

# PENRITH LOCAL PLANNING PANEL

## DETERMINATION AND STATEMENT OF REASONS

<b>APPLICATION NUMBER</b>	DA20/0367 – 8 Linksview Avenue LEONAY NSW 2750
<b>DATE OF DETERMINATION</b>	7 April 2021
<b>PANEL MEMBERS</b>	Jason Perica (Chair) John Brunton (Expert) Christopher Hallam (Expert) Stephen Welsh (Community Representative)
<b>DECLARATIONS OF INTEREST</b>	No conflicts of interest were declared
<b>LISTED SPEAKERS</b>	Dominic Hogan – Applicant Andrew Elia – Architect Tony & Wendy Best – Residents

Public Meeting held via video conference on Wednesday 7 April 2021, starting at 2:00pm.

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

Development Application DA20/0367, Lot 68 & 69 DP 218969 at 8 Linksview Avenue LEONAY NSW 2750 - Demolition of Existing Structures & Construction of Seniors Housing Development including Five (5) Self-Contained Dwellings.

### **Panel Consideration**

The Panel had regard to the assessment report prepared by Council Officers, a supplementary memorandum dated 06 April 2021 prepared by Council Officers, submissions received, and the following plans;

- Penrith Local Environmental Plan 2010
- Penrith Development Control Plan 2014
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 and Seniors Living Policy – Urban Design Guideline for Infill Development
- State Environmental Planning Policy No. 55 – Remediation of Land
- Sydney Regional Environmental Plan No 20 – Hawkesbury Nepean River

In terms of considering community views, the Panel noted there were 14 submissions received, 10 of which were unique from the public notification of the Development Application.

### **Panel Decision**

DA20/0367, Lot 68 & 69 DP 218969 at 8 Linksvie Avenue LEONAY NSW 2750 - Demolition of Existing Structures & Construction of Seniors Housing Development including Five (5) Self-Contained Dwellings be approved subject to the recommended conditions of consent outlined within the Council Officer assessment report and as further amended by the following:-

*i) Condition 1 be amended as follows:*

Include reference to the demolition and erosion and sediment control plan(s).

*ii) Condition 40 be amended as follows:-*

Include a requirement that states: “*where the existing footpath along Fairways Avenue requires some reasonable upgrade as part of undertaking the footpath upgrade works, this shall be undertaken by the applicant as deemed necessary and reasonable by Council.*”.

*iii) Condition 54 to be replaced as follows:-*

**Prior to the issue of a Construction Certificate**, the landscape plan is to reflect the addition of 4 x trees which are to be provided within the southern setback with a mature effective height of 8m (minimum planting pot size of 75l). These trees are to be deciduous to limit the shade in winter particularly to adjoining properties. All boundary fencing shall be timber paling, unless mutually agreed otherwise between property owners (for side fencing). All balustrade fencing around courtyards shall be timber picket fences. A balustrade shall be provided to the private open space of Unit 2.

*iv) Condition 61 to be replaced as follows:-*

**Prior to issue of a Construction Certificate** amendments in design are to be undertaken to comply with Recommendations 1, 2 & 3 of the Tree Protection Plan (Specifications) as provided in the Arboricultural Impact Assessment Report (2020 Redesign), prepared by the Arborist Network, author Mark Hartley, Report No CD2001B, dated 9 June 2020 (page 10 of 32).

- a. *The Tree Protection Plan (Specifications) and Tree Protection Plan (Drawing) shall be amended to include the retention of Tree 12 as detailed in the abovementioned report.*
- b. *Design of the retaining wall adjacent to Trees 1, 2 and 7 (numbering in accordance with the abovementioned report) shall be constructed so that strip footings are not required and preferably using post and rail construction methods. Natural ground levels are to be retained within the Tree Protection Zone of trees to be retained [Page 11 of 32, Point 16 of the Tree Protection Plan (Specifications)].*
- c. *All construction plans are to be in accordance with the requirements of this condition, with all trees to be retained and protected together with their relevant Protection Zones marked on all demolition and construction drawings.*

v) Condition 62 to be replaced as follows:-

**Prior to the commencement of any works**, an Arborist with a minimum AQF (Australian Qualification Framework) Level 5 shall be engaged for the duration of the approved works to ensure that tree protection measures on the site are implemented and complied with as per the Tree Protection Plan (Specifications) and Tree Protection Plan (Drawing) as provided in the Arboricultural Impact Assessment Report (2020 Redesign), prepared by the Arborist Network, author Mark Hartley, Report No CD2001B, dated 9 June 2020 and the conditions contained in this consent.

