

DATE OF DETERMINATION	13 May 2019
PANEL MEMBERS	Justin Doyle (Chair), Bruce McDonald, Nicole Gurran and Ross Fowler
APOLOGIES	Glenn McCarthy
DECLARATIONS OF INTEREST	Nil

Public meeting held at Penrith City Council on Monday, 13 May 2019, opened 4.27pm and closed at 6.37pm.

MATTER DETERMINED

Panel Ref - 2018WCI013 – LGA - Penrith - DA18/1205, Address - Nepean District Hospital at 35-65 Derby Street 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.

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

The Panel determined to approve the development application pursuant to section 4.33 of the *Environmental Planning and Assessment Act 1979*.

The decision was unanimous.

REASONS FOR THE DECISION

1. The proposed development will provide conveniently located childcare service facilities within the Penrith Health and Education Precinct for accommodation of children of Nepean Hospital staff
2. The proposed development subject to the conditions imposed adequately satisfies the relevant State Environmental Planning Policies including SEPP 55 (Remediation of Land), SEPP (Infrastructure) 2007, SEPP (Educational Establishments and Child Care Facilities), SEPP 64- Advertising and Signage and State Regional Environmental Plan No20- Hawkesbury Nepean River.
3. The proposal adequately responds to SEPP (Educational Establishment and Child Care Facilities), in relation to the siting of the centre. While the facility is adjacent a classified road, Noise and air mitigation measures are proposed, and in particular a 3m high protective fence /barrier is to be erected on the Great Western Highway frontage. With the wall designed to include concrete and steel supports, it has been assessed by Council staff to be sufficient to address potential vehicle collision. On the basis of the assessment of those matters by Council staff, the Panel accepts that the site is suitable for this use.

4. The proposal adequately satisfies the objectives and provisions of Penrith LEP 2010. While the proposed development is not a permitted use within the applicable SP2 Infrastructure Health Services Facilities Zoning under the LEP, a child care facility is permitted by virtue of Part 3 Division 10- Health Services Facilities of SEPP (Infrastructure) 2007 which overrides inconsistent provisions of Penrith LEP 2010.
5. The proposal adequately satisfies the objectives and provisions of Penrith Development Control Plan 2014 and has been assessed by Council staff to satisfy relevant provisions of the Child Care Planning Guideline - Delivering quality child care for NSW 2017 issued by the Department of Planning.
6. The proposed development subject to the conditions imposed will have no unacceptable adverse impacts on the natural or built environments and will not adversely affect the operation of the local road system.
7. The proposed development is considered to be of a scale and form which will integrate with the future development of adjoining allotments and is consistent with the existing and planned development of this sector of Penrith Health and Education Precinct.
8. In consideration of conclusions 1-7 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 council assessment report with the following amendments agreed by the applicant –

Condition 7 to read as follows –

The operating hours are from 6.00am to 6.30pm Monday to Friday.

Condition 9 to read as follows –

The maximum number of children placed at the centre is to be limited to 68 as follows:

- 24 x 0-2 year old children;
- 15 x 2-3 year old children; and
- 29 x 3-5 year old children

Condition 12 to read as follows –

Prior to works commencing the MUSIC modelling must be amended and resubmitted to Council for approval. The model must include all proposed hard surfaces and landscaped areas that form part of the development.

Condition 50 to read as follows –

Prior to the commencement of above ground works, written advice must be obtained from an approved telecommunications carrier stating that satisfactory arrangements have been made to ensure provisions of adequate services.

Condition 68 – 3rd paragraph is modified to read as follows –

In the Arboricultural Development Assessment Report, prepared by Moore Trees, author Paul Vezgoff, dated November 2018 there is a duplicate in numbering for Tree 255. Both trees are located adjacent to the car park but in slightly different locations. The Tree 255 (a small *Toona australis*, Red Cedar) that is adjacent to the loading dock area shall be known as 258 and designated

as a tree to be removed. The second Tree 255 (Eucalyptus punctate, Grey Gum) is to be retained and protected and is within the clump of trees numbered 256 & 257.

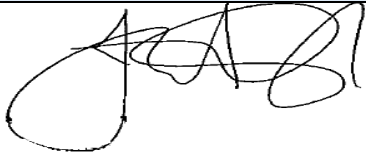



CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered written submissions made during public exhibition and heard from those wishing to address the panel in support of the proposal as listed at item 7 in Schedule 1.

The Panel notes that issues of concern in the written objection received included:

- The siting of the centre adjacent to a public road; and
- Consequent potential for risks associated with particulate emissions and vehicular collision.

The Panel considers that those concerns have been found to be adequately addressed in the assessment report and that no further new issues requiring assessment were raised during the public meeting.

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

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	Panel Ref - 2018WCI013 – LGA - Penrith - DA18/1205
2	PROPOSED DEVELOPMENT	Description - Construction of 68 Place Child Care Centre & Associated Site Works
3	STREET ADDRESS	Address - Nepean District Hospital at 35-65 Derby Street Kingswood
4	APPLICANT/OWNER	Applicant – NSW Government Health Infrastructure Owner – Nepean Blue Mountains Local Health District
5	TYPE OF REGIONAL DEVELOPMENT	Crown – S4.33 referral
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> • Environmental planning instruments: <ul style="list-style-type: none"> ○ Penrith Local Environmental Plan 2010 (Amendment 4) ○ State Environmental Planning Policy No. 55 – Remediation of Land ○ State Environmental Planning Policy (Infrastructure) 2007 ○ State Environmental Planning Policy (State and Regional

		<p>Development) 2011</p> <ul style="list-style-type: none"> ○ Sydney Regional Environmental Plan No. 20 – Hawkesbury Nepean River • Draft environmental planning instruments: Nil • Development control plans: <ul style="list-style-type: none"> ○ Penrith Local Environmental Plan 2014 • 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: 13 May 2019 • Written submissions during public exhibition: 1 • Verbal submissions at the public meeting: <ul style="list-style-type: none"> ○ In support – Nil ○ In objection – Nil ○ Council assessment officer – Gemma Bennett ○ On behalf of the applicant – Matt Jeffrey and Kirk Gleeson, Daniel Nina, Anna Verghese and Stephen Janson to answer questions from Panel.
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> • Site inspection and briefing: 29 January 2019 • Final briefing to discuss council's recommendation, 13 May 2019, time 3.00pm • Attendees: <ul style="list-style-type: none"> ○ <u>Panel members</u>: Justin Doyle (Chair), Bruce McDonald, Nicole Gurrán and Ross Fowler ○ <u>Council assessment staff</u>: Gemma Bennett
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report