

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

2015SYW134 - Penrith City Council, DA15/0730 – Demolition of existing structures & construction of 5 storey to 8 storey mixed use development including 5 ground floor commercial/retail tenancies, 191 residential apartments & associated basement car parking, landscaping & drainage works, Lots 1-3 DP 403405 & Lots 311-312 DP 14333.

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 and commercial facilities within the Western Metropolitan Subregion and the Penrith local government area in a location with ready transport access to metropolitan transport services provided by Kingswood Rail Station and to the services, amenities and employment provided by Kingswood Neighbourhood Centre, Nepean Hospital and Western Sydney University.
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 result in an improved amenity outcome on adjoining southern properties and 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 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 character with the pattern of development anticipated and planned for in this locality and is recognized as an initial element of the urban transformation of the precinct in which it is placed.
6. The proposed development will have no unacceptable adverse impacts on the natural or built environments including the amenity of nearby residential premises, or the operation of the local road system.
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.

Conditions: The development application was approved subject to the revised conditions distributed at the meeting being Condition 1, Condition 2, Condition 7, Condition 15, Condition 17 (deleted), Condition 18, Condition 55, Condition 57, Condition 86, Condition 87, Condition 88 and Condition 89 amended as follows:

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Amended Conditions: DA15/0730- 48 Derby Street Kingswood

Condition 1

The development must be implemented substantially in accordance with the plans and documents stamped approved by Council, the application form and any supporting information received with the application, except as may be amended in red on the approved plans and by the following conditions.

<i>Document</i>	<i>Prepared by</i>
Architectural Plans - Site Plan, Sheet No. AC-100B - Basement 2 Plan, Sheet No. SK-001 B - Basement 1 Plan, Sheet No. SK-002 B - Ground Level Plan, Sheet No. SK-003 B - Level 1 Plan, Sheet No. AC-104 B - Level 2 Plan, Sheet No. AC-105 B - Level 3 Plan, Sheet No. AC-106 B - Level 4 Plan, Sheet No. AC-107 B - Level 5 Plan, Sheet No. AC-108 B - Level 6 Plan, Sheet No. AC-109 B - Level 7 Plan, Sheet No. AC-110 B - Roof Plan, Sheet No. AC-111 B - Adaptable units, Sheet No. AC-112 B - Section Sheet 1, Sheet No. AC-151 B - Section Sheet 2, Sheet No. AC-152 B - Section Sheet 3, Sheet No. AC-153 B - Ramp Plan and Sections, Sheet No. AC-154 B - Elevation Sheet 1 , Sheet No. AC-161 C	Robertson + Marks Architects

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- Elevation Sheet 2 , Sheet No. AC-162 C		
- Material Board, Sheet No. AC-172 B		
Landscape Plans Project No. 3793b L-01-L03, dated 18 September 2015 (which is to updated by a subsequent plan prepared to be consistent with the latest issue of the architectural ground floor plan)	RFA Landscape Architects	
Arboricultural Report and Tree Management Plan Report No. 1140v4, dated 1 July 2015	Redgum Horticultural	
Geotechnical Report, Project No. 19870/4652C, Report No. 14/1907 dated September 2014	SMEC Testing Services Pty Ltd	
Accessibility Report	PSE Access Consulting	
BASIX Certificate No. 641361M dated 13 July 2015;	Building Assessments Sustainability	
Stormwater Plans: <ul style="list-style-type: none"> ▪ Reference Number H5500, Rev C, dated 18/09/15; ▪ Prepared by J & M Group, Reference Number H5501, Rev D, dated 21/09/15; ▪ Prepared by J & M Group, Reference Number H5502, Rev D, dated 21/09/15; ▪ Prepared by J & M Group, Reference Number H5503, Rev D, dated 21/09/15; ▪ Prepared by J & M Group, Reference Number H5504, Rev C, dated 18/09/15; ▪ Prepared by J & M Group, Reference Number H5505, Rev C, dated 18/09/15; 	J & M Group	
Construction Waste Management Plan	Robertson + Mark Architects	
Acoustic Impact Assessment, Report No. 150383R1, Rev 0, dated 10 September 2015	Rodney Stevens Acoustics	

Condition 2

The development is to be carried out in 2 stages and anything in this consent making reference to a Construction Certificate or Occupation Certificate is to be read as applying to the **relevant** Construction Certificate or **relevant** Occupation Certificate for the relevant stage. **For the avoidance of doubt this consent permits the issue of early works Construction Certificates, or staged Construction Certificates within the relevant Stage of the development and any conditions referring to the relevant stage are to be read as**

applying to the relevant Construction Certificate for the relevant stage.

