

DATE OF DETERMINATION	3 February 2026
DATE OF PANEL DECISION	2 February 2026
PANEL MEMBERS	Justin Doyle (Chair), Louise Camenzuli, David Kitto, Carlie Ryan, Ross Fowler
APOLOGIES	None
DECLARATIONS OF INTEREST	None

Papers circulated electronically on 17 December 2025.

MATTER DETERMINED

PPSSWC-576 – Penrith – DA24/1004 at 2A Bringelly Road, Kingswood 2747 – Staged Construction of Transitional Group Home (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 listed at item 8 in Schedule 1.

The Panel was satisfied that with its familiarity with the area of the development from other assessments, and the material briefed to it through the Portal including the assessment report, that a site view was unnecessary to consider the matters arising under s 4.15.

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 (LEP), the Panel is satisfied that the applicant has demonstrated that:

- compliance with cl. 7.8 Active Street Frontages (development standard) is unreasonable or unnecessary in the circumstances because it is not reasonable or feasible to include retail or business uses in a transitional group home. The approach in the DA of locating the administrative parts of the proposal at street level and the sophisticated design of the proposal are a reasonable response to the requirements of the clause; and
- there are therefore sufficient environmental planning grounds to justify contravening the development standard.

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.

The Panel is satisfied that the key issues with the development application identified in the staff report have been adequately addressed noting the strong public interest of the development proceeding given the high unmet demand for specialised accommodation in metropolitan Sydney. The group home is intended to be operated by a registered charity to offer therapeutic programs aimed at achieving recovery from drug and alcohol dependence, with funding from the NSW State Government. It will also offer peer-led support

groups and drug and alcohol training for welfare personnel in the area. The staff conclude (correctly in the Panel's view) that the proposal will deliver benefits to society and the community.

The Panel accepts advice from Council staff to the effect that:

- a) The proposed development will not give rise to unacceptable amenity impacts on adjoining properties.
- b) The design of the proposed group home complies with applicable provisions of Penrith DCP 2014.
- c) Through landscaping and tree planting improved during the assessment process, the completed built form will be compatible with the local area. In particular the dense planting along the eastern and northern boundaries will screen the proposal to an extent.
- d) Extensive articulation and stepping in the architectural design massing will harmonise the proposal with the street in the context of the new tree planting.
- e) The proposal is not expected to create any traffic or parking problems. Parking provision (9 off-street spaces) has been assessed to be sufficient because residents will not be permitted to drive during their stay and staff can be expected to use the nearby Kingswood train station.
- f) While the site is close to an existing residential area, the site is within a medical precinct which is suitable for a group home with some therapeutic treatment.
- g) Driveway and car parking design matters have been resolved.

One matter given attention in the staff report is the requirements of Clause 7.8 (Active street frontages) which aims to promote uses that attract pedestrian traffic along ground floor street frontages in certain zones including the MU1 Mixed Use zone. An 'Active Street Frontages Map' referenced by the clause identifies land as "Active Street Frontage" on the Active Street Frontages Map within those zones including the subject site.

The critical operative portions of the clause read:

7.8 Active street frontages

(3) Development consent must not be granted to the erection of a building, or a change of use of a building, on land to which this clause applies unless the consent authority is satisfied that the building will have an active street frontage after its erection or change of use.

...

(5) In this clause, a building has an active street frontage if all premises on the ground floor of the building facing the street are used for the purposes of business premises or retail premises

A question arises as to whether that clause imposes a prohibition against any building which does not have an active frontage, or whether it imposes a development standard.

The DA is supported by a legal advice which concludes that the requirements of that clause are a "development standard" which can be varied under clause 4.6. Reference is made to a decision of a Commissioner of the Land & Environment Court in *T and R Property Development (Gordon) v Bayside Council* - [2021] NSWLEC 1299 which seems to have applied that reasoning to a similar clause in a different local government area. However, that judgment is giving effect to a s.34 agreement between the parties and sets out no reasoning for the approach taken other than agreement of the parties.

