

<b>DATE OF DEFERRAL</b>	11 November 2022
<b>PANEL MEMBERS</b>	Justin Doyle (Chair), Louise Camenzuli, Brian Kirk
<b>APOLOGIES</b>	Nicole Gurran
<b>DECLARATIONS OF INTEREST</b>	Carlie Ryan, Ross Fowler, Tricia Hitchen, Glenn McCarthy

Public meeting held by Public Teleconference on 2 November 2022, opened at 10:00am and closed at 11:00am.

#### **MATTER DEFERRED**

PPSSWC-124 – Penrith – DA20/0858 - 5-17 Lawson Street, Penrith- Construction of a part nine storey and part five storey mixed use building comprising a public car park with 686 spaces, four storeys of office premises with a ground floor lobby and associated car parking, a multi-purpose community space on part of the ground floor, a public park on level 5, subdivision of a residual lot and associated demolition, tree removal, public domain and road works

#### **REASONS FOR DEFERRAL**

The panel agreed to defer the determination of the matter until the following outstanding matters have been resolved:

- The provision of owner's consent in respect of Lot 1 DP1265105 (the Penrith Community Health Centre);
- Additional contamination testing as described in the Council's Assessment Report to determine whether the parent lot is contaminated and if any work is required to make the land suitable having regard to Section 4.6 of the Resilience and Hazards SEPP. The Panel understands that this testing will be completed by 25 November 2022;
- The provision of an Updated Services Management Plan that addressed the matters set out in the Council's Assessment Report, relating generally to resolution of conflicts with loading bays and swept paths for trucks. The Panel expects that this issue is capable of being dealt with by condition of consent, subject to provision of owner's consent in respect of Lot 1 DP1265105; and
- Further information as to how vehicle access could be provided to the northern development lot, noting that this lot was recently excluded from the development application. The Panel is concerned to ensure that there should be:
  - (a) a proposal for the management of this area in the interim, such as soft landscaping, and
  - (b) sufficient provision for future access to enable the reasonable future development of this residue lot.

If necessary, these matters might be appropriate for a deferred commencement consent condition.

The Panel expects the owner's consent in respect of Lot 1 DP1265105 and additional information as referred to above be submitted to Council within 4 weeks from the date of this deferral record. Council is requested to update its assessment **within 2 weeks** of the receipt of revised information. If owner's consent in respect of Lot 1 DP1265105 and the additional information from the applicant is not provided **within 4 weeks**, the Panel may move to determine the DA based on the information currently at hand.

The Panel notes that a design excellence competition was held for the subject development on 31 October 2019. Following further design development, the Design Excellence Jury was reconvened, and a Design Jury meeting held on 27 July 2022. The Jury confirmed in a letter on Think Planners letterhead dated 23 September 2022 that the proposal exhibits design excellence subject to a condition of consent being

imposed to have detailed landscape plans prepared prior to the commencement of CCC which revises the use of cultivars.

At the request of the Competition Jury, the design was refined to:



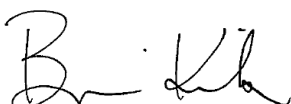
- Remove the roundabout at the intersection of Soper Place and Lawson Street leading to an improved public domain outcome, including widening the northern footpath on Soper Place.
- Enhance spatial treatment of the northern portion of the parent lot which was previously dominated by vehicle movements and negatively impacted pedestrian experience and compromised the landscape outcome.
- Provide planting which is compatible with the local climatic conditions of Penrith.
- Realign the extension of Woodriff Street North, creating a clear civic link on the west of the site.

The Panel has considered whether the design following these changes is for substantially the same development following the decision in *Toga Penrith Developments Pty Ltd v Penrith City Council* [2022] NSWLEC 117, and is content that it is for the reasons set out in Council's Assessment Report. In particular, the development is still for the same number of car spaces, the same number of levels and proposed office space and still contemplates all the key original essential elements of the original design. It is also noted that the winning architect has remained involved in the refinement of the design. Taking those matters into account, although the proposal has evolved during the assessment process, the Panel is nonetheless satisfied that the final design has emerged from the original competition process.

When the additional information outlined above has been received, the panel will advise the Council whether another public determination meeting is required or whether the matter can be determined by electronic determination.

