

PENRITH LOCAL PLANNING PANEL

DETERMINATION AND STATEMENT OF REASONS

APPLICATION NUMBER	DA21/0788 – 2A Bringelly Road & 31 Santley Crescent, KINGSWOOD NSW 2747
DATE OF DETERMINATION	23 February 2022
PANEL MEMBERS	Jason Perica (Chair) Christopher Hallam (Expert) Mary-Lynne Taylor (Expert) Stephen Welsh (Community Representative)
DECLARATIONS OF INTEREST	No conflicts of interest were declared
LISTED SPEAKERS	Resident – Elaine Talbert Representatives from the applicant – Ghassan Fares

Public Meeting held via video conference on Wednesday 23 February 2022, starting at 1:00pm.

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

Development Application DA21/0788, Lot 3 & Lot 5 DP 215200, 2a Bringelly Road & 31 Santley Crescent, KINGSWOOD NSW 2747- Demolition of Existing Structures & Construction of Seven (7) Storey Mixed Use Development including Ground & First Floor Commercial Tenancies, Boarding House including 96 Boarding Rooms & Manager's Room & Two (2) Levels of Basement Car Parking.

Panel Consideration

The Panel had regard to the assessment report prepared by Council Officers, a supplementary memorandum dated 22 February 2022 prepared by Council officers, submissions received, and the following plans;

- Penrith Local Environmental Plan 2010
- Penrith Development Control Plan 2014
- State Environmental Planning Policy (Affordable Rental Housing) 2009
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- State Environmental Planning Policy (Infrastructure) 2007

- State Environmental Planning Policy (Western Sydney Aerotropolis) 2020
- State Environmental Planning Policy No. 55 – Remediation of Land
- Sydney Regional Environmental Plan No. 20 – Hawkesbury Nepean River
- State Environmental Planning Policy (Housing) 2021

In terms of considering community views, the Panel noted there were 15 x submissions received from the public notification of the Development Application.

Panel Decision

DA21/0788, Lot 3 & Lot 5 DP 215200, 2a Bringelly Road & 31 Santley Crescent, KINGSWOOD NSW 2747- Demolition of Existing Structures & Construction of Seven (7) Storey Mixed Use Development including Ground & First Floor Commercial Tenancies, Boarding House including 96 Boarding Rooms & Manager's Room & Two (2) Levels of Basement Car Parking be refused for the following reasons below:-

- 1 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:
 - (a) The proposal is inconsistent with Clause 1.2, Aims of Plan, and the objectives of the B4 Mixed Use zone, in particular that the development proposal does not minimise conflicts between zones and within the zone.
 - (b) The proposed building exceeds the maximum height limit under Clause 4.3 Height of Buildings and Clause 7.11 Penrith Health & Education Precinct.
 - (c) The application was not accompanied by a written request as required by Clause 4.6 in relation to the contravention of Clause 4.3 (and 7.11).
 - (d) The proposed development has not demonstrated that the proposed earthworks will not have a detrimental impact on environmental functions and processes or neighbouring uses and is considered unsatisfactory with respect to Clause 7.1 Earthworks.
 - (e) The proposal is unsatisfactory having regard to the principles of sustainable development under Clause 7.4 Sustainable development.
 - (f) The design of the proposal does not provide suitable servicing as required by Clause 7.7 Servicing.
 - (g) The proposal is contrary to the objectives of Clause 7.11 in that the built form has not demonstrated it is suitable for both residential and health services facility.
- 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 has not satisfied the provisions of Clause 7 of the provisions of State Environmental Planning Policy No. 55 - Remediation of Land.
- 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

(Affordable Rental Housing) 2009, specifically Clauses 29, 30 and 30A, as the development application:

- Exceeds the maximum building height control.
- Does not satisfy the minimum landscaped area controls.
- Does not satisfy the minimum car parking provisions.
- Does not satisfy the minimum motorcycle provisions (with no clause 4.6 request to vary the development standard submitted).
- Does not suitably respond to the local character of the area in terms of urban design and transition between zones and to adjoining development.

