

DATE OF DETERMINATION	Monday, 13 September 2021
PANEL MEMBERS	Justin Doyle (Chair), Louise Camenzuli, Sue Francis , Darcy Lound and George Griess
APOLOGIES	Nicole Gurran
DECLARATIONS OF INTEREST	None

Public meeting held by teleconference on 13 September 2021, opened at 11:09am and closed at 11:45am.

MATTER DETERMINED

2017SSW042 – Campbelltown City Council – 389/2017/DA-RA at Raith, 74 Fern Avenue, Bradbury NSW 2560 – Refurbishment of the existing heritage residence (Raith), (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 briefings and the matters observed at site inspections listed at item 8 in Schedule 1.

Application to vary a development standard

Following consideration of a written request from the applicant, made under cl 4.6 (3)(A) of the Campbelltown Local Environmental Plan 2015, the applicant has demonstrated, with written justification, that:

- a) compliance with cl 4.3(A) and cl 4.1(C) the development standard relating to height and lot size, respectively is unreasonable or unnecessary in the circumstances of this development since the variations do not prevent the development satisfying the objectives of the standard; and
- b) there are sufficient environmental planning grounds to justify contravening the development standard

the Panel is satisfied that:

- a) the applicant's written requests adequately address the matters required to be addressed under cl 4.6 (3) of the LEP; and
- b) the development is in the public interest because it is consistent with the objectives of cl. Cl4.3A and cl 4.1(C) (height and minimum lot size development standards) of the LEP and the objectives for development in the R2 zone; and
- c) the concurrence of the Secretary has been assumed

Development application

The Panel determined to approve the development application pursuant to section 4.16 of the Environmental Planning and Assessment Act 1979.

The decision was unanimous.

REASONS FOR THE DECISION

The Panel determined to uphold the Clause 4.6 variations to building height and minimum lot size and approve the application for the reasons outlined in the council assessment report and the following.

The proposal is for the adaptive reuse and restoration of Raith House, being a heritage item, which is submitted under the provisions of cl 5.10 of the LEP. This allows the development to be permissible notwithstanding that a residential flat building would otherwise be prohibited in the R2 zone.

Clause 5.10(10) of the CLEP 2015 stipulates the following:

‘(10) The consent authority may grant consent to development for any purpose of a building that is a heritage item or of the land on which such a building is erected, or for any purpose on an Aboriginal place of heritage significance, even though development for that purpose would otherwise not be allowed by this Plan, if the consent authority is satisfied that—

- (a) the conservation of the heritage item or Aboriginal place of heritage significance is facilitated by the granting of consent, and*
- (b) the proposed development is in accordance with a heritage management document that has been approved by the consent authority, and*
- (c) the consent to the proposed development would require that all necessary conservation work identified in the heritage management document is carried out, and*
- (d) the proposed development would not adversely affect the heritage significance of the heritage item, including its setting, or the heritage significance of the Aboriginal place of heritage significance, and*
- (e) the proposed development would not have any significant adverse effect on the amenity of the surrounding area. ‘*

The Panel accepts the assessing officer’s recommendation that, in this case,

- Additional development density outside of the recommended setting for Raith identified in the 2014 CMP by the red border in the diagram at the beginning of the Council’s report would provide additional funding for the physical rehabilitation of Raith; and
- Residential flat buildings would occupy less site area than permissible forms of residential development would with the same number of dwellings. The inclusion of residential flat buildings would therefore allow as much as possible of Raith’s curtilage/setting to be conserved whilst ensuring a sufficient development yield is achieved to allow for the funding of rehabilitation and maintenance for Raith.

In relation to point (b) of Clause 5.10(10), it is noted that the definition of heritage management document in the CLEP 2015 is:

- a) a heritage conservation management plan, or
- b) (b) a heritage impact statement, or
- c) (c) any other document that provides guidelines for the ongoing management and conservation of a heritage item, Aboriginal object, Aboriginal place of heritage significance or heritage conservation area.

Whilst no CMP or HIS has been previously approved by the consent authority (the SWC Planning Panel) for Raith, the CMP and HIS form part of and will be approved as part of this application, and the proposed development is in accordance with these documents.

In addition, Volume 2 - Part 4 of the SCDP 2015 (Site Specific DCP for Certain Heritage Items) would suffice as a document that provides guidelines for the ongoing management and conservation of Raith. Assessment of the proposed development against this document, shows that the proposed development satisfies its provisions.

In relation to point (c) of Clause 5.10(10), the recommended conditions of consent include conditions that ensure that all of the necessary conservation work identified in the Conservation Works Schedule (both upfront restoration works and ongoing maintenance works) would be carried out.

In relation to point (d) of Clause 5.10(10), the proposed development respects the recommended setting for Raith identified in the 2014 CMP by the red border in the diagram at the beginning of the Council’s report by locating all proposed buildings outside of this area. It would have a positive impact on the heritage significance of Raith by facilitating the funding of its restoration and maintenance.

In relation to point (e) of Clause 5.10(10), in the opinion of Council, and accepted by the Panel, the proposed development (in particular the residential flat buildings to which this clause is most relevant) would not have adverse effects on the amenity of the surrounding area.

The Panel heard from a local resident who was concerned with the proposed increased traffic volumes, parking and access points. However, the Panel was satisfied by comments from Council's development engineer and advice from the applicant that the access point is preferable, and that traffic generation would be satisfactorily accommodated on the local road. On site parking also complied with Council's relevant parking controls.

