

# PENRITH LOCAL PLANNING PANEL

## DETERMINATION AND STATEMENT OF REASONS

|                              |                                                                                                                                                                                                                                                                                                                                                                                     |
|------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| APPLICATION NUMBER           | DA23/1109                                                                                                                                                                                                                                                                                                                                                                           |
| DATE OF DETERMINATION        | 27 <sup>th</sup> November 2024                                                                                                                                                                                                                                                                                                                                                      |
| PANEL MEMBERS                | <p>Stephen Alchin – Chair – (In Person)</p> <p>Clare Swan – Expert – (In Person)</p> <p>Awais Piracha – Expert – (In Person)</p> <p>Vanessa Howe – Community Representative – (In Person)</p>                                                                                                                                                                                       |
| DECLARATIONS OF INTEREST     | Clare Swan declared a non-pecuniary interest in the application. The declaration was not considered to preclude an impartial determination of the application.                                                                                                                                                                                                                      |
| LISTED SPEAKERS              | <p>Brock Norris – (Online)</p> <p>Gary Attard – (Online)</p> <p>Ivana Minato – (In Person)</p> <p>Burak Turkmener – (In Person)</p> <p>Tara Doyle – (In Person)</p> <p>Rex &amp; Roslyn Garbutt – (Online)</p> <p>Cambell Ring – (Online)</p> <p>Christopher Courtney – (Online)</p> <p>Jack Holliday – Applicant – (In Person)</p> <p>Rachel McNeill – Applicant – (In Person)</p> |
| LIST OF ADDITIONAL ATTENDEES | <p>Christian De Angelis – Owner – (In Person)</p> <p>Mickey Beaini – Owner – (In Person)</p> <p>John Carlo Beaini – Owner – (In Person)</p> <p>Stewart Floresta – Applicant Consultant – (Online)</p>                                                                                                                                                                               |

|                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|-----------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                     | <p>Tim Rodgers – Applicant Consultant – (Online)</p> <p>Stuart Henry – Applicant Consultant – (Online)</p> <p>Stephen Darby – Applicant Consultant – (Online)</p> <p>James Willmott – Applicant Consultant – (Online)</p> <p>Lynne Mangold – (Online)</p> <p>Jason Clifton – (Online)</p> <p>Helen Hammond – (Online)</p> <p>[REDACTED]</p> <p>Jasmin Torro – (In Person)</p> <p>Lauren Van Etten – Council – Senior Development Assessment Planner</p> <p>Robert Craig – Council – Principal Planner</p> <p>Daniel Davidson – Council – Transport Engineer</p> <p>Gavin Cherry – Council – Development Assessment Coordinator</p> <p>Katelyn Davies – Council – Panel Management Support Officer</p> |
| <b>APOLOGIES (OR REGISTERED BUT DID NOT ATTEND)</b> | <p>Barbara McCarthy</p> <p>Sevda Turkmener</p> <p>Michael Allan</p> <p>Daman Grewal</p> <p>Troy Dergarnham</p> <p>Danielle Larsen</p> <p>Warwick Maturia</p> <p>Fabiana Attard</p> <p>L Cass</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |

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

DA23/1109, Construction of 24 Hour McDonald's Restaurant including Dual Lane Drive-Through Facility & Associated Works at Nos. 90-98 Glenmore Ridge Drive, Glenmore Park, NSW, 2745.

### 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 (Industry & Employment) 2021
- State Environmental Planning Policy (Biodiversity & Conservation) 2021
- State Environmental Planning Policy (Resilience & Hazards) 2021
- State Environmental Planning Policy (Precincts – Western Parkland City) 2021
- State Environmental Planning Policy (Sustainable Buildings) 2022
- Penrith Local Environmental Plan 2010
- Penrith Development Control Plan 2014

In terms of considering community views, the Panel noted there were fifteen (15) submissions received in response to the public notification of the Development Application, ten (10) of which were unique. 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.

### Panel Decision

In accordance with Section 4.16 of the Environmental Planning and Assessment Act 1979, DA23/1109, Construction of 24 x Hour McDonald's Restaurant including Dual Lane Drive-Through Facility & Associated Works at Nos. 90-98 Glenmore Ridge Drive, Glenmore Park, NSW, 2745 be approved subject to the recommended conditions of consent accompanying the assessment report as well as the following amendments to recommended conditions of consent:

1. Condition Number 1 be **amended** to include reference to additional annotations in red on the stamped approved plans requiring the erection of a shade structure within the marked refuge area.

