

DATE OF DEFERRAL	Thursday 25 August 2022
PANEL MEMBERS	Justin Doyle (Chair), Louise Camenzuli, Nicole Gurran, Ross Fowler, Carlie Ryan
APOLOGIES	None
DECLARATIONS OF INTEREST	None

Papers circulated electronically on 10 August 2022.

MATTER DEFERRED

PPSSWC-177 – Penrith City Council – DA21/0607 at 94-100 Explorers Way, St Clair for Demolition of a Dwelling, Tree Removal, and Construction of a Two (2) Storey Residential Aged Care Facility, comprising of 153 beds with Associated Facilities/Services, an ancillary Cafe, and Health Consulting and Treatment Rooms (as described in Schedule 1).

REASONS FOR DEFERRAL

The Panel met with representatives of the Council and the Applicant to discuss the issues of concern raised in the Council briefing report.

Matters discussed included:

(a) Location

The Panel observed that the use is permissible with consent in the 'R2 – Low Density Residential' zone in which the site is located (noting that the DA is made under the Council LEP rather than *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*). While the development would not meet the locational requirements under the State instrument (being 600 metres from a bus stop rather than the required 400 metres), the LEP imposes no such requirement. The Applicant explained that the facility would be directed at persons at a stage of care where the majority would not be capable of catching a bus to the shops unassisted. A bus would be operated by the facility for outings and essential transport. On that basis the location was seen as acceptable for the facility provided that the various environmental and merit issues could be managed.

(b) Western boundary relationship

The Council raised concerns about the relationship of the loading dock, parking and a 2.1 meter high fence to the adjacent parts of the properties to the west, where backyards seemed to be located. A greater setback was called for by the Council to resolve the issue.

The Applicant advised that it was willing to consider modification to the design in relation to that issue.

(c) Biodiversity

There was tension between the Applicant's mapping of the vegetation on the site as 'Broadleaved Ironbark – Grey Box – Melaleuca decora grassy open forest on clay gravel soils of the Cumberland plain, Sydney Basin Bioregion' (PCT 724), whereas the Council report identified it as mapped (by the Sharing and Enabling Environmental Data in NSW database, Threatened Ecological Communities Greater Sydney mapping) as containing 'Cooks River / Castlereagh Ironbark Forest'. That mapping

would need to be resolved if the DA was to be approved. The Council was critical of the BDAR, including that it was missing pages. The Applicant responded by stating that the bushland had been maintained as residential land with the understorey mowed. Notably the bushfire mapping would likely require the entire site to be managed as an inner protection area. That would not seem to change even if the yield of the development was reduced, meaning that the rehabilitation of the bushland as part of a viable patch of threatened community was likely incompatible with any aged care development of the site.

The Panel noted some of the melaleucas on the road front were to be retained, which would assist with the street presentation.

(d) Height non-compliance

The proposal is for a building across most of the site with a height of 9.84 metres but keeps to the 2-storey form which is anticipated by the height standard. While the height is predominantly at the rear of the site, the Panel would need to be convinced that the exceedance satisfied the clause 4.6 test.

(e) Design

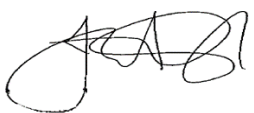



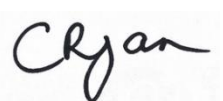
Council asserted in its briefing report that the external finishes were not clearly resolved in the proposal, and questioned the positioning of fire boosters, water and gas meters, and a substation, alongside the immediate street frontage.

The Panel indicated its concerns about the length of time the DA was taking to resolve. However, as there seemed real prospect of resolution of the Council's concerns, the Panel agreed to deferral until September 2022. The Panel asked Council to provide an indication within 4 weeks as to whether changes to the plans could be promptly prepared which might resolve its concerns.

When in receipt of that advice, the Panel Chair would resolve whether additional time should be allowed for proposed modifications to be documented and reported upon, or whether the DA should be determined based on the existing DA material.

The determination may be electronic, but a decision on that issue would be taken when the Council reported on the progress with discussions.

The decision to defer the matter announced at the meeting was unanimous.

PANEL MEMBERS	
 Justin Doyle (Chair)	 Louise Camenzuli
 Nicole Gurran	 Ross Fowler
 Carlie Ryan	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSWC-177 – Penrith City Council – DA21/0607
2	PROPOSED DEVELOPMENT	Demolition of a Dwelling, Tree Removal, and Construction of a Two (2) Storey Residential Aged Care Facility, comprising of 153 beds with Associated Facilities /Services, an ancillary Cafe, and Health Consulting and Treatment Rooms.
3	STREET ADDRESS	94-100 Explorers Way, St Clair
4	APPLICANT/OWNER	Applicant: Tyron Nicholson- Opal Health Care Owner: Principal Healthcare Finance (Opal HealthCare)
5	TYPE OF REGIONAL DEVELOPMENT	General development over \$30 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> • Environmental planning instruments: <ul style="list-style-type: none"> ○ State Environmental Planning Policy (Biodiversity and Conservation) 2021 ○ State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 ○ State Environmental Planning Policy (Planning Systems) 2021 ○ State Environmental Planning Policy (Precincts – Western Parkland City) 2021 ○ State Environmental Planning Policy (Resilience and Hazards) 2021 ○ State Environmental Planning Policy (Transport and Infrastructure) 2021 ○ 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> • 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: 4 August 2022 • Clause 4.6 application to vary the Building Height Development Standard, Clause 4.3 of the Penrith Local Environmental Plan 2010 • Written submissions during public exhibition: 6
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> • Briefing: 15 November 2021 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Justin Doyle (Chair), Nicole Gurrán, Louise Camenzuli and Glenn McCarthy ○ <u>Council assessment staff</u>: Kathryn Saunders, Robert Walker, Robert Craig, Jacqueline Kincke, Jill Williams • Final briefing to discuss council's recommendation: 22 August 2022 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Justin Doyle (Chair), Nicole Gurrán, Louise Camenzuli, Ross Fowler and Carlie Ryan

		<ul style="list-style-type: none">○ <u>Council assessment staff</u>: Kathryn Saunders, Robert Walker, Danielle Addams, Jake Hausfeld○ <u>Applicant</u>: Aaron Lakeman, Corey Taylor, Dan Brindle, Danny Wotherspoon, Greg Zieschang, Craig Custance, Nick Heazlewood, Tyron Nicholson, Robert Walker
9	COUNCIL RECOMMENDATION	Refusal
10	DRAFT CONDITIONS	Not provided