The Panel did seek information with regard to the staging and sequencing of the development and to ensure that the staging was sequential. Likewise, there was concern as to certain references on the architectural plans relating to their preliminary nature, but was satisfied that these issues could be addressed by conditions of consent.

CONDITIONS

The Panel raised queries regarding the number and content of many of the proposed Deferred Commencement Conditions (DCCs).

This was in respect of whether they were appropriate as DCCs or whether they were necessary at all. The Panel asked the Council to revisit these draft conditions, in consultation with the applicant with a view to removing or minimising the DCCs.

The Council and applicant reviewed the draft conditions and the applicant responded to that review in their response to the Panel dated 20 September 2021. The Panel has reviewed these conditions and is satisfied that they address the concerns raised by the Panel and that they would address the concerns raised in submissions.

The application is approved subject to the these amended conditions dated 22/9/21 and placed on the portal.

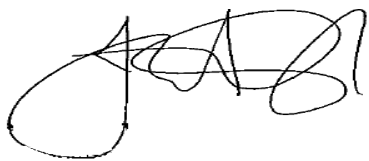
CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered written submissions made during public exhibition and heard from all those wishing to address the Panel. The Panel notes that issues of concern included:

- Increased traffic volumes
- Vehicular access
- Parking problems
- Building height
- Noise levels
- Tree removal
- Heritage impacts
- Visual privacy
- Solar access
- Built form
- Flooding

The Panel considers that concerns raised by the community have been adequately addressed in the assessment report and that no new issues requiring assessment were raised during the public meeting.

PANEL MEMBERS



Justin Doyle (Chair)



Louise Camenzuli



Sue Francis



Darcy Lound



George Griess

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	2017SSW042 – Campbelltown City Council – 389/2017/DA-RA
2	PROPOSED DEVELOPMENT	Refurbishment of the existing heritage residence (Raith), construction of 72 dwellings in the form of attached dwellings and residential flat buildings, conversion of two existing outbuildings into dwellings, and subdivision of the site by way of Community, Torrens and Strata title subdivision
3	STREET ADDRESS	74 Fern Avenue, Bradbury
4	APPLICANT/OWNER	KYS Properties Pty Ltd
5	TYPE OF REGIONAL DEVELOPMENT	General development over \$20 million (DA lodged prior to 1 March 2018)
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> Environmental planning instruments: <ul style="list-style-type: none"> State Environmental Planning Policy 55 – Remediation of Land State Environmental Planning Policy (Infrastructure) 2007 State Environmental Planning Policy 65 – Design Quality of Residential Apartment Development Apartment Design Guide State Environmental Planning Policy (BASIX) 2004 Campbelltown Local Environmental Plan 2015 Draft environmental planning instruments: Nil Development control plans: <ul style="list-style-type: none"> Campbelltown Sustainable City Development Control Plan 2015 (including Amendments 17 and 24) Planning agreements: Nil Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: Nil Coastal zone management plan: Nil 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: 24 August 2021 Clause 4.1C of Campbelltown Local Environmental Plan 2015 – Minimum allotment size for subdivision of attached dwellings Clause 4.3 of Campbelltown Local Environmental Plan 2015 – Maximum Building Height Clause 4.3A of Campbelltown Local Environmental Plan 2015 – Maximum Number of Storeys Applicant letter received: 10 and 20 September 2021 Draft conditions dated 22 September 2021 and Supplementary report dated 22 September 2021 Written submissions during public exhibition: 39 Verbal submissions at the public meeting: <ul style="list-style-type: none"> Robyn Donney Council assessment officer – Luke Joseph On behalf of the applicant – Jeremy Swan Total number of unique submissions received by way of objection: 30

8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> • Briefing: Monday, 18 September 2017 <ul style="list-style-type: none"> ○ <u>Panel Members:</u> Sheridan Dudley (Chair), Bruce McDonald, Nicole Gurrán, George Griess and Darcy Lound ○ <u>Council assessment staff:</u> Rad Blagojevic and Andrew McGee • Site inspection: Monday, 18 September 2017 <ul style="list-style-type: none"> ○ <u>Panel Members:</u> Sheridan Dudley (Chair), Bruce McDonald, Nicole Gurrán, George Griess and Darcy Lound ○ <u>Council assessment staff:</u> Rad Blagojevic and Andrew McGee • Briefing: Monday, 8 March 2021 <ul style="list-style-type: none"> ○ <u>Panel Members:</u> Justin Doyle (Chair), Louise Camenzuli, Nicole Gurrán, George Griess and Darcy Lound ○ <u>Council assessment staff:</u> Luke Joseph, David Smith and Rana Haddad • Briefing: Monday, 12 July 2021 <ul style="list-style-type: none"> ○ <u>Panel Members:</u> Justin Doyle (Chair), Louise Camenzuli, Nicole Gurrán, George Griess and Darcy Lound ○ <u>Council assessment staff:</u> Luke Joseph and David Smith • Final briefing to discuss council's recommendation: Monday, 13 September 2021 <ul style="list-style-type: none"> ○ <u>Panel Members:</u> Justin Doyle (Chair), Louise Camenzuli, Nicole Gurrán, George Griess and Darcy Lound ○ <u>Council assessment staff:</u> Luke Joseph, Rana Haddad and David Smith
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report