Condition 7

Building Security & Access Control

- Install intercom, code or card locks or similar for main entries to buildings including the basement car park and front gates to the residential areas.
- Main entry doors for apartment buildings should be displayed requesting residents to not leave doors wedged open.
- Australian Standard 220 – door and window locks should be installed in all dwellings.
- Pedestrian entry to basement parking should be through secure access via the main building.
- Storage areas must be well secured and well lit.
- ~~Install viewers on entry doors to allow residents to see who is at the door before it is opened.~~
- If security grills are used on windows they should be operable from inside in case of emergencies.
- Ensure skylights and /or roof tiles cannot be readily removed or opened from outside.
- Consider building supervisors or security guards. CCTV cameras are recommended for front entry points, lobby areas and basement car park.
- Cameras must be of sufficient standard to be useful for police in the event of criminal investigations.
- Lighting should be provided to support cameras at night (alternatively infra-red cameras are recommended).
- Signage must be displayed to indicate that CCTV cameras are in use.

Condition 15

Prior to works commencing on site, and prior to the issue of any Construction Certificate for the relevant stage, a dilapidation report is to be prepared that provides:

- A photograph record of the condition of adjoining structures on adjoining properties and associated structures. **A copy is to be provided to the adjoining property owners.**

Prior to the issue of an Occupation Certificate for the relevant stage a further dilapidation report is to be prepared that provides:

- A photographic record of the condition of adjoining structures on adjoining properties and associated structures.

Should damage be identified rectification works are to be carried out at full cost to the developer and these rectification works are to be completed prior to the issue of an Occupation Certificate for the relevant stage.

Condition 17

~~One (1) carwash bay is to be reallocated as a resident visitor car space so that a total of 207 resident car spaces are provided.~~

Condition 18

The south facing windows in Units B404, B405, C405 and C406 are to be revised to provide for external screens or treated with raised sill heights to mitigate privacy impacts to the south. In addition, the southern ends of the balconies to these units (other than Units B404, C406) are to be provided with a 1.8m high screen to mitigate privacy impacts to the south.

Condition 55

The stormwater management system shall be provided generally in accordance with the concept plan/s lodged for development approval:

- Prepared by J & M Group, Reference Number H5500, Rev C, dated 18/09/15;
- Prepared by J & M Group, Reference Number H5501, Rev D, dated 21/09/15;
- Prepared by J & M Group, Reference Number H5502, Rev D, dated 21/09/15;
- Prepared by J & M Group, Reference Number H5503, Rev D, dated 21/09/15;
- Prepared by J & M Group, Reference Number H5504, Rev C, dated 18/09/15;
- Prepared by J & M Group, Reference Number H5505, Rev C, dated 18/09/15;

Engineering plans and supporting calculations for the stormwater management systems are to be prepared by a suitably qualified person and shall accompany the application for a Construction Certificate.

Condition 57

Prior to the issue of a Construction Certificate for the relevant stage, the proposal shall be amended to the satisfaction of the Certifying Authority so that the crest in the access ramp to the basement car park is a minimum of 300mm above the top of kerb.

Details prepared by a qualified person, demonstrating compliance with these requirements, shall form part of any Construction Certificate issued.

Condition 86

This condition is imposed in accordance with Penrith City Council's Section 94 Contributions Plan for Cultural Facilities, **in force as of 5 August 2003**. Based on the current rates detailed in the accompanying schedule attached to this Notice, \$63,406 to be paid to Council prior to the issue of a Construction Certificate for the relevant stage being issued for this development (the rates are subject to quarterly reviews

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and indexed according to the Consumer Price Index). The final Section 94 invoice will be issued for each respective stage to facilitate staged payment of development contributions.

If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted Section 94 plan. The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule.

Council should be contacted prior to payment to ascertain the rate for the current quarterly period. The S94 invoice accompanying this consent should accompany the contribution payment. The Section 94 Contributions Plan for Cultural Facilities may be inspected at Council's Civic Centre, 601 High Street, Penrith.

