfied Council with respect to the requirements under Section D2 'Residential Development', specifically:
    - Clause D2.5.5 The landscaped area does not meet the minimum 35% required for the site. The landscaping provided is compromised by servicing requirements.
    - Clause D2.5.8 The proposal does not achieve a high level of visual or acoustic privacy for future occupants or adjoining neighbours.
    - Clause D2.5.9 The proposal results in overshadowing of the private open space of adjoining development.
- 5 The application is not satisfactory for the purpose of Section 4.15(1)(a)(iv) of the *Environmental Planning and Assessment Act 1979* as the proposal was not accompanied by all of the information as required under Schedule 1 Forms of the Regulations or as required to properly consider the proposal, as follows:
- Clause 50 (1A)(1AB) of the *Environmental Planning and Assessment Regulation 2000* requires a statement from a qualified designer to be submitted.
  - An updated BASIX Certificate and
  - Geotech Report
- 6 The development application is not satisfactory for the purpose of Section 4.15(1)(b) of the *Environmental Planning and Assessment Act 1979* in terms of the likely impacts of that development including those related to:
- (i) Streetscape and character,
  - (ii) Context and landscaping,
  - (iii) Bulk and scale,
  - (iv) Solar access and privacy impacts,
  - (v) Amenity, safety and security impacts related to the ground floor layout,
  - (vi) Communal open space,
  - (vii) Access, traffic and parking, including loss of on-street parking,
  - (viii) Energy efficiency,
  - (ix) Waste management and infrastructure requirements and impacts.
- 7 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 the scale of the proposed development.
- 8 Based on the above deficiencies and submissions received, approval of the proposed development would not be in the public interest pursuant to Section 4.15(1)(d) of the *Environmental Planning and Assessment Act 1979*.

**Votes**

The decision was unanimous.

Jason Perica – Chair Person 	John Brunton - Expert 
Christopher Hallam – Expert 	Geoff Martin – Community Representative 