

# PENRITH LOCAL PLANNING PANEL

## DETERMINATION AND STATEMENT OF REASONS

<b>APPLICATION NUMBER</b>	DA20/0208, 20 Memorial Avenue & 712 High Street PENRITH NSW 2750
<b>DATE OF DETERMINATION</b>	25 November 2020
<b>PANEL MEMBERS</b>	Jason Perica (Chair) John Brunton (Expert) Mary-Lynne Taylor (Expert)
<b>DECLARATIONS OF INTEREST</b>	Stephen Welsh declared a conflict of interest due to a close relationship with one of the submitters for the application, therefore having to pull out from this meeting.
<b>LISTED SPEAKERS</b>	Gary Clark John Bateman Hanna & Mohammad Shalbaf <b>On behalf of applicant:</b> Warwick Stimson – Stimson Urban & Regional Planning Peter Strait – FDC Building Craig Laundry – Laundry Hotels Jonathan Parker – Team 2 Architects Tom Aubusson – Acoustic Logic Steve Wellman – PTC Consultants (traffic) James Ngu & Jogn Tiong - Geotech

Public Meeting held via video conference on Wednesday 25 November 2020, starting at 12:00pm.

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

Development Application DA20/0208 at Lot 22 DP 1236215 & Lot 21 DP 1236215, 20 Memorial Avenue PENRITH NSW 2750 & 712 High Street PENRITH NSW 2750 - Construction of Log Cabin Hotel including Two (2) Storey Building containing Bar & Dining Areas, Gaming Area, Function Rooms

& Servicing Areas & Related Beer Garden, Children's Playground, At-Grade Car Parking & Site Works including Remediation Works.

### Panel Consideration

The Panel had regard to the assessment report prepared by Council Officers, including the following plans;

- Local Environmental Plan 2010 (Amendment 4)
- Development Control Plan 2014
- State Environmental Planning Policy (Infrastructure) 2007
- State Environmental Planning Policy (Vegetation in non-rural areas) 2017
- State Environmental Planning Policy No 55—Remediation of Land
- Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

In terms of considering community views, the Panel noted there was (1) one submission in support and (24) twenty-four submissions in objection with 51 signatures on a single petition received from the public notification of the Development Application.

### Panel Decision

Development Application DA20/0208 at Lot 22 DP 1236215 & Lot 21 DP 1236215, 20 Memorial Avenue PENRITH NSW 2750 & 712 High Street PENRITH NSW 2750 - Construction of Log Cabin Hotel including Two (2) Storey Building containing Bar & Dining Areas, Gaming Area, Function Rooms & Servicing Areas & Related Beer Garden, Children's Playground, At-Grade Car Parking & Site Works including Remediation Works be approved subject to the conditions recommended by Council staff contained in the report to the Panel meeting of 25 November 2020, subject to the following changes:

- a. A new condition to state:  
*“The courtesy bus shall be available and on call whenever the premises is open for business.”*
- b. A new condition to state:  
*“The applicant/operator shall establish a community liaison committee that meets formally at least monthly in the first year of operation. This shall be established after inviting a neighbouring area of at least 200m radius. The purpose of the committee shall be to discuss operational aspects of the premise and how best to balance the impacts on the neighbourhood, seeking to resolve issues in a practical and collaborative way. Minutes shall be kept and a report provided to Council after one year of occupation. Apart from this the operator shall take all reasonable steps to resolve any neighbour issues in a proactive manner.”*
- c. Amend condition 29 to allow the trading hours as sought by the application (as subject to management measures in the Plan of Management).
- d. Amend condition 92 to state:  
*“All approved roadworks shall be implemented at the full cost of the applicant, prior to the issue of an occupation certificate.”*
- e. Amend condition 99 to state:

*“Prior to the issue of a Construction Certificate, the Principal Certifier shall ensure that the filling and final height of the car park within the area below RL 25.8m AHD is designed to match with existing ground levels to minimise the impact on flood flow conveyance and flood heights. Full details are to be submitted with the application for a Construction Certificate.”*