- 4 The application is not satisfactory for the purpose of Section 4.15(1)(a)(ii) of the Environmental Planning and Assessment Act 1979 as the provisions of State Environmental Planning Policy (Housing) 2021 (the Housing SEPP) have not been addressed given it was a Draft Environmental Planning Instrument at the time of lodgement. Significant and determinative weight should be given to the provisions and objectives of State Environmental Planning Policy (Housing) 2021.
5. 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:
 - DCP Principles;
 - C1 Site Planning and Design Principles;
 - C2 Vegetation Management;
 - C3 Water Management;
 - C4 Land Management;
 - C5 Waste Management;
 - C6 Landscape Design;
 - C10 Transport, Access and Parking;
 - C12 Noise & Vibration;
 - Part D2 Residential Development;
 - Part D5, Section 5.11 Boarding houses; and
 - Part E12 Penrith Health & Education Precinct.
6. The development application is not satisfactory for the purpose of Section 4.15(1)(a)(i) and 4.15(1)(iv) of the Environmental Planning and Assessment Act 1979, State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 and Clause 50 of the Environmental Planning and Assessment Regulation 2000 in that the application was not accompanied by a BASIX Certificate relevant to the type of development proposed, nor has there been any assessment of the external traffic impacts of the development or adequate analysis of the provision and implications of a car lift instead of a ramp servicing Basement 2.
7. 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) unsatisfactory urban design, streetscape and local character impacts;
 - (ii) unsatisfactory noise and amenity impacts;

- (iii) unsatisfactory traffic, parking, access and manoeuvring;
 - (iv) unsatisfactory external and internal amenity;
 - (v) unsatisfactory sustainability considerations;
 - (vi) inadequate landscaping provision and setbacks; and
 - (vii) inadequate Operational Plan of Management.
8. 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 proposed development. The size of the site and dimensions of the site creates limitations to the driveway gradient and access / circulation, turning area and waste management arrangements. The proposed development removes all existing vegetation and does not propose a suitable landscape design treatment.
 9. The proposal results in adverse impacts to the adjacent property at the corner of Bringelly Road and Santley Crescent and has the likelihood of impeding this site from realising its appropriate development potential. This is due to the provision of part nil-boundary setbacks and inadequate upper floor setbacks coupled with the elongated length, mass and bulk of the development which is unbroken for the full length of both allotments.
 10. The architectural form, building mass and scale, repetitious window treatments, blank elevational form and non-compliant building height does not reflect design quality or design excellence outcomes. The proposal was also not supported by Council's Urban Design Review Panel, which the Panel concurred with.
 11. The application is not satisfactory for the purpose of Section 4.15(1)(d) and 4.15(e) of the Environmental Planning and Assessment Act 1979 due to matters raised in submissions and the public interest with respect to impacts of the development on residential amenity, solar access, local character and privacy.

Reasons for the Decision

The Panel agreed with the assessment contained with Council's Assessment Report (and supplementary memo) and supported the recommendation for refusal for the reasons outlined within the assessment report.

The Panel noted that the applicant raised concerns with a lack of prior notice by Council officers regarding the recommendation of the application, and then requested the Panel defer the determination of the application to allow opportunity to address the matters raised. However, the Panel formed the view that the extent and nature of the legitimate concerns identified were substantial and necessitated a significant redesign of the proposal to address the recommended reasons for refusal, which warrants a new Development Application.

Based on the information presented to and available to the Panel, it was not considered that matters regarding social impacts/concentration of boarding houses were warranted as a reason for refusal.

Votes

The decision was unanimous.

Jason Perica – Chair 	Christopher Hallam - Expert 
Mary-Lynne Taylor – Expert 	Stephen Welsh – Community Representative 