- a. The Project Arborist shall clearly identify those trees to be removed (Trees 3, 4, 5, 6, 8, 9, 11 & 13) as detailed in the arborist report.
- b. The project Arborist shall ensure that all tree removal works comply with the Amenity Tree Industry – Code of Practice, 1998 (Workcover, NSW) and Guide to Managing Risks of Tree Trimming and Removal Work (Safe Work Australia 2016).

The appointed Project Arborist shall:

- a. Ensure that the appropriate Tree protection measures are imposed on the site as per the approved Tree Protection Plan (Specifications) and Tree Protection Plan (Drawing) and any relevant conditions of consent.
- b. Undertake inspections not less than monthly and at the critical checkpoints listed in the Tree Protection Plan (Specifications) (Point 27, page 12 of 32, Arboricultural Impact Assessment Report (2020 Redesign), prepared by the Arborist Network, author Mark Hartley, Report No CD2001B, dated 9 June 2020 (page 10 of 32).
- c. Ensure all TPZs are maintained as per AS 4970 - 2009, Section 4.6. Access to the TPZ is permitted to undertake necessary maintenance such as mowing, watering & weed control.
- d. Keep a written record (e.g. field notes and photos) to provide evidence of compliance with the approved Tree Protection Plan (Specifications) and Tree Protection Plan (Drawing) at times when they are present on site and when inspection at critical checkpoints is required.
- e. Forward the written record of inspection to the Principal Certifying Authority within 1 week of that inspection occurring.
- f. Where there is a breach of the Tree Protection Plan, the project arborist must specify any remedial works and the timeframe in which these works must be completed.
- g. If an inspection reveals that there has been a significant breach of the Tree Protection Plan (specifications), inspections from then on must be carried out weekly.

vi) Condition 63 to be replaced as follows:-

The Project Arborist shall also be required to be present on site to supervise when:

- a. There are works undertaken within an area designated by a Tree Protection Fence
- b. Any in ground work within a TPZ is to be undertaken (fenced or unfenced)
- c. There is a requirement for a change the alignment of tree protection fences, and
- d. At any other times that the approved Tree Protection Plan (Specifications) and Tree Protection Plan (Drawing) prescribes.

### Reasons for the Decision

The Panel generally agreed with the assessment contained with Council's Assessment Report, including the following reasons for the decision:-

- The use is permissible in the zone by virtue of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 and satisfies the objectives of the R2 zone pursuant to Penrith Local Environmental Plan 2010 by way of housing delivery with high levels of residential amenity that are considered to reflect the key features and qualities of traditional dwelling houses with surrounding private garden areas
- The proposal demonstrates compliance with the applicable environmental planning instruments as well as the Seniors Living Policy – Urban Design Guideline for Infill Development, subject to recommended conditions of consent
- No development standards are breached
- The use is appropriately designed and is responsive to attributes of the site by way of its spatial arrangement and boundary setbacks; and
- The proposed landscaping design, built form articulation, architectural design and resulting streetscape presentation positively responds to the local character of the immediate area.

In terms of considering community views the Panel had regard to both written submissions and verbal presentations made. The Panel agreed with the assessment of issues raised, as outlined in the Council report. In terms of concerns raised regarding safety and the existing footpath, the Panel noted a detailed set of requirements within Condition No. 40, which the Panel provided some further refinement as outlined above.

### Votes

The decision was unanimous.

<p>Jason Perica – Chair</p> 	<p>John Brunton – Expert</p> 
<p>Christopher Hallam – Expert</p> 	<p>Stephen Welsh – Community Representative</p> 