

DETERMINATION AND STATEMENT OF REASONS

SYDNEY WESTERN CITY SYDNEY WESTERN CITY PLANNING PANEL

DATE OF DETERMINATION	Friday, 18 December 2020
PANEL MEMBERS	Susan Budd (Acting Chair), Sandra Hutton, Stephen Davies, Jeni Pollard and Ross Fowler
APOLOGIES	Nicole Gurran, Glenn McCarthy and Stuart McDonald
DECLARATIONS OF INTEREST	<p>Justin Doyle: Declared a potential conflict of interest in relation to Statewide Planning Pty Ltd. Statewide Planning Pty Ltd owns the adjoining site.</p> <p>Louise Camenzuli: One of my Partners at Corrs Chambers Westgarth has advised the applicant or an affiliated entity of the applicant of the above development proposal. As a Partner of the firm, I consider that this fact, while the relevant file is unrelated to the proposal being assessed, may result in a reasonably perceived conflict of interest.</p>

Public meeting held by teleconference on 18 December 202018 December 2020, opened at 10.23am and closed at 10:47am.

MATTER DETERMINED

PPSSWC-29 – Penrith City Council – DA19/0704 at 16 Chapman Street, Werrington & Water Street, Werrington – Integrated Development Application for; Staged Subdivision (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.

Application to vary a development standard

Following consideration of a written request from the applicant, made under cl 4.6 (3) of the Penrith Local Environmental Plan 2010 (LEP), that has demonstrated that:

- compliance with cl. 4.1 Minimum Lot Size of the Penrith Local Environmental Plan 2010 is unreasonable or unnecessary in the circumstances; and
- there are sufficient environmental planning grounds to justify contravening the development standard

the panel is satisfied that:

- the applicant's written request adequately addresses the matters required to be addressed under cl 4.6 (3) of the LEP; and
- the development is in the public interest because it is consistent with the objectives of cl. 4.1 of the LEP and the objectives for development in the IN2 Light Industrial zone; and
- the concurrence of the Secretary has been assumed/provided.

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 generally agreed with the assessment and balance of considerations in the Council assessment report and determined to uphold the Clause 4.6 variation to the minimum lot size; and approve the application for the reasons outlined in the council assessment report and as below:

In relation to the clause 4.6 variation to the minimum lot size for proposed lot 4000 the panel noted that the lot was a residue lot which arose out of the alignment of the East-West Collector Road and arrangements with adjoining landowners to deliver the road through their land. The Panel further noted the lot was subject to a split zoning with only a small portion of the lot zoned IN2 and agreed it would therefore be unreasonable to require strict adherence to the development standard applying to IN2 land.

The panel determined to approve the development application for the following reasons:

1. The application is for a staged subdivision and associated works, including the delivery of important road infrastructure, on land located within the South Werrington Urban Village (**SWUV**) precinct of the Werrington Enterprise Living and Learning Precinct in the Penrith Local Government Area. The site is zoned R1 General Residential, R4 High Density Residential, RE1 Public Recreation, E2 Environmental Conservation and IN2 Light Industrial zones under the Penrith Local Environmental Plan 2010 (**PLEP 2010**) and the proposed development is permissible with consent.
2. The proposal is consistent with the zoning and strategic intent for the precinct and will ultimately provide a supply of housing and employment lands while also protecting identified areas of Cumberland Plain Woodland.
3. The Panel is satisfied that biodiversity impacts have been appropriately assessed and will be appropriately managed through the Vegetation Management Plan, the registration on title of a s88B Restriction as to User and a Fauna Management Plan incorporating actions to mitigate impacts on native fauna.
4. The proposal is generally consistent with the South Werrington Urban Village road network hierarchy applying to the site under the Penrith Development Control Plan 2014 and will improve traffic circulation through the delivery of the East-West Collector Road and a new roundabout on Werrington Road. The Panel noted concerns raised in submissions about the need for the delivery of the TfNSW Werrington Arterial Stage 2 road works to alleviate existing traffic congestion, however this is ultimately a matter for TfNSW and not something that can be dealt with through this application. The location of the roundabout does not preclude connectivity with the Werrington Arterial Stage 2 Road at an appropriate time in the future.
5. The proposed development is an appropriate form of development for the site in line with the 2009 rezoning and is in the public interest as it provides new housing and employment opportunities and major social and economic benefits.

