

DATE OF DETERMINATION	Monday, 20 July 2020
PANEL MEMBERS	Justin Doyle (Chair), Nicole Gurran Stuart McDonald, Ross Fowler and Glenn McCarthy
APOLOGIES	Louise Camenzuli
DECLARATIONS OF INTEREST	None

Public meeting held Public Teleconference on 20 July 2020, opened at 12:02pm and closed at 12:15pm.

MATTER DETERMINED

PPSSWC-54 – Penrith City Council – DA20/0041 at 14 Phillip Street, St Marys – Residential Flat Building (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

A non-compliance arises in relation to cl. 4.3, which stipulates that the maximum height of any building permitted on the subject site is 15 m. The proposal has a maximum building height 16.15 m relative to natural ground level which equates to a 7.6% departure to the 15 m height limit.

Following consideration of a written request from the applicant, made under cl 4.6 (3) of the Penrith Local Environmental Plan 2010 Amendment 4 (LEP), that has demonstrated that:

- a) compliance with cl. 4.3 (development standard) (which stipulates that the maximum height of any building permitted on the subject site is 15 metres) is unreasonable or unnecessary in the circumstances; and
- b) there are sufficient environmental planning grounds to justify contravening the development standard

Having regard to the assessment of the relevant matters discussed in the assessment report, the panel is satisfied that:

- a) the applicant's written request adequately addresses the matters required to be addressed under cl 4.6 (3) of the LEP; and
- b) the development is in the public interest because it is consistent with the objectives of cl. 4.3 of the LEP and the objectives for development in the R4 zone; and
- c) the concurrence of the Secretary is to be assumed.

In particular, the panel notes that the area is in a state of transition and the minor exceedance of the maximum height standard arising largely because of the slope of the site has been found by the assessment staff to be compatible with its developing character, having regard to the recently constructed residential flat building opposite.

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






1. The proposed development will add to the available stock of affordable housing within the growing area of Saint Marys which is well provided with services and amenities. The development is located with ready access to the commercial area of St Mary's which is well serviced by public transport including a major railway station.
2. The proposed development subject to the conditions imposed adequately satisfies the relevant State Environmental Planning Policies including SEPP 65 -Design Quality of Residential Apartment Development (SEPP 65), its associated Apartment Design Guide, and Regional Environmental Plan No 20- Hawkesbury- Nepean River.
3. State Environmental Planning Policy No 55—Remediation of Land has been addressed, and an unexpected finds policy will be required as a condition of consent.
4. The proposed development, subject to the conditions imposed adequately satisfies the requirements and provisions of Penrith LEP 2010 (Amendment 4) as discussed in the staff assessment report.
5. The Panel considers that subject to the relevant conditions imposed the proposal exhibits design excellence. In that regard it is noted that the proposal has been reviewed by the Design Integrity Panel and found to be supportable. In that regard, the Panel considered carefully the non-compliance with the side setback controls applying under the Apartment Design Guide applying under SEPP 65, but observed that Council's Urban Design Review Panel concluded that the reduced setback does not result in any adverse privacy issues, overshadowing or visual impacts. Specifically, Urban Design Review Panel appropriately emphasised that Phillip Street is likely to be a main through fare, linking St Marys retail centre and the interchange with Glossop Street. In that context, the setbacks of the proposal were found to be appropriate to define the street edge and providing a strong and simple architecture form that is setting.
6. The proposal is consistent with the relevant provisions of Penrith DCP 2014.
7. The proposed development subject to the conditions imposed will have no unacceptable adverse impacts on the natural or built environments including the amenity of existing or proposed nearby premises including loss of views, the ground water system, operation of the local road system or pedestrian movement and mobility.
8. In consideration of conclusions 1-7 above the Panel considers the proposed development is a suitable use of the site and approval of the proposal is in the public interest.

CONDITIONS

The development application was approved subject to the conditions in the council assessment report but with the amendments to Conditions 1, 11 and 25 concerning materials and provision of an Abloy key to the basement that the Panel was informed had been resolved between the Applicant and the Council prior to the determination meeting.

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the panel noted advice that despite notification, no public submissions were received.

PANEL MEMBERS	
 Justin Doyle (Chair)	 Nicole Gurran
 Stuart McDonald	 Ross Fowler
 Glenn McCarthy	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSWC-54 – Penrith City Council – DA20/0041
2	PROPOSED DEVELOPMENT	Demolition of Existing Structures and Construction of a Residential Flat Building Development Containing 44 x Affordable and Social Housing Units, Basement Parking and Associated Works
3	STREET ADDRESS	Lot 32 DP 35970, Lot 33 DP 35970, Lot 34 DP 35970, 14 Phillip Street, ST MARYS NSW 2760 16 Phillip Street, ST MARYS NSW 2760 18 Phillip Street, ST MARYS NSW 2760
4	APPLICANT/OWNER	Growthbuilt Pty Ltd
5	TYPE OF REGIONAL DEVELOPMENT	Crown 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 – Remediation of Land State Environmental Planning Policy (Affordable Rental Housing) 2009 State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development State Environmental Planning Policy (Building Sustainability Index) 2204 Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River Penrith Local Environmental Plan 2010 (Amendment 4) 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 Environmental Planning and Assessment Regulation 2000: 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 memo dated: 20 July 2020 Council assessment report: 8 July 2020 Clause 4.6 Variation Request Height of Buildings Written submissions during public exhibition: 0 Verbal submissions at the public meeting: <ul style="list-style-type: none"> Council assessment officer – Gavin Cherry and Kate Smith On behalf of the applicant – Stephen Kerr
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> Site Visit: Sunday, 19 July 2020 <ul style="list-style-type: none"> Panel member: Justin Doyle (Chair) Briefing: Monday, 16 March 2020 <ul style="list-style-type: none"> <u>Panel members</u>: Justin Doyle (Chair), Nicole Gurrán, Louise Camenzuli, Karen McKeown and Glenn McCarthy <u>Council assessment staff</u>: Sandra Fagan, Gavin Cherry, Jane Hetherington and Kate Smith

		<ul style="list-style-type: none"> • Final briefing to discuss council's recommendation, Monday, 20 July 2020, 11:00am. Attendees: <ul style="list-style-type: none"> ○ <u>Panel members</u>: Justin Doyle (Chair), Nicole Gurran, Stuart McDonald, Karen McKeown and Glenn McCarthy ○ <u>Council assessment staff</u>: Jane Hetherington, Joshua Romeo, Gavin Cherry and Kate Smith
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report