2. Condition Number 1 to be amended to ensure that any approved supporting reports are amended to reflect revised hours of operation detailed within Condition 8.

3. Condition Number 8 to be amended to state the following:

The approved hours of operation are as follows:

- Substantive hours of operation between 6am – 10pm, Monday – Sunday.
- However, for a trial period of 18 months from the date an Occupation Certificate is issued, the development is permitted to have additional operating hours from 5am – 6am and between 10pm – Midnight (12am), Monday – Sunday..
- After the trial period, unless otherwise approved by the consent authority, the hours of operation are to revert to the approved substantive hours. If extended hours are sought, the Applicant is to submit a modification application to Council at least 3 months prior to the expiration of the trial period for further assessment and determination. Prior to submission of a modification application, Council is to be contacted to verify submission requirements that may include details of the patronage that occurred during the extended hours; records of acoustic measurements taken during the trial period of extended operational hours (see also condition 29); environmental management measures and records of complaints received from nearby residents and businesses.
- Delivery vehicles associated with the development are to be limited to between 7am – 10pm Monday – Saturday, as well as 8am – 10pm on Sundays and public holidays.
- Grease trap maintenance is only to occur between 7am – 6pm, Monday – Friday
- Waste collection is only to occur between the hours of 7am – 10pm, Monday – Friday.

4. Condition 10 is to be amended to state the following: -

**Prior to the issue of a Construction Certificate**, a suitably qualified lighting designer shall prepare and submit to Council's Senior Development Assessment Planner for approval AS/ANZ 1158.3.1:2020 and AS/NZS 4282:2023 calculations in a Lighting Report, using the appropriate modelling software, demonstrating that proposed exterior lighting and illuminated signage will not create a nuisance to

surrounding sensitive land uses in accordance with the applicable Australian Standards.

Consideration shall be given in the Lighting Report to the need for dimming of exterior lighting and illuminated signage during the nighttime period to minimise light spill impacts on the surrounding area.

**Prior to the issue of an Occupation Certificate**, written certification from a suitably qualified lighting designer that all exterior lighting and illuminated signage has been constructed in accordance with the approved Lighting Report shall be submitted to the Principal Certifying Authority.

5. Condition 28 is to be amended to state the following: -

Amplified sound from the development is not to be audible at the boundaries of the property. No amplified sound is to be used externally, including in the car park, with the exception of the customer order devices in accordance with the Noise Impact Assessment prepared by MAC, dated September 2024, ref. MAC2319680lrplv4.

The provisions of the Protection of the Environment Operations Act 1997 apply to the development in terms of regulating offensive noise.

6. The addition of a new conditions that states:

**Prior to the Issue of a Construction Certificate**, an additional shade structure is to be provided in the location as marked in red on the approved plans in accordance with Condition No.1. The shade structure is to be suitably sized to allow for shading of pedestrians taking refuge between the line marked pedestrian crossings.

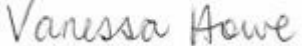
### Reasons for the Decision

- The Panel agreed with the assessment of the proposal outlined within the Council's assessment report; however, having regard to the verbal submissions received and the Applicant's offer to reduce the extended hours of operation, it was considered that a reduction in the trial hours was more appropriate and in the public interest.
- Appropriate amended conditions have been imposed to ensure the proposed development and associated works will have minimal or manageable environmental impacts and the site is suitable for the proposed development.

- The proposal presents a building form and scale which is appropriate having regard to the character of the locality.
- The proposal is sufficiently compliant with applicable development controls, including objectives contained within Penrith Development Control Plan 2014.
- While the Panel was supportive of some requested condition amendments from the Applicant, deletion of Condition 14 was not supported as the signage subject of the condition is not considered wayfinding and would not enhance the character of Glenmore Village.
- The Panel considered representations made during the Public Meeting and, where the Panel shared the concerns raised, those matters have been reflected in the above amendments to recommended conditions of consent.
- The Panel noted advice from Council officers that, in response to community concerns regarding traffic management in the area, parking restrictions will be introduced in Glenmore Ridge Drive and the northern end of Glenholme Drive in the immediate future.

## Votes

The decision was unanimous.

|                                                                                                               |                                                                                                                                 |
|---------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------|
| Stephen Alchin (Chair)<br> | Clare Swan (Expert)<br>                     |
| Awais Piracha (Expert)<br> | Vanessa Howe (Community Representative)<br> |