CONDITIONS

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

- Condition 11 amended to reference the Waste Management Plan forming part of the application.
- Condition 16 amended to require the provision of an amended Vegetation Management Plan and to provide additional clarity about its relationship to related reports.
- Condition 37 amended to effect minor changes to road widths/verges for Roads 08 and 09.
- Condition 61 amended to require the roundabout be delivered prior to the issue of a subdivision certificate for the first stage of the development OR that a bond be provided to be used after 12 months of the issue of the first subdivision certificate if the developer has not completed the works within this time.
- Condition 91 inserted to require a Fauna Management Plan incorporating actions to mitigate impacts on native fauna to be prepared and implemented.






- Condition 92 inserted to require a Cumberland Plain Woodland Seed Collection Strategy to be developed and implemented.
- Condition 93 inserted to require the recommendations and requirements of the Construction Environmental Management Plan to be implemented.
- Condition 94 inserted to prohibit the introduction of specified exotic perennial grasses.
- Condition 95 inserted to require the development and implementation of a Weed Management Plan.
- Condition 96 inserted to require a Feral Animal Control Monitoring Plan to be developed and implemented.
- Condition 97 inserted to require a Bushfire Management Plan to be developed and implemented.

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the panel considered written submissions made during public exhibition and heard from all those wishing to address the panel. The panel notes that issues of concern included:

- Biodiversity concerns;
- Increased traffic in the area;
- Flooding concerns;
- Loss of Open Space;
- Security Concerns; and
- Impact on adjoining development.

The panel considers that concerns raised by the community have been adequately addressed in the assessment report and that no new issues requiring assessment were raised during the public meeting. The panel notes that in addressing these issues appropriate conditions have been imposed requiring a Vegetation Management Plan and ongoing management in perpetuity, and a Fauna Management Plan which will include appropriate action to relocate fauna.

PANEL MEMBERS	
 Susan Budd (Acting Chair)	 Sandra Hutton
 Stephen Davies	 Jeni Pollard
 Ross Fowler	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSWC-29 – Penrith City Council – DA19/0704
2	PROPOSED DEVELOPMENT	Integrated Development Application for; Staged Subdivision of Land to Create 227 Residential Lots, 17 Industrial Lots, Open Space Lots, 14 Residue Lots and Road Dedication. Works include Site Preparation, Vegetation Removal, Bulk Earthworks, Civil Works, Construction of Roads, Including the East-West Collector Road and Round-a-bout on Werrington Road, Stormwater Infrastructure and Basins.
3	STREET ADDRESS	16 Chapman Street WERRINGTON NSW 2747 & Part Lot 2 Water Street WERRINGTON NSW 2747
4	APPLICANT/OWNER	Applicant: Lendlease Communities (Werrington) Pty Ltd C/- Gln Planning Owner: Lendlease Communities (Werrington) Pty Ltd
5	TYPE OF REGIONAL DEVELOPMENT	General development over \$30 millionGeneral 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 (Infrastructure) 2007 State Environmental Planning Policy No. 55 Remediation of Land State Environmental Planning Policy (Western Sydney Aerotropolis) 2020 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>: Nil 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: 7 December 2020 The clause 4.6 application relates to Penrith Local Environmental Plan 2010 <ul style="list-style-type: none"> clause 4.1 – Minimum subdivision lot size within the IN2 – Light Industrial zone. Council memorandum received: 17 December 2020 Additional information TfNSW comments received: 18 December 2020 Written submissions during public exhibition: 22 Verbal submissions at the public meeting: <ul style="list-style-type: none"> Wayne Olling on behalf of Blacktown & District Environment Group Inc Margaret McDonald Council assessment officer – Kate Smith

		<ul style="list-style-type: none"> ○ On behalf of the applicant – Paul Thompson • Total number of unique submissions received by way of objection: 12
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> • Briefing: Monday, 17 February 2020 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Justin Doyle (Chair), Nicole Gurran, Susan Budd, Glenn McCarthy and Jeni Pollard ○ <u>Council assessment staff</u>: Kathryn Sprang and Wayne Mitchell • Re-Briefing: Monday, 17 August 2020 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Nicole Gurran (Acting Chair), Stuart McDonald, Susan Budd and Ross Fowler ○ <u>Council assessment staff</u>: Kathryn Sprang, Gavin Cherry and Kate Smith • Final briefing to discuss council's recommendation: Monday, 16 November 2020 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Susan Budd (Acting Chair), Sandra Hutton, Stephen Davies, Jeni Pollard and Ross Fowler ○ <u>Council assessment staff</u>: Kathryn Sprang, Kate Smith and Graham Green
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report