

DETERMINATION AND STATEMENT OF REASONS

SYDNEY WESTERN CITY PLANNING PANEL

DATE OF DETERMINATION	Monday, 20 September 2021
PANEL MEMBERS	Louise Camenzuli (Acting Chair), Justin Doyle and Sue Francis
APOLOGIES	Nicole Gurran
DECLARATIONS OF INTEREST	<p>Jeni Pollard: I have been actively involved and consulted throughout the design process and would see my participation as a conflict as a result of that</p> <p>Glenn McCarthy: Penrith City Council is the property owner, I will declare a conflict of interest as I am employed by the owner.</p> <p>Karen McKeown: I have participated in meetings where the subject matter has been considered. As a result I believe I have a conflict of roles as described in Clause 3.19 of the Sydney District and Regional Planning Panels Code of Conduct and will not participate in the Panel's consideration of the development application</p> <p>Ross Fowler: I am a Councillor of the Penrith City Council the owner of the property subject to the Development Application.</p>

Public meeting held by teleconference on 20 September 2021, opened at 11:04am and closed at 11:23am.

MATTER DETERMINED

PPSSWC-134 – Penrith City Council – DA21/0047 at 134-144 Henry Street and 42-50 Station Street, Penrith – Construction & Embellishment of Penrith City Park (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.

Development application

The Panel determined to approve 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 determined to approve the application for the reasons outlined in the council assessment report and following advice provided in an additional memo responding to questions raised by the Panel at the meeting on 20 September 2021. In particular, the Council has confirmed that all of the parcels comprising the land to form the City Park are classified as “operational land” under the *Local Government Act 1993* (NSW).

It is noted that the development of the park will be staged, and the current proposal relates to the Stage 2 works. The Stage 1 works (subject of development consent DA21/0045) included the demolition of existing structures and land remediation of the site to facilitate the City Park, which was approved by the Local Planning Panel on 21 April 2021.

In addition, the proposal:

- meets the objectives and controls under SREP 20;

- is permissible within the RE1 Public Recreation and B4 Mixed Use zones and consistent with the relevant zone objectives;
- will add to the availability of much needed open space in the Penrith CBD; and
- will not otherwise have any material adverse environmental impacts.

The proposal will result in a number of road works and road modifications, in particular, removal of approximately 50 car spaces from Allen Place and 3 car spaces from Gaymark Lane. The proposal though will retain existing parking on Henry Street and Station Street and provides 2 accessible parking spaces on Allen Place.

The proposed loss of car parking spaces in Allen Place and Gaymark Lane is considered acceptable on balance, given the nature of the proposal and the social and environmental benefits of developing the site for a park. In addition, Council's CBD parking strategy provides for several consolidated multi-deck public parking structures in key locations to service the CBD, one of which will be delivered as part of the Soper Place car park proposal, which is subject to a current development application. The City Park site is also well located in terms of public transport links.

CONDITIONS

The development application was approved subject to the conditions in the assessment report with the following amendments.

- **Condition 2:** Amendment to change the reference to “Prior to issue of Construction Certificate” to “Prior to Issue of Occupation Certificate”.

This change allows for the works to commence and continue whilst ensuring lot consolidation occurs prior to use of the development.

- **Condition 7:** Amended to read as follows: “Prior to the issue of an Occupation ~~Construction~~ Certificate, the road closure of Allen Place is to have been lodged with LRS for registration, as shown by the concept plan titled 'Proposed Boundary Layout in a Plan of Subdivision of Lot 1 in DP 1263787 for Road Closure under the Roads Act 1993' dated 4 August 2021 which accompanied the development application.

A copy of the ~~registered~~ road closure plan ~~from~~ as submitted to the NSW Land Registry Services for registration is to be submitted to the Principal Certifying Authority (PCA) and Penrith City Council, if Council is not the PCA, prior to the issue of an Occupation ~~Construction~~ Certificate.”

This change allows for the works to commence and continue whilst ensuring all steps have been taken within the control of the Council to ensure road closure is completed and registered with Land Registry Services (LRS) prior to use of the development.

- **Condition 8b:** Amendment to read as follows: “CCTV is to be provided to cover any area/s of the City Park deemed necessary by Penrith City Council’s Community Safety Team, in consultation with the NSW Police Service. ~~Communal public space areas~~. Cameras must be of sufficient standard to be useful for police in the event of criminal investigations. Lighting must be provided to support cameras at night (alternatively infrared cameras are recommended). Signage must be displayed to indicate that CCTV cameras are in use.”

This amendment will result in the provision of more appropriate CCTV security for the park.




- **Condition 37:** Deletion of paragraph 4, namely the following sentence, which is unnecessary: “The Stormwater Maintenance Manual prepared by Northrop, rainwater tank design option 2, shall be installed to comply with Penrith Development Control Plan 2014, Chapter C3, 3.8. Rainwater Storage Tank, (b), which states that rainwater tanks must not collect water from a source other than gutters or down pipes on a building or a water supply service pipe.”

- **Condition 58:** Deletion of this condition in its entirety, which required the payment of section 7.12 contributions.

Given the public purpose nature of the proposed development, the Panel determined to exercise its discretion pursuant to section 7.13 of the EP&A Act to delete the requirement for the payment of these contributions for this development.

CONSIDERATION OF COMMUNITY VIEWS

Only one submission was received in support of the proposal.

PANEL MEMBERS	
 Louise Camenzuli (Acting Chair)	 Justin Doyle
 Sue Francis	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSWC-134 – Penrith City Council – DA21/0047
2	PROPOSED DEVELOPMENT	Construction & Embellishment of Penrith City Park including Amenities Building, Pergola Structures, Water Features, Seating, Lighting & Signage & Related Landscaping, Utility Servicing, Stormwater Management Infrastructure, Allen Place Car Park Modifications & Road Works
3	STREET ADDRESS	134-144 Henry Street and 42-50 Station 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"> Environmental planning instruments: <ul style="list-style-type: none"> State Environmental Planning Policy No 55 – Land Remediation State Environmental Planning Policy (State and Regional Development) 2011 Sydney Regional Environmental Plan No. 20 – Hawkesbury Nepean River Penrith Local Environmental Plan 2010 Draft environmental planning instruments: Nil Development control plans: <ul style="list-style-type: none"> Penrith Development Control Plan 2014 Planning agreements: Nil Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: Environmental Planning and Assessment Regulation 2000 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: 6 September 2021 Applicant submission received: 16 September 2021 Council memo received: 17 September 2021 Council memo received: 20 September 2021 Written submissions during public exhibition: 1 Verbal submissions at the public meeting: <ul style="list-style-type: none"> Council assessment officer – Lucy Goldstein and Gavin Cherry On behalf of the applicant – Michael Jackson PCC Total number of unique submissions received by way of objection: 1
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> Briefing: 17 May 2021 <ul style="list-style-type: none"> <u>Panel members</u>: Justin Doyle (Chair), Nicole Gurrán and Louise Camenzuli <u>Council assessment staff</u>: Lucy Goldstein, Robert Craig and Gavin Cherry Final briefing to discuss council's recommendation: Monday, 20 September 2021 <ul style="list-style-type: none"> <u>Panel members</u>: Louise Camenzuli (Acting Chair), Justin Doyle and Sue Francis <u>Council assessment staff</u>: Lucy Goldstein, Robert Craig, Phillip Doy and Gavin Cherry

9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report