- f. Delete condition 106.
- g. Amend condition 107 to replace the recommended dot points with the following dot points:
  - *Revised car park layout and cul-de-sac configuration, to ensure alignment of all approved documentation;*
  - *Car park perimeter planting on all boundaries to provide a visual screen, physical barrier, and shade trees;*
  - *Memorial Avenue street tree planting behind kerb;*
  - *A revised design of the stormwater basin in the car park to ensure existing trees are retained;*
  - *Planting within the car park area including additional canopy trees to provide shade, and engineered tree pit solutions for good tree health and growth;*
  - *Retention of the existing palm tree on the embankment, and planting of additional trees of the same species;*
  - *Embankment area planting with trees, shrubs, and understorey in accordance with the Nepean River ‘Our River’ Riparian Vegetation Management Plan;*
  - *Deletion or reduction to the number of the pergolas within the playground area, and replacement with shade trees; and*
  - *Inclusion of a vegetated buffer including small trees and shrubs along the northern boundary of the playground enabled by the relocation of the retaining wall by a distance of 1.5 metres to the south*

### **Reasons for the Decision**

The Panel generally agreed with the assessment contained with Council’s Assessment Report. However, there were some differences regarding aspects of recommended conditions, the most significant of which was the recommended hours of operation.

Overall, the use is permissible in the zone, consistent with the zone objectives and suited to the site and area. It will provide a benefit to the wider community and replaces a similar use in a similar location, albeit after that facility burnt down around 8 years ago. In this regard, the Panel agreed that the site planning and configuration had better regard to the relationship with neighbouring residential properties than the historical situation.

There has been some significant change around the site relating to a pedestrian bridge and river walk, and this represents both opportunities and some challenges for the design. The car parking proposed reasonably meets anticipated demand, again improved compared to the historical situation. Concerns raised in the neighbourhood about traffic, parking and pedestrian

safety were not of such significance to warrant refusal of the application. These aspects are also further managed and mitigated by conditions of consent.

The proposal complies with all development standards and given the applicable planning controls and history of development on the site, represents a form of development that could be reasonably anticipated or expected for the site.


In terms of recommended conditions, the Panel made a number of changes as outlined in the terms of the decision above. The most significant of these related to operating hours and landscaping. In terms of operating hours, as previously stated, the development of the site has reasonably considered neighbouring development and is improved compared to the historical situation. There is a Plan of Management to guide the management of the impacts related to the use and this augmented and strengthened by recommended conditions, as amended. Further there are remedies under both the Environmental Planning and Assessment Act 1979 & Liquor Act 2007 should there be breaches of consent conditions or unreasonable noise or amenity impacts on neighbours arising from the operation. Accordingly, the Panel supported the hours of consent sought, which were consistent with previous operations and approvals.

In terms of landscaping, there is scope for improved visual screening and shade for the development and its surrounds that warranted amendments to recommended conditions. Additional conditions are also imposed to ensure any adverse visual impacts on heritage items are minimised.

The Panel had regard to both written submissions and verbal presentations made. The Panel agreed with the assessment of issues raised, as outlined in the Council report, with exceptions related to comments above. Traffic and parking impacts were deemed acceptable, noise impacts have been addressed by an expert report reviewed by Council staff and hours and amenity impacts are appropriately addressed and managed by recommended conditions, as amended. While the proposal will result on some impacts to those living near the site, the wider public benefits outweigh such impacts.

### Votes

The decision was unanimous.

Jason Perica – Chair 	John Brunton – Expert 
Mary-Lynne Taylor – Expert 	

# MEMORANDUM

Reference: DA20/0208  
 To: Penrith Local Planning Panel  
 From: Wendy Connell – Senior Development Assessment Planner  
 Date: 24 November 2020  
 Subject: Proposed Construction of Log Cabin Development – 20 Memorial Avenue & 712 High Street, Penrith

