

PENRITH LOCAL PLANNING PANEL

DETERMINATION AND STATEMENT OF REASONS

APPLICATION NUMBER	DA20/0729 – 31 & 32 Park Avenue KINGSWOOD NSW 2747
DATE OF DETERMINATION	20 January 2021
PANEL MEMBERS	Jason Perica (Chair) John Brunton (Expert) Mary-Lynne Taylor (Expert) Stephen Welsh (Community Representative)
DECLARATIONS OF INTEREST	No conflicts of interest were declared
LISTED SPEAKERS	Elaine Talbert Thomas Mithen (Applicant) Eltin Miletic (Town Planner - Applicant)

Public Meeting held via video conference on Wednesday 20 January 2021, starting at 1:00pm.

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

Development Application DA20/0729, Lot 15 DP 29528 & Lot 16 DP 29528, 31 & 32 Park Avenue KINGSWOOD NSW 2747- Torrens Title Subdivision of 2 into 3 lots and Construction of Three x Two Storey Boarding House with Associated Fencing, Car Parking, Tree Removal, Landscaping and Drainage Works

Panel Consideration

The Panel had regard to the assessment report prepared by Council Officers, and 2 supplementary memorandums dated 19 January 2021 prepared by Council officers, documentation from the applicant in response to Council's Assessment Report (received 19 January 2021), submissions received, and including 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 (Western Sydney Aerotropolis) 2020
- Sydney Regional Environmental Plan No 20 – Hawkesbury Nepean River

The Panel also had regard to a late request by the applicant to defer the determination of the application.

In terms of considering community views, the Panel noted there were 5 submissions including 1 proforma letter received from the public notification of the Development Application.

Panel Decision

DA20/0729, Lot 15 DP 29528 & Lot 16 DP 29528, 31 & 32 Park Avenue KINGSWOOD NSW 2747- Torrens Title Subdivision of 2 into 3 lots and Construction of Three x Two Storey Boarding House with Associated Fencing, Car Parking, Tree Removal, Landscaping and Drainage Works be refused for the following reasons below:-

1. The written request to contravene the minimum lot size as required by Clause 4.1 of Penrith Local Environmental Plan 2010 under Clause 4.6 of that Plan provided by the applicant did not include sufficient environmental planning reasons to support the variation.
2. The Panel was of the view that the proposal was not consistent with the objectives of the zone, nor the objectives of Clause 4.1 of Penrith Local Environmental Plan 2010, particularly: -
 - *To enhance the essential character and identity of established residential areas.*
 - *To ensure that a high level of residential amenity is achieved and maintained.*
 - *To ensure that development reflects the desired future character and dwelling densities of the area.*
 - *To ensure that lot sizes are compatible with the environmental capabilities of the land being subdivided,*
 - *To ensure that lot sizes and dimensions are able to accommodate development consistent with relevant development controls.*
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 as follows:
 - Part 2, Division 3, Clause 29 (2)(b) Landscaped area
 - Part 2 Division 3, Clause 29 (2)(c) Solar Access
 - Part 2, Division 3, Clause 29(2)(e) Parking
 - Part 2, Division 3, Clause 30A Character of local area
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:
 - Chapter C1 Planning and Design Principles
 - Chapter C3 Water Management
 - Chapter C5 Waste Management and accompanying Waste Management Guideline
 - Chapter C10 Transport, Access and Parking
 - Chapter C11 Subdivision
 - Chapter C12 Noise and Vibration
 - Chapter D2 Residential Development
 - Chapter D4 Other Land Uses

5. The application is not satisfactory for the purpose of Section 4.15(1)(b) of the Environmental Planning and Assessment Act in terms of the likely impacts of the development, including:
 - The proposed subdivision is not consistent with the established subdivision pattern.
 - The design and scale of the proposed development is not compatible with the existing and desired future character of the immediate locality.
 - The proposal provides inadequate front and rear setbacks to suitably integrate the development into the existing local character, maintain surrounding residential amenity, and provide appropriate landscape treatment of the site.
 - The proposal does not provide a suitability level of internal amenity stemming from the ground floor layout and location of infrastructure (waste rooms, car parking).
 - The proposal provides inadequate design of the car parking areas/driveway being insufficient room for proper and safe manoeuvring within the development site.
 - The development is considered to be an over-development of the site.
 - The stormwater drainage design is inadequate, noting drainage infrastructure is proposed to traverse between each lot. Stormwater infrastructure is required to be wholly contained within each Torrens Title lot, and be designed in accordance with Council requirements.
 - The accompanying Acoustic Assessment report provides insufficient information, as the report does not calculate expected noise levels generated by the use of car parking, driveway and communal areas of the development. As such, Council is unable to be satisfied that the noise levels associated with the use of these areas will comply with relevant noise criteria.
6. 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.
7. The application is not satisfactory for the purpose of Section 4.15(1)(e) of the Environmental Planning and Assessment Act as the proposal would create an undesirable precedent and is therefore not considered to be in the public interest.
8. The application is not satisfactory for the purpose of Section 4.15(1)(d) of the Environmental Planning and Assessment Act due to well founded concerns raised in submissions which include:
 - Compatibility of the development with the surrounding local character
 - Amenity and acoustic impacts
 - Car parking impacts
 - Design of development should reflect principles of Crime Prevention Through Environmental Design

Reasons for the Decision

The Panel agreed with the assessment contained with Council's Assessment Report. As the matter was refused, the reasons for the decision are outlined above.

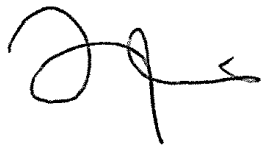


The Panel considered the applicant's request for a deferral. However, given the nature of issues that needed to be resolved, the likely time this would take and the likelihood an acceptable proposal would be considerably different, the Panel was of the view that deferral was not warranted or appropriate in this instance.

If the applicant is willing to proceed without subdivision, a wider review of the site, spatial arrangement of the development and site opportunities is warranted. In this regard, it may be beneficial for the applicant to engage with Council staff prior to lodgement of a new application through Council's Pre-lodgement processes.

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, and where those views align with the reasons for refusal outlined above.

Votes

The decision was unanimous.

Jason Perica – Chair 	John Brunton – Expert 
Mary-Lynne Taylor – Expert 	Stephen Welsh – Community Representative 