

<b>DATE OF DETERMINATION</b>	18 March 2019
<b>PANEL MEMBERS</b>	Justin Doyle (Chair), Bruce McDonald, Nicole Gurrán, Glenn McCarthy and Ross Fowler
<b>APOLOGIES</b>	Nil
<b>DECLARATIONS OF INTEREST</b>	Nil

Public meeting held at Penrith City Council on Monday, 18 March 2019, opened 4.08pm and closed at 5.48pm.

#### **MATTER DEFERRED**

Panel Ref – 2018SWT005 – LGA – Penrith – DA18/0264 at 87-93 Union Road, Penrith (as described in Schedule 1)

#### **REASONS FOR DEFERRAL**

The panel agreed to defer the determination of the matter to a further public determination meeting at a time to be fixed by the Panel Secretariat after the Director General advises whether it gives its concurrence to the development application as required by clause 8.4 of Penrith LEP.

The decision to defer the matter was unanimous. The Panel adjourned during the meeting to deliberate on the matter and formulate a resolution.

The Panel invites the Applicant to submit through the Council for consideration in the Panel's determination a note as to:

- Whether the Applicant agrees that the proper construction of the savings provision at clause 1.8A of the Penrith LEP and s.4.15(1)(a)(ii) (which provides that as the development application was made before the commencement of the LEP, it must be determined as if the LEP had not commenced) is that the Panel must take into consideration the contents of clause 8.7 as though it was a provision in a proposed instrument that is or has been the subject of public consultation under the Environmental Planning & Assessment Act 1979 that has been notified to the consent authority.
- If so, how the Applicant says the Panel is to consider (in the assessment of its clause 4.6 request and of the proposed development generally) the inclusion in clause 8.7 of a requirement relevantly that:  

“... the consent authority may consent to development on land to which this clause applies (including the erection of a new building ...) that exceeds the maximum height shown for the land on the Height of Buildings Map or the floor space ratio for the land shown on the Floor Space Ratio Map, or both, if the proposed development includes community infrastructure.”
- In particular, what (if any) consideration should the Panel give to any community infrastructure (within the meaning of clause 8.7) included in the development, including “... *the nature and value of such community infrastructure to the City Centre*” (see clause 8.7(5)(c)), as well as any value of that same infrastructure to the development.

4. To the extent that the dedication of a new road is proposed by the applicant as part of the development, or as a condition of the approved development, is a voluntary planning agreement appropriate in relation to that dedication ?

#### CONSIDERATION OF COMMUNITY VIEWS

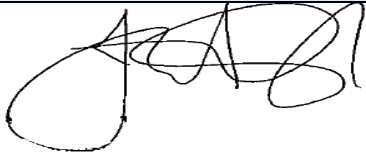




Prior to the meeting, the Panel considered written submissions made during public exhibition from three objectors and heard from those wishing to address the panel as listed at item 7 in Schedule 1.

Issues of concern raised in the objection letters included:

- The impact of the proposed development on views towards the Blue Mountains.
- Solar access.
- Traffic impacts
- Excessive height.

The Panel was advised by Council staff that the objection that had been made for the owners of High 618 Pty Ltd, the owner of Nos 614-632 High Street, Penrith had been withdrawn.

The Panel considers that concerns raised by the community have been adequately addressed in the assessment report and that no further new issues requiring assessment were raised during the public meeting, other than the matters identified above for comment from the applicant.

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

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	Panel Ref – 2018SWT005 – LGA – Penrith – DA18/0264
2	PROPOSED DEVELOPMENT	Construction of a Part Twelve (12) Storey & Part Fifteen (15) Storey Mixed Use Development including Basement, Podium Level 1 & Level 2 Car Parking, Ground Floor Business and Commercial Uses, 187 Residential Apartments & Construction and Dedication of a Public Road, Stormwater Drainage, Civil and Public Domain Works & Landscaping

3	STREET ADDRESS	87-93 Union Road, Penrith
4	APPLICANT/OWNER	Applicant – Toga Penrith Development C/-Urbis Owner – Silver Star Investments (Aust) Pty Ltd
5	TYPE OF REGIONAL DEVELOPMENT	CIV over 30 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> <li>• Environmental planning instruments: <ul style="list-style-type: none"> <li>○ Penrith Local Environmental Plan 2010 (Amendment 4)</li> <li>○ State Environmental Planning Policy No. 55 – Remediation of Land</li> <li>○ State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development</li> <li>○ State Environmental Planning Policy (Infrastructure) 2007</li> <li>○ State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004</li> <li>○ State Environmental Planning Policy (State and Regional Development) 2011</li> <li>○ Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River</li> </ul> </li> <li>• Draft environmental planning instruments: Nil</li> <li>• Development control plans: <ul style="list-style-type: none"> <li>○ Penrith Local Environmental Plan 2014</li> </ul> </li> <li>• Planning agreements: Nil</li> <li>• Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: Nil</li> <li>• Coastal zone management plan: Nil</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 <i>Environmental Planning and Assessment Act 1979</i> or regulations</li> <li>• The public interest, including the principles of ecologically sustainable development</li> </ul>
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> <li>• Council assessment report: 5 March 2019</li> <li>• Written submissions during public exhibition: 3</li> <li>• Verbal submissions at the public meeting: <ul style="list-style-type: none"> <li>○ In support – Nil</li> </ul> </li> </ul>

		<ul style="list-style-type: none"> <li>○ In objection – Nil</li> <li>○ Council assessment officer – Kathryn Saunders, Peter Wood and Paul Anzellotti</li> <li>○ On behalf of the applicant – Lauren Williams, John Wynne and Harshane Kahagalle</li> </ul>
<b>8</b>	<b>MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL</b>	<ul style="list-style-type: none"> <li>● Briefing: 25 June 2018 (1<sup>st</sup> briefing)</li> <li>● Briefing: 17 October 2018 (2<sup>nd</sup> briefing)</li> <li>● Site Inspection: 18 March 2018</li> <li>● Final briefing to discuss council's recommendation, 18 March 2018, time 1.50pm to 3.45pm.</li> <li>● Attendees: <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Justin Doyle (Chair), Bruce McDonald, Nicole Gurran, Glenn McCarthy and Ross Fowler</li> <li>○ <u>Council assessment staff</u>: Kathryn Saunders, Peter Wood, Wayne Mitchell and Paul Anzellotti</li> </ul> </li> </ul>
<b>9</b>	<b>COUNCIL RECOMMENDATION</b>	Approval
<b>10</b>	<b>DRAFT CONDITIONS</b>	Attached to the council assessment report