

DATE OF DETERMINATION	20 December 2018
PANEL MEMBERS	Justin Doyle (Chair), Bruce McDonald, Nicole Gurran, Ross Fowler and Glenn McCarthy
APOLOGIES	None
DECLARATIONS OF INTEREST	None

Papers circulated electronically between 11 December 2018 and 20 December 2018.

MATTER DETERMINED

Panel Ref – 2017SWT014 – LGA – Penrith – DA17/0995 at UWS Great Western Highway, Kingswood (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.

Overall, the application is a substantial improvement on the scheme presented to the Panel at the original briefing, particularly with regards to the way in which the south western corner of O'Connell Street has been recognised as a future focal point of the locality as emphasised by the Panel's preliminary consideration of the site.

That part of the scheme now engages the surrounding area well and gives appropriate recognition to its situation at a major access point of the university presenting to the adjacent large residential subdivisions that have been recently developed. Community use of and engagement with the site is now encouraged through improved design and the inclusion of the community facility building.

With that change in particular, the architectural design appears to be of an appropriately high standard, and the objectives of SEPP 65 are satisfied.

The variations from the DCP's Precinct Plan such as with respect to the closure of O'Connell Street west of subject site are acceptable given the improved planning outcome of the site in terms of its integration with the surrounding area.

One matter the Panel notes is that the Council assessment report erroneously includes:

Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?

Not Applicable

In fact, a written request under clause 4.6 was made in relation to two development standards.

The Panel agrees with the discussion of those standards in the Council assessment report and specifically:

Clause 7.12 of the LEP 2010 - GFA.

The application seeks to depart from the strict application of the development standard governing the maximum gross floor area for retail and commercial buildings of 10,000 square metres set for this site.

In the Panel's view the minor variation to this standard of around 1.3 % is insignificant and the planning outcome in that regard is sufficiently positive in its engagement of the community aspects of the development to render the strict application of the standard unreasonable and unnecessary.

Clause 4.3 of the LEP 2010 – Building height

The height standard if applied strictly would limit building heights to 5m for part of the front of the site (around 15% of the site) and 15m building height limit (around 85% of the site).

The community use building and a small part of the mixed use shop top house buildings would exceed that standard, but the exceedance does not compromise the overall appearance of the building when viewed from publicly available vantages and does not result in any significant adverse amenity impacts.

Again, strict application of the standard would be unreasonable and unnecessary in this case.

The minor variation to the recommended minimum car parking provision specified in Part 3J of the Apartment Design Guide is also not significant and would not justify refusal.

The development is required by the conditions to be relevantly constructed to 12.5 BAL and Council advises that it will comply with Section 4.1.3 of Planning for Bush Fire Protection 2006.

The proposal will result in the loss of thirty three (33) existing trees, but the proposed replacement plantings will compensate over time.

SEPP 55 has been met with the "Contamination Assessment" prepared by Environment Investigation Service dated 15 June 2018 and Phase 2 Environmental Site Assessment found to be acceptable.

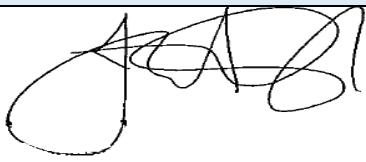




The RMS and Council are satisfied with the traffic outcome.

The other relevant provisions of the LEP, the DCP, other applicable instruments and the considerations required by s.4.15 of the Environmental Planning & Assessment Act are sufficiently satisfied for the reasons set out in the Council report.

On that basis, the Panel has resolved to uphold the Clause 4.6 variation to building height and Gross Floor Area, and to approve the application for the reasons outlined in the council assessment report.

CONDITIONS

The development application was approved subject to the conditions in the Council Assessment Report.

PANEL MEMBERS	
 Justin Doyle (Chair)	 Bruce McDonald
 Nicole Gurran	 Ross Fowler
 Glenn McCarthy	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	Panel Ref – 2017SWT014 – LGA – Penrith – DA17/0995
2	PROPOSED DEVELOPMENT	Staged Concept Development Comprising Stage 1 Works involving the Construction of Commercial Shopping Centre Development, Shop Top Housing and Associated Bulk Earthworks, Road Works, Car Parking, Landscaping, Drainage Works and Advertising Signage and Stage 2 Concept Development for Future Commercial/Retail Tenancies
3	STREET ADDRESS	UWS Great Western Highway, Kingswood
4	APPLICANT/OWNER	Western Sydney University C/-Higgins Planning
5	TYPE OF REGIONAL DEVELOPMENT	General development over \$30 million
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 State Environmental Planning Policy (Infrastructure) 2007 Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River Penrith Local Environmental Plan 2010 (Amendment 4) Draft environmental planning instruments: Nil Development control plans: <ul style="list-style-type: none"> Penrith Development Control Plan 2014 Planning agreements: Nil

		<ul style="list-style-type: none"> • 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: 4 December 2018 • Written submissions during public exhibition: 1 (withdrawn)
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL/PAPERS CIRCULATED ELECTRONICALLY	<ul style="list-style-type: none"> • Site inspection and briefing – 24 January 2018 • Applicant Briefing – 25 June 2018 • Papers circulated electronically between 11 December 2018 and 20 December 2018.
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report