Condition 87

This condition is imposed in accordance with Penrith City Council's Section 94 Contributions Plan for District Open Space, **in force as of 18 December 2007**. Based on the current rates detailed in the accompanying schedule attached to this Notice, \$675,094 to be paid to Council prior to the issue of a Construction Certificate for the relevant stage being issued for this development (the rates are subject to quarterly reviews **and indexed according to the Consumer Price Index**). The final Section 94 invoice will be issued for each respective stage to facilitate staged payment of development contributions.

If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted Section 94 plan. The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule.

Council should be contacted prior to payment to ascertain the rate for the current quarterly period. The S94 invoice accompanying this consent should accompany the contribution payment. The Section 94 Contributions Plan for District Open Space be inspected at Council's Civic Centre, 601 High Street, Penrith.

Condition 88

This condition is imposed in accordance with Penrith City Council's Section 94 Contributions Plan for Local Open Space **in force as of 26 June 2007**. Based on the current rates detailed in the accompanying schedule attached to this Notice, \$244,089 to be paid to Council prior to the issue of a Construction Certificate for the relevant stage being issued for this development (the rates are subject to quarterly reviews **and indexed according to the Consumer Price Index**). The final Section 94 invoice will be issued for each respective stage to facilitate staged payment of development contributions.

If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted Section 94 plan. The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule.

Council should be contacted prior to payment to ascertain the rate for the current quarterly period. The S94 invoice accompanying this consent should accompany the contribution payment. The Section 94 Contributions Plan for Local Open Space be inspected at Council's Civic Centre, 601 High Street, Penrith.

Condition 89

This condition is imposed in accordance with Penrith City Council's Section 94 Contributions Plan for






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Kingswood Neighbourhood Centre **in force as of 22 May 2001**. Based on the current rates detailed in the accompanying schedule attached to this Notice, \$64,293 is to be paid to Council prior to the issue of a Construction Certificate for the relevant stage being issued for this development (the rates are subject to quarterly reviews **and indexed according to the Consumer Price Index**). The final Section 94 invoice will be issued for each respective stage to facilitate staged payment of development contributions.

If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted Section 94 plan. The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule.

Council should be contacted prior to payment to ascertain the rate for the current quarterly period. The S94 invoice accompanying this consent should accompany the contribution payment. The Section 94 Contributions Plan for Kingswood Neighbourhood Centre may be inspected at Council's Civic Centre, 601 High Street, Penrith.

Panel members:

 Bruce McDonald (Acting Chair)	 Lindsay Fletcher	 Bruce Clarke
 Ross Fowler	 Barry Husking	

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SCHEDULE 1

1	JRPP Reference – 2015SYW134, LGA – Penrith City Council, DA15/0730
2	Proposed development: Demolition of existing structures & construction of 5 storey to 8 storey mixed use development including 5 ground floor commercial/retail tenancies, 191 residential apartments & associated basement car parking, landscaping & drainage works.
3	Street address: Lots 1-3 DP 403405 & Lots 311-312 DP 14333.
4	Applicant/Owner: Applicant – Skyton Developments Pty Ltd. Owner: Howard and Evon Markwick
5	Type of Regional development: Development has a capital investment value of \$20m
6	Relevant mandatory considerations <ul style="list-style-type: none"> • Environmental planning instruments: <ul style="list-style-type: none"> ○ State Environmental Planning Policy No. 55 – Remediation of Land ○ Sydney Regional Environmental Plan No. 20 – Hawkesbury/Nepean River Catchment ○ State Environmental Planning Policy (Infrastructure) 2007 ○ State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development ○ Penrith Local Environmental Plan 2010 • Draft environmental planning instruments: Nil • Development control plans: <ul style="list-style-type: none"> ○ Penrith Development Control Plan 2014 • Planning agreements: Nil • Regulations: <ul style="list-style-type: none"> ○ Environmental Planning and Assessment Regulation 2000 • The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality. • The suitability of the site for the development. • Any submissions made in accordance with the EPA Act or EPA Regulation. • The public interest.
7	Material considered by the panel: Council assessment report with recommended conditions of consent, Location plan, Aerial view of site & zoning map extract, Architectural plans & 3D images, Landscape plans, SEPP 65 & apartments design guide checklist, Clause 4.6 variation request, Envelope & solar access diagrams and written submissions. Verbal submissions at the panel meeting: <ul style="list-style-type: none"> • Vicki O'Connell •
8	Meetings and site inspections by the panel: 19 November 2015 – Site Inspection and Final Briefing Meeting.
9	Council recommendation: Approval
10	Conditions: Attached to council assessment report