The Panel looks forward to the prompt resolution of the above matters so that the determination of this DA for important public infrastructure in the Penrith CBD can be made as soon as possible.

The decision to defer the matter was unanimous.

PANEL MEMBERS	
Justin Doyle (Chair)	
Louise Camenzuli	
Brian Kirk	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSWC-124 – Penrith – DA20/0858
2	PROPOSED DEVELOPMENT	Construction of a part nine storey and part five storey mixed use building comprising a public car park with 686 spaces, four storeys of office premises with a ground floor lobby and associated car parking, a multi-purpose community space on part of the ground floor, a public park on level 5, subdivision of a residual lot and associated demolition, tree removal, public domain and road works
3	STREET ADDRESS	5-17 Lawson Street, Penrith
4	APPLICANT/OWNER	Penrith City Council
5	TYPE OF REGIONAL DEVELOPMENT	Council related development over \$5 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</li> <li>○ State Environmental Planning Policy (Biodiversity and Conservation) 2021</li> <li>○ State Environmental Planning Policy (Industry and Employment) 2021</li> <li>○ State Environmental Planning Policy (Precincts – Western Parkland City) 2021</li> <li>○ State Environmental Planning Policy (Resilience and Hazards) 2021</li> <li>○ State Environmental Planning Policy (Transport and Infrastructure) 2021</li> </ul> </li> <li>• Draft environmental planning instruments: Nil</li> <li>• Development control plans: <ul style="list-style-type: none"> <li>○ Penrith Development Control Plan 2014</li> </ul> </li> <li>• Planning agreements: Nil</li> <li>• Relevant provisions of the <i>Environmental Planning and Assessment Regulation 2021</i></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: <b>25 October 2022</b></li> <li>• Table entitled “Reply to Panel” (being the Applicant’s response to the reasons for deferral in the Council’s Assessment Report) emailed to the Panel on 2 November 2022.</li> <li>• Written submissions during public exhibition: 7</li> <li>• Verbal submissions at the public meeting: <ul style="list-style-type: none"> <li>○ Council assessment officer – Stephen Kerr, Oliva Page</li> <li>○ On behalf of the applicant – Schandel Fortu, Andrew Moore, Dora Choi</li> </ul> </li> </ul>

8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> <li>• Briefing: 19 April 2021 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Justin Doyle (Chair), Louise Camenzuli, Nicole Gurran</li> <li>○ <u>Council assessment staff</u>: Gavin Cherry, Robert Craig, Wendy Connell</li> <li>○ <u>Council Planning Consultant</u>: Rebecca Gordon</li> </ul> </li> <li>• Applicant Briefing: 20 December 2021 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Justin Doyle (Chair), Nicole Gurran, Louise Camenzuli</li> <li>○ <u>Council assessment staff</u>: Gavin Cherry, Robert Craig, Wendy Connell</li> <li>○ <u>Council Planning Consultant</u>: Rebecca Gordon, Stephen Kerr</li> <li>○ <u>Applicant representatives</u>: Andrew Moore, Schandel Foru, Sue Barnsley, David Jagers, Dora Choi, Michael McMahon</li> </ul> </li> <li>• Applicant Briefing: 1 August 2022 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Justin Doyle (Chair), Louise Camenzuli, Nicole Gurran</li> <li>○ <u>Council assessment staff</u>: Kathryn Saunders, Robert Craig, Wendy Connell, Peter Wood, Andrew Jackson</li> <li>○ <u>Council Planning Consultant</u>: Stephen Kerr, Debrah Barr</li> <li>○ <u>Applicant representatives</u>: Andrew Moore, Vanessa Weedon, Schandel Fortu, Krip a Vadakke, Dora Choi, Marco De Stefanis, Michael Jackson</li> </ul> </li> <li>• Final briefing to discuss assessment recommendation: 2 November 2022 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Justin Doyle (Chair), Louise Camenzuli, Brian Krik</li> <li>○ <u>Council assessment staff</u>: Gavin Cherry, Robert Craig</li> <li>○ <u>Council planning consultant</u>: Oliva Page</li> <li>○ <u>Applicant representatives</u>: [Names]</li> </ul> </li> </ul>
9	COUNCIL RECOMMENDATION	Deferral