The Panel has had regard to the recent guidance provided by the Chief Judge of the Land & Environment Court in *Inner West Council v XYZ Services Pty Limited* [2025] NSWLEC 68 which emphasises the primacy of the definition of "development standard" given by s 1.4(1) of the

Environmental Planning and Assessment Act 1979 (NSW) (EPA Act) when distinguishing between a prohibition and a development standard. That definition includes relevantly:

“development standard means provisions of an environmental planning instrument or the regulations in relation to the carrying out of development, being provisions by or under which requirements are specified or standards are fixed in respect of any aspect of that development, including, but without limiting the generality of the foregoing, **requirements or standards in respect of—**

(a) **the** area, shape or **frontage of any land**, the dimensions of any land, buildings or works, or the distance of any land, building or work from any specified point,

...

(c) **the character**, location, siting, bulk, scale, shape, size, height, density, design or external appearance **of a building or work**,

...

Taking into account that definition, which is to be given primacy in determining the approach to deciding whether a requirement is a development standard, the Panel is persuaded to follow the approach taken in the *T and R Property Development* case, as advised by the Council staff because the requirement for the Council’s satisfaction is a requirement in relation to the frontage of the site and the character of the building proposed.

The Panel’s assessment of the Applicant’s clause 4.6 request to vary that standard set out above was positive and the Panel views the development to be permissible.

The Panel does not interpret clause 7.8 to impose a prohibition with attention to the judgment of the Chief Judge of the Land and Environment Court in *Inner West Council v XYZ Services Pty Limited* [2025] NSWLEC 68.

In any event, even if the LEP was read to prohibit the group home because it did not include business or retail premises, the Panel is of the opinion that clause 61 of the Housing SEPP would operate to permit the development. The MU1 Mixed Use zone is a prescribed zone, and clause 61 permits development for the purposes of a group home on land in that zone.

Clause 61 of Chapter 3 Part 2 of the Housing SEPP 2021 provides relevantly:

61 Development in prescribed zones

(1) Development for the purposes of a permanent group home or a transitional group home on land in a prescribed zone may be carried out—

(a) without consent if the development—

(i) does not result in more than 10 bedrooms on a site, and

(ii) is carried out by or on behalf of a public authority, or

(b) otherwise—with consent.

Clause 8 of the SEPP would operate to override the LEP if it purported to prohibit the use. It is hard to see how a group home could ordinarily include business or retail premises at its frontage.

Accordingly, the development is permissible and should be approved.




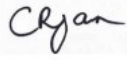
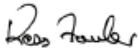
CONDITIONS

The Development Application was approved subject to the conditions in the Council Assessment Report.

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel notes that three written submissions were made during public exhibition. Issues raised included:

- The development would be inconsistent and inappropriate in a residential setting.
- It would impact poorly on the surrounding residential character.
- Noise impacts.
- Safety concerns.
- Inadequate provision for parking.
- Tree removal.
- Underdevelopment of the site given its 3:1 floor space ratio.

PANEL MEMBERS	
 Justin Doyle (Chair)	 Louise Camenzuli
 David Kitto	 Carlie Ryan
 Ross Fowler	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSWC-576 – Penrith – DA24/1004
2	PROPOSED DEVELOPMENT	Lot Consolidation & Staged Construction of Transitional Group Home including 12 Bedrooms (30 Beds), At-Grade Car Park with 9 Car Spaces, Associated Landscaping & Stormwater Management Works & Facade Upgrades to Existing Medical Centre
3	STREET ADDRESS	2A Bringelly Road, Kingswood 2747
4	APPLICANT/OWNER	Applicant: We Help Ourselves (WHOS) Owner: We Help Ourselves (WHOS)
5	TYPE OF REGIONAL DEVELOPMENT	Private infrastructure and community facilities 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 (Biodiversity and Conservation) 2021 State Environmental Planning Policy (Housing) 2021 State Environmental Planning Policy (Industry and Employment) 2021 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 (Sustainable Buildings) 2022 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 Relevant provisions of the <i>Environmental Planning and Assessment Regulation 2021</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: 16 December 2025 Active Street Frontages 4.6 variation request Written submissions during public exhibition: 3 Total number of unique submissions received by way of objection: 3
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	N/A
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the Council Assessment Report