

# Penrith Local Planning Panel

## Determination and Statement of Reasons

<b>APPLICATION DETAILS</b>	DA18/0488.02 – 26 – 30 Hope Street Penrith
<b>DATE OF DETERMINATION</b>	Wednesday 13 November 2019
<b>PANEL MEMBERS</b>	Jason Perica (Chair) Deborah Dearing (Expert) Virginia Barrios (Community Representative)
<b>APOLOGY</b>	Nil
<b>DECLARATIONS OF INTEREST</b>	No conflict of interest were declared
<b>LISTED SPEAKER(S)</b>	No listed speakers or attendees

Public Meeting held at Penrith City Council on Wednesday 13 November 2019, opened at 4:00pm

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

Development Application DA18/0488.02 at Lot 34, 35 & 36 DP 31239, No.26 – 30 Hope Street Penrith – Review of Determination - Demolition of Existing Structures & Construction of a 6 Storey Residential Flat Building containing 40 Apartments with Communal Roof Top Terrace & Basement Car Parking.

### **Panel Considerations**

The Panel had regard to the Assessment Report prepared by Council Officers, submissions received, site observations, including the following plans;

- Local Environmental Plan 2010 (Amendment 4)
- Development Control Plan 2014
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- State Environmental Planning Policy No 55 – Remediation of Land
- State Environmental Planning Policy No 65 – Design Quality of Residential Flat Development
- Sydney Regional Environmental Plan No 20 – Hawkesbury Nepean River

In terms of considering community views, the Panel noted there was one (1) submission received from the public notification of the Development Application.

Key concerns raised in the submission related to high rise development in the area and impacts during construction.

### **Panel Decision**

The Panel refused this application, generally agreeing with the Council Officers reasons for refusal as stated within the Assessment Report, with some refinements reflected in the reasons below.

The reasons for refusal are as follows:

- 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:


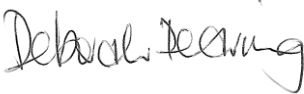
- (i) Clause 1.2 Aims of the plan - The proposal is inconsistent with the aims of the plan in relation to promotion of development consistent with Council's vision for Penrith, to meet the emerging needs of Penrith's communities while safeguarding residential amenity and ensuring that the development incorporates the principles of sustainable development.
  - (ii) Clause 2.3 Zone objectives - The proposal is inconsistent with the objectives of the R4 High Density Residential zone, particularly (a) The design of the proposed development does not ensure that a high level of residential amenity is achieved and maintained.
  - (iii) Clause 4.3 Height of buildings - The proposal exceeds the maximum building height standard for the subject site.
  - (iv) Clause 4.6 Exceptions to development standards - The proposal fails to satisfy the development standard for building height and the request for a variation to the development standard is not supported because the proposed development will not be in the public interest as it will not ensure a high level of residential amenity is achieved and maintained in accordance with the zone objectives.
  - (v) Clause 7.4 Sustainable development - The proposal does not demonstrate that the principles of sustainable development have been appropriately incorporated into the design.
- 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 is inconsistent with the provisions of State Environmental Planning Policy No 65 - Design Quality of Residential Flat Development as follows:
- (i) Clause 30(2)(a) - compliance with the design quality principles specified in the Apartment Design Guide:
    - Principle 1: Context and Neighbourhood Character
    - Principle 3: Density
    - Principle 4: Sustainability
    - Principle 6: Amenity
    - Principle 9: Aesthetics
  - (ii) Clause 30(2)(b) - compliance with the objectives specified in the Apartment Design Guide:
    - 3C Public domain interface
    - 3D Communal and public open space
    - 4A Solar and daylight access
    - 4B Natural ventilation
    - 4E Private open space and balconies
    - 4F Common circulation and spaces
    - 4U Energy efficiency
    - 4V Water management and conservation

The Panel also noted a sub-optimal landscape configuration, where deep soil planting is disconnected from the common open space and has limited utility. The lack of landscaping and deep soil planting, and garbage area with long and wide driveways to the west of the building was also of concern, noting the minimal western setback and the likely interface with a future building to the west.

- 3 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:
- (i) The application has not satisfied Council with respect to the requirements under Section C1 'Site Planning and Design Principles', specifically:
    - The proposal does not adequately respond to the natural topography of the site or attempted to minimise site disturbance.
  - (ii) The application has not satisfied Council with respect to the requirements under Section C4 'Land Management', specifically:
    - Excavation of the site exceeds 1m from the natural ground level and extensive retaining walls are proposed to manage the cut.
  - (iii) The application has not satisfied Council with respect to the requirements under Section D2 'Residential Development', specifically:
    - Clause D2.5.13 The building design does not promote cross-ventilation standards.
    - Clause D2.5.14 The design of ground floor courtyards includes terraces higher than 1.5m above ground level.
    - Clause D2.5.18 Retaining walls are greater than 500mm.
    - Clause D2.5.19 The design does not ensure that the safety and security of occupants is able to be maintained.
- 4 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) Solar access and orientation of units,
  - (ii) Excavation and terraces,
  - (iii) Environmental sustainability, and
  - (iv) Deep soil and landscape treatment
- 5 The application is not satisfactory for the purpose of Section 4.15(1)(e) of the *Environmental Planning and Assessment Act* as the proposal is not in the public interest, and noting the area is in transition, the site is relatively unconstrained and high quality buildings and amenity is important to promote rational and orderly development.

**Votes**

The decision was unanimous.

<p>Jason Perica – Chair Person</p> 	<p>Deborah Dearing – Expert</p> 
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Virginia Barrios – Community Representative

A handwritten signature in black ink, appearing to be 'Virginia Barrios', located in the lower-left portion of the left-hand cell of the table.