

## SYDNEY WEST JOINT REGIONAL PLANNING PANEL

Meeting held at **Penrith City Council** on **Thursday 19 November 2015 at 3.30 pm**

Panel Members: Bruce McDonald (Acting Chair), Lindsay Fletcher, Bruce Clarke, Ross Fowler and Barry Husking

**Apologies:** None

**Declarations of Interest:** None

### Determination and Statement of Reasons

2015SYW093 - Penrith City Council, DA15/0504 – Six (6) Storey building comprising 126 bed residential aged care facility, 151 independent living units, associated facilities, ancillary retail & medical suites, basement car parking & associated works, 123-135 Mulgoa Road, Penrith.

**Date of determination:** 19 November 2015

**Decision:**

The panel determined to approve the development application as described in Schedule 1 pursuant to section 80 of the *Environmental Planning and Assessment Act 1979*.

**Panel consideration:**

The panel considered: the matters listed at item 6, the material listed at item 7 and the matters observed at site inspections listed at item 8 in Schedule 1.

**Reasons for the panel decision:**

1. The proposed development will add to the supply and choice of housing for seniors and people with a disability within the Western Metropolitan Subregion and the Penrith local government area in a location with ready transport access to the services and amenities available within Penrith City Centre and the social facilities and amenities available at the Panthers Club.
2. The Panel has considered the applicant's request to vary the development standard contained in Clause 4.3 (Height of Buildings) Penrith LEP 2010 and considers that compliance with the standard would be unreasonable and unnecessary in the circumstances of this case as the variation will not result in a building that is inconsistent with the scale of buildings planned for this locality and the development remains consistent with the underlying intent of the standard and the objectives of the LEP.
3. The proposed development adequately satisfies the relevant State Environmental Planning Policies including, SEPP (Housing for Seniors and People with a Disability) SEPP 65 Design Quality of Residential Flat Development) and its associated Residential Flat Design Code, SEPP 55 Remediation of Land and SEPP (Infrastructure) 2007.
4. The proposal adequately satisfies the provisions and objectives of Penrith LEP2010 and Penrith DCP 2014.
5. The proposed development is consistent in scale and form and pattern of development planned for this locality as expressed in the DCP applying to the Panthers Precinct.
6. The proposed development, subject to the conditions imposed, will have no unacceptable adverse impacts on the natural or built environments including the amenity of nearby residential premises, overland flow patterns or the operation of the local road system. In this regard the Panel notes the conditions requiring roadworks to be undertaken on site and within Jamison Road have been agreed by the applicant.
7. In consideration of conclusions 1-6 above the Panel considers the proposed development is a suitable use of the site and approval is in the public interest.

The Panel notes approved of the application is sought for 128 residential bed care facility not 126 as stated in the Council Assessment Report.

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**Conditions:** The development application was approved subject to the conditions recommended in the Council Assessment Report as deferred commencement requirements being incorporated as conditions of consent for issue of an operational approval. A further condition relating to unexpected contamination finds management was imposed.

These are referenced below:

### ***Amendments to Draft Conditions of Consent – DA15/0504***

#### 46. K205 - S68 Local Government Act – Stormwater drainage works CIVIL CONSTRUCTION IN LOTS

Prior to the issue of a Construction Certificate, the Principal Certifying Authority and/ or Certifying Authority shall ensure that an application under Section 68 of the Local Government Act, including the payment of application and inspection fees, has been lodged with, and approved by Penrith City Council for:

- Culvert modification works near Jamison Road.
- Installation of an access driveway to the GPT unit located at the existing culvert.

Engineering plans are to be prepared in accordance with the development consent, Penrith City Council's Design Guidelines for Engineering Works for Subdivisions and Developments, Engineering Construction Specification for Civil Works and best engineering practice. ~~The culvert details shall extend to Mulgoa Road and demonstrate that the future extension of the culvert system can be implemented and convey a minimum of 21 m<sup>3</sup>/s.~~ Details shall be provided of the private pipeline that is proposed parallel to the culvert system providing sufficient clearance for access, maintenance purposes and easement widths. A cross-section shall be shown that at proposed G/6.

The culvert modification works shall be designed to convey a maximum of 50 m<sup>3</sup>/s. Any exceedance of the allowable flows will require the submission of a detailed hydrological and hydraulic engineering assessment to be submitted with the application (i.e. connection of the 1050 mm pipe and/or the proposed 2.4 m x 0.9 m RCBC). The applicant will be required to submit details of the structural design of the concrete structure which demonstrates it can withstand the hydraulic and earth forces.

#### **Note:**

1. Contact Penrith City Council's **Engineering Services Department** on telephone (02) 4732 7777 to ascertain applicable fees.

