

# PENRITH LOCAL PLANNING PANEL

## DETERMINATION AND STATEMENT OF REASONS

<b>APPLICATION NUMBER</b>	DA22/0075
<b>DATE OF DETERMINATION</b>	23 November 2022
<b>PANEL MEMBERS</b>	Pamela Soon (Chair) Christopher Hallam (Expert) Mary-Lynne Taylor (Expert) Stephen Welsh (Community Representative)
<b>DECLARATIONS OF INTEREST</b>	No conflicts of interest were declared
<b>LISTED SPEAKERS</b>	Vince Hardy (Applicant) Karen Luka (Owner Penrith City Council) Glenyss Laws (Consultant) Debbie Michalek

Electronic Meeting held via video conference on Wednesday 23 November 2022, starting at 11:30am.

### **Matter Determined pursuant to Section 4.16 of the Environmental Planning and Assessment Act 1979**

Development Application DA22/0075, Lot 3280 DP 786811, 7 Swallow Drive, Erskine Park – Torrens Title Subdivision into 5 Lots, Tree Removal and Associated Civil Works at the Corner of Swallow Drive and Regulus Street

### **Panel Consideration**

The Panel had regard to the assessment report prepared by Council's independent assessment officer (external planning consultant), supporting plans and information, and the following environmental planning instruments and policies;

- Penrith Local Environmental Plan 2010
- Penrith Development Control Plan 2014
- State Environmental Planning Policy – Western Parkland City 2021
- State Environmental Planning Policy – (Resilience and Hazards) 2021
- State Environmental Planning Policy (Biodiversity and Conservation) 2021

In terms of considering community views, the Panel noted there was one submission (across a number of emails) in response to the public notification of the Development Application.

### **Panel Decision**

DA22/0075, Lot 3280 DP 786811, 7 Swallow Drive, Erskine Park – Torrens Title Subdivision into 5 Lots, Tree Removal and Associated Civil Works at the Corner of Swallow Drive and Regulus Street be deferred.

### **Reasons for the Decision**

- The Panel agrees with the assessment report that the development of subdivision into 5 lots is an overdevelopment of the site bearing in mind the restricted development area that is required to be maintained for environmental purposes substantially diminishing the area of each lot available for residential development
- The Applicant's Clause 4.6 request to vary the minimum lot frontage requirements within Penrith Local Environmental Plan 2010 is not supported by the Panel having regard to the following:-
  - Compliance with the development standard is warranted to maintain a suitable streetscape presentation stemming from adequately sized and dimensioned allotments in accordance with the established character of the area.
  - The lot frontage width requirements within the LEP are a separate development standard to minimum lot size. The standard for minimum lot frontage width is to provide a spatial break between, and landscape curtilage around, future building forms. The deletion of a lot provides for a compliant and more contextually appropriate subdivision with a future built form outcome reflective of the subdivision pattern immediately adjoining and surrounding the site.
  - The proposed lots are to include sizeable restricted development areas that decrease the developable areas of the lots. The resulting reduced developable area is also required to support both a building envelope and useable area for private open space. The deletion of a lot and provision of a fully compliant subdivision scheme allows for sufficiently sized developable and useable areas within each resulting lot.
  - The deletion of an allotment also allows for increase of the lot dimensions for Proposed Lot 1 which significantly improves the corner lot's primary and secondary street presentation.
- The concept plan submitted by the Applicant in response to the Assessment Report recommendations is not considered an appropriate alternative arrangement for the reasons outlined above.
- The concerns raised by a neighbouring land owner were noted by the Panel. Sydney Water is the responsible service authority for water and



sewer connection placement and Sydney Water has confirmed in writing that the location and design of service connections will not be addressed by them until an approval has been issued by the consent authority for the development. [The Sydney Water process is outlined within the Assessment Report. The Applicant however is encouraged to undertake early engagement with Sydney Water].

- The Panel unanimously agreed that a proposed 5 x allotment subdivision is not supportable however it would consider an amended plan and supporting detail depicting 4 x allotments addressing the points contained within the recommended deferred commencement condition. This includes:-
  - A maximum of 4 x lots in an east / west orientation
  - Retain Proposed Lot 5 in its current configuration
  - Redesign Proposed Lots 1 – 4 to be 3 x lots
  - Increase Proposed Lot 1 width to allow greater frontage to Regulus Street (being a 15m frontage width excluding the corner splay as measured along the front property boundary).
  - Provision of a restricted development area at the rear of the revised lots
  - Compliance with minimum lot width requirements
  - Revised boundary lines are to have regard to trees and no boundary fence is to go through tree drip line (or avoid as best as practicable)
  - Remove any indicative sewer alignment route
  
- In addition, the submission of a revised plan of subdivision should be supported by a fencing design plan that outlines proposed fencing between allotments and between the developable lot area and the required restricted development areas. The fencing design plan should respond to biodiversity considerations ensuring protection and retention of significant vegetation.

Upon receipt of an amended application for 4 lots and additional information as requested above, which must be received within 21 days of this decision, the application may be able to be decided by the Panel through electronic determination. If the Applicant does not wish to proceed by way of an amended application as suggested above, the Panel will refuse the existing application.

### Votes

The decision was unanimous.

Pamela Soon (Chair) 	Christopher Hallam (Expert) 
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Mary-Lynne Taylor (Expert)



Stephen Welsh (Community Representative)

