



PENRITH LOCAL PLANNING PANEL

DETERMINATION AND STATEMENT OF REASONS

APPLICATION NUMBER	DA24/0315
DATE OF DETERMINATION	27 th 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	No conflicts of interest were declared
LISTED SPEAKERS	<p>Julie McCammont – (In Person)</p> <p>Michel Toubia – Applicant – (In Person)</p>
LIST OF ADDITIONAL ATTENDEES	<p>Emelia Ertanin – Applicant – (In Person)</p> <p>Fran Davis – Applicant – (Online)</p> <p>Andrea Saouma – Applicant – (Online)</p> <p>Sandra O’Neill – (In Person)</p> <p>Robert Walker – Council – Senior Development Assessment Planner</p> <p>Sandra Fagan – Council – Principal Planner</p> <p>Gavin Cherry – Council – Development Assessment Coordinator</p> <p>Katelyn Davies – Council – Panel Management Support Officer</p>
APOLOGIES	Rita Formosa

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Hybrid Public Meeting held in person and via video conference on Wednesday, 27th November 2024, starting at 2.00pm

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

DA24/0315, Demolition of Existing Structures and Construction of a Single Storey Child Care Facility for 37 x Children with Basement Car Parking and Associated Works at No. 194 Bennett Road, 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 (Sustainable Buildings) 2022
- State Environmental Planning Policy (Resilience & Hazards) 2021
- State Environmental Planning Policy (Transport & Infrastructure) 2021
- State Environmental Planning Policy (Precincts - Western Parkland City) 2021
- Penrith Local Environmental Plan 2010
- Penrith Development Control Plan 2014

In terms of considering community views, the Panel noted there were twenty (20) submissions received in response to the public notification of the Development Application, nineteen (19) of which were unique. The Panel also listened to registered speakers at the public meeting. The matters raised in 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, DA24/0315, Demolition of Existing Structures and Construction of a Single Storey Child Care Facility for 37 x Children with Basement Car Parking and Associated Works at No. 194 Bennett Road, St Clair, NSW, 2759 be refused as recommended by Council Staff with the following amended reason for refusal:

- Reason Number 5 is to be **amended** to read as below:

The Development Application is not satisfactory for the purposes of Section 4.15 (1) (a) (i) of the *Environmental Planning and Assessment Act*

1979, as the proposal is inconsistent with the provisions of Section 7.1 of the *Penrith Local Environmental Plan 2010*, due to:

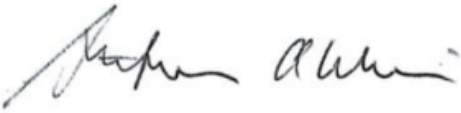


1. The proximity of the basement to site boundaries.
2. The absence of a Geotechnical Assessment Report and potential impacts associated with the earthworks including on the amenity/ structural stability of adjoining residential premises.
3. Insufficient information demonstrating tree retention and protection.

Reasons for the Decision

- The Panel agreed with the reasons for refusal outlined within the Council's Assessment Report. The Panel is of the view that the proposal is not an appropriate development outcome for the site.
- The proposal represents an overdevelopment of the site noting the constrained dimensions and area of the allotment and the provision of insufficient setbacks, and deep soil landscaped area to satisfy the applicable development controls and objectives relevant for a child care centre development.
- The application fails to demonstrate a suitable development outcome relating to: safe and efficient movement / circulation of vehicles and pedestrians as a result of the proposed basement arrangement; noise management and contextual integration; tree preservation and retention; urban heat mitigation measures; waste management arrangements including servicing and access; sustainability measures; site suitability and contamination considerations and water quality and quantity management.
- There is insufficient information submitted to sufficiently assess the implications of the proposal. This includes absence of a geotechnical assessment of the site's ground conditions and implications of the proposal on the structural integrity of adjacent properties and infrastructure within the public domain and the absence of an arborist report confirming that the mature tree onsite could be preserved.
- The proposed development is not considered to be in the public interest for the reasons outlined above, and as outlined within the recommended reasons for refusal.

Votes

The decision was unanimous.

Stephen Alchin (Chair) 	Clare Swan (Expert) 
Awais Piracha (Expert) 	Vanessa Howe (Community Representative) 