RECORD OF BRIEFING
SYDNEY WESTERN CITY PLANNING PANEL

BRIEFING DETAILS

BRIEFING DATE / TIME	Tuesday, 26 April 2022, 11:30am and closing 1:30pm
LOCATION	Teleconference

BRIEFING MATTER(S)

PPSSWC-215 – Penrith – DA21/0957 – 129-133 Henry Street, Penrith – Excavation Works and Construction of a Six (6) Storey Building including Ground Floor Retail Tenancies and Upper Floor Commercial Tenancies and associated works.

PANEL MEMBERS

IN ATTENDANCE	Justin Doyle (Chair), Louise Camenzuli and Nicole Gurran
APOLOGIES	None
DECLARATIONS OF INTEREST	Ross Folwer: The applicant and owner for this matter is Penrith City Council. As a Councillor there is a conflict of interest, therefore, he is unable to take part in the decision-making process.

OTHER ATTENDEES

COUNCIL ASSESSMENT STAFF	Gavin Cherry, Nicholas Cavallo (Knight Frank, Independent Assessment Consultant), Dr McLaren North (Independent Heritage Consultant)
APPLICANT REPRESENTATIVES	Nathan Ritchie – Manager, Property Development, Penrith City Council Amanda McMurtrie – Program Manager, Penrith City Council Laura Watson – Development Manager, Penrith City Council Andrew Moore – Director Corporate Services, Penrith City Council Andrew Harvey – Director, Urbis Simon Gunasekara – Associate Director, Urbis Eliza Scobie – Senior Consultant, Urbis Andrew Kyriacou – Senior Project Manager, Avenor Chris Field – Associate, Woods Bagot Natalie Vinton – Heritage Consultant/CEO, Curio David Lee - Associate Principal, Brisbane Studio Chair, Woods Bagot
OTHER	George Dojas and Jeremy Martin – Planning Panels Secretariat

KEY ISSUES DISCUSSED

The main issue for the DA is the proposed demolition of the existing building on the site which is a listed heritage item. Clause 7.1.8 of the Penrith DCP 2014 includes as a "Control":

C. Controls

1)   The demolition of a heritage item is contrary to the intent of heritage listing and is considered a last resort option that will only be considered where:

   a) All other alternatives have been investigated and ruled out;

   b) It can be satisfactorily demonstrated that the item does not satisfy the criteria for listing established by the NSW Heritage Council, nor provide physical evidence of one of the historical developmental themes established by the Penrith Heritage Study; or

   c) The structure is considered incapable of repair.

Clause 5.10 of the Penrith LEP 2010 will require consideration of heritage, noting that under clause 5.10(5) the Panel as consent authority can require "a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item".

Clause 8.4(2)(e)(iii) of the LEP also requires consideration of heritage in terms of design excellence.

The Panel was addressed by Dr McLaren North who has been engaged as an independent heritage consultant by the Council to review the DA. His view was that the option of retaining the heritage item has not been adequately considered in designs for the site given that there is no fundamental problem with the condition of the listed item warranting demolition. Dr North opposed demolition.

In the design competition required for the site, only one entrant had allowed for retention of part of the fabric of the heritage item. Dr North was concerned that the design competition brief had not directed entrants to consider the applicable parts of the DCP relating to an application for demolition of a heritage item and did not (in his view) comply with the NSW Government Architect's guidelines for competitions. He questioned whether the design competition process could therefore be relied upon. He reported that no heritage assessment of the item was made available to the competition jury members which meant that they would not have adequately understood the heritage considerations.

He said that there were specific procedures that would usually be undertaken in relation to a DA for demolition of a heritage item which had not been undertaken. Specifically, he said that he expected that a conservation management plan should have been prepared.

It was accepted by Dr North and the Council staff that if the heritage issue could be overcome then other merit concerns (such as solar access to the public domain were likely able to be resolved.

Natalie Vinton of Curio made the principal address for the Applicant design team on the subject of heritage, emphasising the strategic benefit of the site. Curio was said to have independently reviewed the heritage aspects of the DA.

The Panel was assured that there had been a robust competition which had considered design options that avoided demolition with extensive consultation with Government Architect's Office.

Draft design excellence guidelines were used to create the brief for the design comp. Jury deliberations and the competition report were also said to have followed the AGA Guidelines.

The jury was reported to have included Gabrielle Morrish of GM Urban Design and Architecture, Kim Crestani of Order Architects, as well as Mike Scott of The Treadstone Company.

Planning Panels Secretariat

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The jury was reported to have been well aware that the winning entry proposed demolition of a heritage item.

The Panel indicated that as the assessment team was contending that the assessment of heritage and its treatment during the design competition might fundamentally compromise the assessment so as to prevent any possibility of the grant of consent, a preliminary determination meeting might best be convened as early as practicable. If the Panel was to agree with Dr North that demolition of the heritage item should not be supported under any circumstances, then it seems advisable to reach that determination as soon as possible.

The Panel could also consider whether a "heritage management document" must be prepared under clause 5.10.

Other issues discussed during the meeting include the presence of registered rights of way over site. Any discussions necessary for the release or adjustment of those rights of way should be expedited.

TENTATIVE DETERMINATION DATE SCHEDULED FOR JULY 2022