



REZONING REVIEW RECORD OF DECISION

STRATEGIC PLANNING PANEL of the
SYDNEY WESTERN CITY PLANNING PANEL

DATE OF DETERMINATION	8 April 2025
DATE OF DECISION	31 March 2025
PANEL MEMBERS	Cinnamon Dunsford (Acting Chair), Blake Cansdale, Amanda Wetzel and Cr Reece Nuttall
APOLOGIES	None
DECLARATIONS OF INTEREST	<p>Justin Doyle declared a conflict of interest as he had previously considered development applications for the subject sites and therefore did not participate on the panel and an alternate chair was appointed.</p> <p>Penrith City Council's local member Ross Fowler declared a conflict of interest as he had previously considered development applications for the subject sites and therefore did not participate on the panel.</p>

REZONING REVIEW

RR-2024-30 – Penrith LGA – PP-2024-280

634-638 High Street and 87-93 Union Road Penrith (As described in Schedule 1).

Reason for Review:

- ☐ The council has notified the proponent that the request to prepare a planning proposal has not been supported.
- ☒ The council has failed to indicate its support 90 days after the proponent submitted a request to prepare a planning proposal.
- ☐ The council has not submitted the planning proposal for a Gateway determination within 28 days of indicating its support for the proposal.

PANEL CONSIDERATION AND DECISION

The Panel considered the material listed at item 4 and the matters raised and/or observed at briefings and site inspections listed at item 5 in Schedule 1.

Based on this review, the Panel recommends that the proposed instrument:

- ☒ **should** be submitted for a Gateway determination because the proposal has demonstrated strategic and site specific merit
- ☐ **should not** be submitted for a Gateway determination because the proposal has:
 - ☐ not demonstrated strategic merit
 - ☐ demonstrated strategic merit but not site specific merit

The decision was unanimous.

REASONS FOR THE DECISION

The Panel considered the documentation, was briefed by the Department of Planning, Housing and Infrastructure (DPHI), and heard extensively from Penrith City Council and Urbis (Planning Consultant) and Urban Property Group and TOGA (collectively the proponent) on 13 March. The Panel requested additional shadow diagrams that showed comparison of overshadowing impacts on 10 Mulgoa Road

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(open space) based upon LEP Clause 8.2 compliant scheme compared to LEP Clause 8.2 exemption (proposed development) scheme. Once these were received a further briefing was held with DPHI and the Panel members on 31 March.

Strategic Merit

The Panel agreed that the planning proposal had Strategic Merit given that:

- The planning proposal is consistent with applicable strategic planning documents, particularly as they relate to the general objectives for housing. These include the Greater Sydney Region Plan: A Metropolis of Three Cities (GSRP), Western City District Plan (WCDP), Greater Penrith Place Strategy, Penrith Local Strategic Planning Statement 2040 (LSPS), Penrith Local Housing Strategy (LHS), relevant State Environmental Planning Policies (SEPPs) and Relevant Section 9.1 Ministerial Directions.
- Delivering housing supply is a priority issue for Sydney for all levels of Government.
- The provision of additional housing in this location has strategic merit, as the proposal's outcomes would result in achieving planning densities anticipated for the two Key Sites as identified by local planning policy.
- Clause 8.2 in Penrith LEP 2010 currently prohibits any overshadowing impacts beyond those that would occur based upon LEP Clause 8.2 compliant scheme. The Panel accepts the wording of this provision does not reflect Council's current position, noting the existence of a separate Council-led planning proposal that intends enable a merit-based assessment of solar impacts.

Site Specific Merit

The Panel agreed that the planning proposal had Site Specific Merit given that:

- The planning proposal demonstrates the potential overshadowing of 10 Mulgoa Road arising from LEP Clause 8.2 exemption scheme (proposed development) could be considered acceptable on merit. This was confirmed by the Panel requesting additional comparison shadow diagrams as part of their briefing.
- The density, height and FSR achievable should the proposal proceed are consistent with Council's local planning framework, as the sites have been identified as Key Sites where density bonuses are intended to apply under Clause 8.7 in Penrith LEP 2010.
- The Panel has been informed by DPHI that the state's flood dwelling cap is not close to being exceeded.

Panel recommendations

The Panel recommends the Planning Proposal to proceed for a Gateway determination.

The Panel notes that in making their recommendation above they had the following intent:

- It is appreciated this is an interim measure to enable increased densities to be achieved on the two Key Sites whilst Council continues their Planning Proposal for the overall Penrith City Centre, appreciating the wider issue of the Affordable Housing SEPP is delaying the Council's Planning Proposal.
- The wording of Clause 8.2 currently prohibits any overshadowing of 10 Mulgoa Road and the Panel acknowledges that some overshadowing of this specific parcel of open space is acceptable, due to its form, shape, location, level of embellishment, usability, size and scale/ type of vegetation on the site.
- There are a number of ways the Planning Proposal could seek to amend Penrith LEP 2010 to achieve increased densities on the two Key Sites. The Panel appreciates that the proponent has proposed one option and DPHI will ensure the Panel's intent is realised through the most appropriate clause amendment (most likely being the re-wording of Clause 8.2) in Penrith LEP 2010 as the Planning Proposal progresses.