#### 96. ~~S Special (Deferred commencement condition)~~ K Special (Culvert Engineering Assessment)

Prior to the issue of an ~~Operational Consent~~ any Construction Certificate, the applicant shall provide an engineering assessment of the proposed culvert modification. The engineering assessment is required to demonstrate to Council's satisfaction that there is no adverse impact to the capacity of the existing culvert and upstream drainage channel or to specify necessary works to maintain effective functioning of the drainage system. This includes but is not limited to:

- (a) No reduction in hydraulic efficiency of the local system
- (b) No increase in Top Water Levels (TWL) in the channel upstream of Mulgoa Road
- (c) No increase in overland flows upstream of the culvert

The engineering assessment shall undertake a hydrological and hydraulic analysis and provide details of any required augmentation and/or remediation works required for the existing culverts located in Jamison Road. The culverts assessment shall consider a total flow of 50 m<sup>3</sup>/s (21 m<sup>3</sup>/s + 29 m<sup>3</sup>/s). Any flow exceeding this shall be included in the report such as the 2.6 cubic metres per second from

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the culvert to the east of the development site.

Any required drainage works will be subject to Section 68 of the Local Government Act.






*New Condition below*

### D Special (Unexpected Finds)

Should any "unexpected finds" occur during site excavation and earthworks, including, but not limited to, the identification/finding of contaminated soils, buried building materials, asbestos, odour and/or staining, works are to cease immediately and Council notified. Any such "unexpected finds" shall be addressed by an appropriately qualified environmental consultant.

All remediation works within the Penrith Local Government Area are considered to be Category 1 works under State Environmental Planning Policy 55-Remediation of Land. Should any contamination be found during development works and should remediation be required, development consent is to be sought from Penrith City Council before the remediation works commence.

### **Panel members:**

 <b>Bruce McDonald (Acting Chair)</b>	 <b>Lindsay Fletcher</b>	 <b>Bruce Clarke</b>
 <b>Ross Fowler</b>	 <b>Barry Husking</b>	

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## SCHEDULE 1

1	<b>JRPP Reference – 2015SYW093, LGA – Penrith City Council, DA15/0504</b>
2	<b>Proposed development:</b> Six (6) Storey building comprising 126 bed residential aged care facility, 151 independent living units, associated facilities, ancillary retail & medical suites, basement car parking & associated works.
3	<b>Street address:</b> 123-135 Mulgoa Road, Penrith.
4	<b>Applicant/Owner: Applicant – Tulich Aged Care Services. Owner – Mulgoa Road (No. 1) Pty Ltd.</b>
5	<b>Type of Regional development:</b> Development has a capital investment value of \$20m
6	<b>Relevant mandatory considerations</b> <ul style="list-style-type: none"> <li>• Environmental planning instruments: <ul style="list-style-type: none"> <li>○ State Environmental Planning Policy (Infrastructure) 2007</li> <li>○ State Environmental Planning Policy No. 55 – Remediation of Land</li> <li>○ State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development</li> <li>○ State Environmental Planning Policy (Building Sustainability Index: BASIX 2004</li> <li>○ State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004</li> <li>○ Sydney Regional Environmental Plan No. 20 – Hawkesbury/Nepean River Catchment</li> <li>○ Penrith Local Environmental Plan 2010</li> </ul> </li> <li>• Draft environmental planning instruments: Nil</li> <li>• Development control plans: <ul style="list-style-type: none"> <li>○ Penrith Development Control Plan 2014</li> </ul> </li> <li>• Planning agreements: Nil</li> <li>• Regulations: <ul style="list-style-type: none"> <li>○ Environmental Planning and Assessment Regulation 2000</li> </ul> </li> <li>• The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality.</li> <li>• The suitability of the site for the development.</li> <li>• Any submissions made in accordance with the EPA Act or EPA Regulation.</li> <li>• The public interest.</li> </ul>
7	<b>Material considered by the panel:</b> Council assessment report with recommended conditions of consent, Location plan and aerial view of site, Floor plans, elevations and sections, Civil engineering drawings, Roads and maritime services authority's requirements, SEPP 65 compliance table, Seniors living SEPP compliance table, Zoning extract, Applicant's justification to vary building height control, Flood impact assessment, Development control compliance table, Sydney water requirements and written submissions. Verbal submissions at the panel meeting: <ul style="list-style-type: none"> <li>• Maurice Tulich</li> <li>• Ben Bacon</li> <li>• Lara Calder</li> <li>• Kerry Longford</li> </ul>
8	<b>Meetings and site inspections by the panel:</b> 19 November 2015 – Site Inspection and Final Briefing Meeting.
9	<b>Council recommendation:</b> Approval
10	<b>Conditions:</b> Attached to council assessment report and as amended above.