

DATE OF DETERMINATION	Thursday, 13 July 2017
PANEL MEMBERS	Sean O'Toole (Chair), Mary-Lynne Taylor, Lindsay Fletcher and Ross Fowler
APOLOGIES	Glenn McCarthy and Ben Price
DECLARATIONS OF INTEREST	None

Public meeting held at Penrith City Council on 13 July 2017, opened at 1:00 pm and closed at 1:45 pm.

MATTER DETERMINED

2016SYW129 – Penrith - DA16/0649 AT 12 John Tipping Grove PENRITH (AS DESCRIBED IN SCHEDULE 1)

PANEL CONSIDERATION AND DECISION

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

The Panel determined to:

- (a) uphold the applicant's request to vary Clause 4.3 Height of Buildings pursuant to Clause 4.6 Penrith LEP 2010; and
- (b) approve the development application as described in Schedule 1 subject to the recommended conditions of consent as amended below pursuant to section 80 of the *Environmental Planning and Assessment Act 1979*.

for the reasons set out below.

The Panel adjourned during the meeting to deliberate on the matter and formulate a resolution.

The decision was unanimous.

REASONS FOR THE DECISION

1. The Panel has considered the Applicant's request to vary the development standard contained in Clause 4.3 Height of Buildings of Penrith LEP 2010 and considers that:

- i. the applicant's submission adequately addresses the matters required under cl.4.6;
- ii. the development remains consistent with the objectives of the standard and the objectives of the zone;
- iii. there are sufficient environmental planning grounds to justify the variation, in particular the provision of 'green roofs' on the development for the purpose of reducing heat in accordance with the Penrith Progression Plan for Action, as agreed by the applicant and imposed by condition, is considered to be a significant environmental benefit; and
- iv. compliance with the standard is unreasonable and unnecessary in the circumstances of this case as the proposed variation is acceptable from a streetscape perspective, will not generate

unacceptable impacts on adjoining or nearby properties and will not result in development inconsistent in form and scale with that existing and planned for the locality.

For the above reasons, the Panel is satisfied that the variation from the LEP development standard is in the public interest.

2. The proposed development will add to the supply of housing within the Sydney West District and the City of Penrith in a location with ready access to the metropolitan transport services provided at Penrith Rail Station and the amenities and services available within Penrith CBD.

3. The proposed development adequately satisfies the relevant State Environmental Planning Policies including SEPP55 – Remediation of Land, SEPP 65 (Design Quality of Residential Flat Development) and its associated Apartment Design Guide and SEPP (Infrastructure) 2007.

4. The proposal adequately satisfies the applicable provisions and objectives of Penrith LEP 2010, noting that variation of the height standard contained in Cl.4.3 of the LEP is permitted under the provisions of Cl.4.6 and is acceptable for the reasons outlined above. The proposal adequately satisfies the requirements of Penrith DCP 2014.

5. The proposed development is considered to be of appropriate scale and form compatible with the scale and character planned for the locality in which it is placed.

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 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 of the proposal is in the public interest.

CONDITIONS

The development application was approved subject to the conditions in the Council Assessment Report with the amendments described in the memorandum from Penrith City Council dated 11 July 2017 and with the addition of the following condition:

Prior to the issue of a construction certificate, details are to be provided to the satisfaction of Council's landscape architect that incorporate a 'green landscaped roof' on the two buildings fronting the western property boundary to reduce the urban heat island effect in accordance with Penrith Progression – Plan for Action

and agreed administrative edits.

PANEL MEMBERS	
 Sean O'Toole OAM (Chair)	 Mary-Lynne Taylor
 Lindsay Fletcher	 Ross Fowler OAM

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	2016SYW129 – Penrith - DA16/0649
2	PROPOSED DEVELOPMENT	Demolition of Existing Structures & Construction of Three (3) x Six (6) Storey Residential Flat Buildings containing 119 Apartments & Two (2) Levels of Basement Car Parking
3	STREET ADDRESS	10 – 16 John Tipping Grove Penrith 1-3 De Vilnits Parade Penrith
4	APPLICANT OWNER	Morson Group Pty Ltd Western Sydney Developments Pty Ltd
5	TYPE OF REGIONAL DEVELOPMENT	General development over \$20 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> • 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 • Penrith Local Environmental Plan 2010 (Amendment 4) • Penrith Development Control Plan 2014 • 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 <i>Environmental Planning and Assessment Act 1979</i> or regulations • The public interest, including the principles of ecologically sustainable development
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> • Council assessment report: 29 June 2017 • Written submissions during public exhibition: seven (7) • Letter from applicant dated 9 July 2017 • Memorandum addressing applicant letter from Council dated 11 July 2017 • Verbal submissions at the public meeting: <ul style="list-style-type: none"> ○ On behalf of the applicant – Gregory Allchin, Warwick Stimson and Ivica Djuric
8	MEETINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> • Briefing meeting on 22 February 2017 • Final briefing meeting to discuss council’s recommendation, 13 July 2017, 11:45 am. Attendees: <ul style="list-style-type: none"> ○ <u>Panel members</u>: Sean O’Toole (Chair), Mary-Lynne Taylor, Lindsay Fletcher, Ben Price and Ross Fowler ○ <u>Council assessment staff</u>: Gavin Cherry and Robert Craig
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report