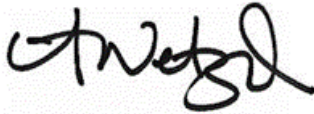

Penrith City Council confirmed their interest in accepting the role of Planning Proposal Authority (PPA) for this planning proposal. The Panel considered the request but resolved to appoint themselves as PPA in an effort to maintain a timely progression of the planning proposal. In accordance with Section 3.32(1) of the

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Environmental Planning and Assessment Act 1979, the Planning Panel as delegate of the Minister for Planning has determined to appoint itself as the PPA for this planning proposal.

Should the proponent fail to pay the PPA fee by the designated date, then the Panel will no longer proceed with the planning proposal and the making of a local environmental plan amendment.

PANEL MEMBERS	
	
Cinnamon Dunsford (Acting Chair)	Blake Cansdale
	
Amanda Wetzel	Reece Nuttall

SCHEDULE 1		
1	PANEL REF – LGA – DEPARTMENT REF - ADDRESS	RR-2024-30 – Penrith LGA – PP-2024-280 at 634-638 High Street and 87-93 Union Road Penrith
2	LEP TO BE AMENDED	Penrith Local Environmental Plan (LEP) 2010
3	PROPOSED INSTRUMENT	<p>The proposal seeks to:</p> <ul style="list-style-type: none"> amend Clause 8.2 (Sun Access) to facilitate the orderly and economic development of two 'Key Sites'
4	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> Rezoning review request documentation Department of Planning, Housing and Infrastructure, Rezoning Review Briefing Report, 27 February 2025 Slide presentations from DPHI, 11 March 2025; Penrith City Council, 11 March 2025; and Urbis, 11 March 2025
5	SITE INSPECTIONS AND BRIEFINGS BY THE PANEL	<ul style="list-style-type: none"> Site inspection: <ul style="list-style-type: none"> Panel members either conducted independent site inspections, were already familiar with subject sites and surrounding parks or relied on the imagery provided to review the sites and open space. Briefing with Department of Planning, Housing and Infrastructure (DPHI): 10:05am – 10:43am, 13 March 2025 <ul style="list-style-type: none"> Panel members in attendance: Cinnamon Dunsford (Acting Chair), Blake Cansdale, Amanda Wetzel and Reece Nuttall DPHI staff in attendance: Louise McMahon, Murray Jay, Alex Galea, Ayva Hamed, Pengfei Cheng, Ryan Klinberg, Adam Williams and Taylah Fenning Key issues discussed: <ul style="list-style-type: none"> Overview of the site and the Council lead Planning Proposal Development controls for the sites Overshadowing of the public park and comparable sites in the city center Precedence Other site specific issues and court findings Briefing with Penrith City Council: 10:45am – 11:24am, 13 March 2025 <ul style="list-style-type: none"> Panel members in attendance: Cinnamon Dunsford (Acting Chair), Blake Cansdale, Amanda Wetzel and Reece Nuttall DPHI staff in attendance: Louise McMahon, Murray Jay, Alex Galea, Ayva Hamed, Pengfei Cheng, Ryan Klinberg, Adam Williams and Taylah Fenning Council representatives in attendance: Abdul Cheema and Peter Failes Key issues discussed: <ul style="list-style-type: none"> Status and aims of Council initiated planning proposal Uplift bonus consequences

		<ul style="list-style-type: none"> • Hierarchy of open spaces • Adaptive Management Framework dwelling cap • Modelling undertaken already • Affordable housing bonus <ul style="list-style-type: none"> • Briefing with Urbis (Planning Consultant) and Urban Property Group and TOGA (Proponent): 11:30am – 12:16pm, 13 March 2025 <ul style="list-style-type: none"> ○ Panel members in attendance: Cinnamon Dunsford (Acting Chair), Blake Cansdale, Amanda Wetzel and Reece Nuttall ○ DPHI staff in attendance: Louise McMahon, Murray Jay, Alex Galea, Ayva Hamed, Pengfei Cheng, Ryan Klinberg, Adam Williams and Taylah Fenning ○ Proponent representatives in attendance: John Wynne, Chris Ferreira, Paul Shaw, Anthony Kiliyas, Patrick Elias, Amy Kiely and Richard Boulos ○ Key issues discussed: <ul style="list-style-type: none"> • Evolution of the Solar access clause • Status of the proposed key sites and affected park • Previous DA refusals and compliance achievability • Comparable LEP Solar access clauses • Panel Discussion: 12:16pm – 12:59pm, 13 March 2025 <ul style="list-style-type: none"> ○ Panel members in attendance: Cinnamon Dunsford (Acting Chair), Blake Cansdale, Amanda Wetzel and Reece Nuttall ○ DPHI staff in attendance: Louise McMahon, Murray Jay, Alex Galea, Ayva Hamed, Pengfei Cheng, Ryan Klinberg, Adam Williams and Taylah Fenning • Panel Discussion: 10:00am – 10:31am, 31 March 2025 <ul style="list-style-type: none"> ○ Panel members in attendance: Cinnamon Dunsford (Acting Chair), Blake Cansdale, Amanda Wetzel and Reece Nuttall ○ DPHI staff in attendance: Louise McMahon, Murray Jay, Alex Galea, Ayva Hamed, Pengfei Cheng, and Taylah Fenning
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