

## DETERMINATION AND STATEMENT OF REASONS SYDNEY WESTERN CITY PLANNING PANEL

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| <b>DATE OF DETERMINATION</b>    | 16 September 2019   |
| <b>PANEL MEMBERS</b>            | Bruce McDonald (Acting Chair), Nicole Gurran and Mark Grayson   |
| <b>APOLOGIES</b>                | Justin Doyle  |
| <b>DECLARATIONS OF INTEREST</b> | <p>Ross Fowler and Glenn McCarthy advised that they will not participate in discussion of the application because the Penrith City Council is the owner of this property.</p> <p>Jeni Pollard and Karen McKeown advised that they will excuse themselves from the Planning Panel meeting today because they attended the sections on the Reserve Street, Penrith application as the land is in the ownership of Council this would be viewed as a conflict of interest.</p> |

Public meeting held at Penrith City Council on Tuesday, 17 December 2019, opened 3.30pm and closed at 4.50pm.

### MATTER DETERMINED

2019WCI015 - Penrith – DA18/1244 AT 230, 228, 226, 222 Derby Street, Penrith, 5, 7 Reserve Street, Penrith and 106 Woodriff Street, 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 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 refuse 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 accepts the recommendation of the planning assessment report to refuse the application. Of particular concern to the Panel is that:

- The applicant has failed to adequately incorporate a compliant stormwater management system within the design of the project which in turn leads to a series of non-compliances with site specific development controls.
- The Panel is of the view that resolving the stormwater management issues as outlined in the assessment report would necessitate a significant redesign of the project and thus would require a new development application.
- The Panel also notes that the proposal does not satisfy a number of provisions of the Seniors Housing SEPP and SEPP 65 Apartment Design Guidelines relating to visual and acoustic privacy, solar access, private open space, access pathway separation from ground floor units, natural and




cross ventilation, balcony areas. It is considered that these departures would result in unsatisfactory on-site amenity for occupants.

### CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered the written submission made during public exhibition. The following issues were raised:

- Development density
- Lack of infrastructure;
- Car parking;
- Construction noise.

The Panel considers that concerns raised by the objectors have been adequately addressed in the assessment prepared by Council Officers.

| PANEL MEMBERS  |   |
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| <br>Bruce McDonald (Acting Chair) | <br>Nicole Gurran |
| <br>Mark Grayson                 |   |

| SCHEDULE 1 |                                   |  |
|------------|-----------------------------------|--|
| 1          | PANEL REF – LGA – DA NO.          | 2019WCI015 - Penrith – DA18/1244   |
| 2          | PROPOSED DEVELOPMENT              | Demolition of existing structures and construction of a Seniors Housing Development including three 6 storey buildings comprising a 120 bed residential aged care facility, 74 independent living units, associated facilities, basement car parking, landscaping, stormwater management and site remediation works.     |
| 3          | STREET ADDRESS                    | 230 Derby Street, Penrith<br>228 Derby Street, Penrith<br>226 Derby Street, Penrith<br>222 Derby Street, Penrith<br>5 Reserve Street, Penrith<br>7 Reserve Street, Penrith<br>106 Woodriff Street, Penrith   |
| 4          | APPLICANT/OWNER                   | Greengate Development Pty Ltd  |
| 5          | TYPE OF REGIONAL DEVELOPMENT      | Capital Investment Value over \$30m  |
| 6          | RELEVANT MANDATORY CONSIDERATIONS | <ul style="list-style-type: none"> <li>• Environmental planning instruments:               <ul style="list-style-type: none"> <li>○ State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004</li> <li>○ State Environmental Planning Policy (Housing for Seniors or People</li> </ul> </li> </ul> |

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|---|--|---|
|   |  | <p>with a Disability) 2004</p> <ul style="list-style-type: none"> <li>○ State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development</li> <li>○ State Environmental Planning Policy No. 55 – Remediation of Land</li> <li>○ Sydney Regional Environmental Plan No. 20 – Hawkesbury Nepean River</li> <li>○ Penrith Local Environmental Plan 2010</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 | <b>MATERIAL CONSIDERED BY THE PANEL</b>                      | <ul style="list-style-type: none"> <li>• Council assessment report: December 2019</li> <li>• Written submissions during public exhibition: 1</li> <li>• Verbal submissions at the public meeting: <ul style="list-style-type: none"> <li>○ In support – Nil</li> <li>○ In objection – Elaine Talbert</li> <li>○ Council assessment officer – Wendy Connell</li> <li>○ On behalf of the applicant – Nil</li> </ul> </li> </ul>   |
| 8 | <b>MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL</b> | <ul style="list-style-type: none"> <li>• Site inspection and briefing: 18 March 2019 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Justin Doyle (Chair), Bruce McDonald and Nicole Gurran</li> <li>○ <u>Council assessment staff</u>: Wendy Connell</li> </ul> </li> <li>• Site inspection and briefing: 17 December 2019 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Mark Grayson</li> <li>○ <u>Council assessment staff</u>: Wendy Connell</li> </ul> </li> <li>• Final briefing to discuss council's recommendation, 17 December 2019, time 2.00pm</li> <li>• Attendees: <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Bruce McDonald (Acting Chair), Nicole Gurran and Mark Grayson</li> </ul> </li> </ul>   |

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|----|------------------------|--|
|    |                        | ○ <u>Council assessment staff:</u> Wendy Connell |
| 9  | COUNCIL RECOMMENDATION | Refuse   |
| 10 | DRAFT CONDITIONS       | N/A  |