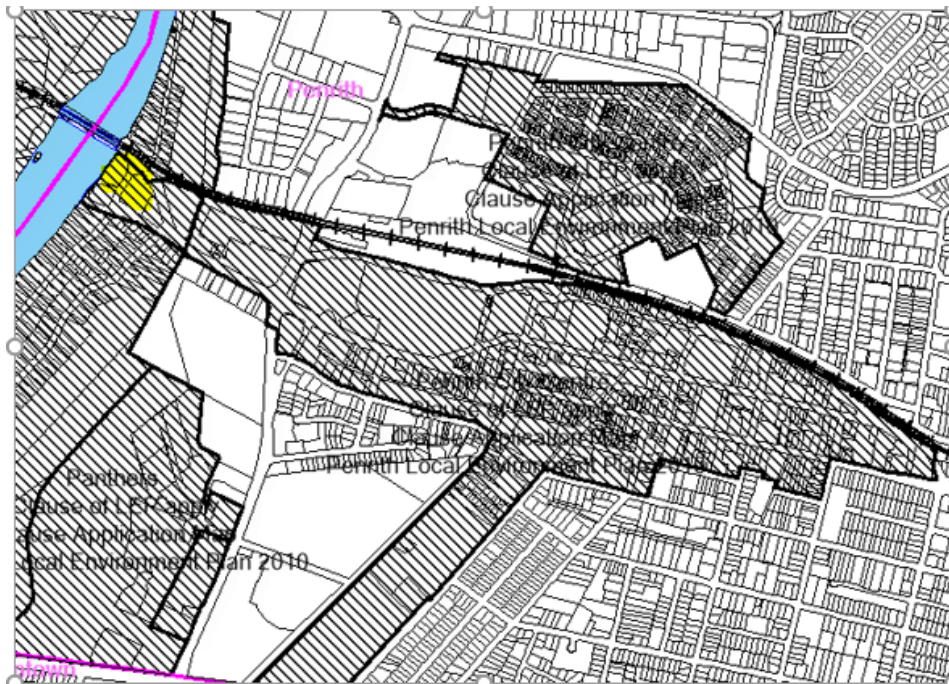
I refer to the subject development proposal and the related development assessment report that is scheduled for consideration by the Penrith Local Planning Panel on 25 November 2020.

This memorandum provides further information regarding the proposal and recommended consent conditions in response to several queries from the Panel.

## LEP Design Excellence Provisions

The subject site is identified on the Clause Application Map under the Penrith LEP as being within the Penrith City Centre, and therefore the applicable provisions under Part 8 (Penrith City Centre), including Clause 8.4 relating to design excellence, apply to the development proposal.

*Clause Application Map*



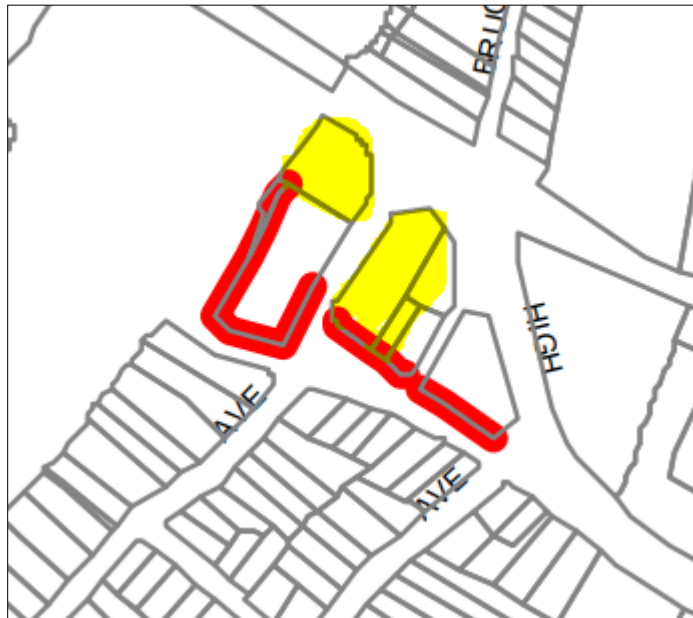
## Active Street Frontages LEP Map

Notwithstanding that the subject site is zoned SP3, the site is identified on the Active

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Street Frontages Map under the Penrith LEP, and therefore this consideration was addressed in the development assessment report.

## *Active Street Frontages Map*



### **Tree Retention**

On balance, the proposed tree removal within the car park area has been assessed to be acceptable. The retention of the subject trees would have significantly impacted on the spatial arrangement and functionality of the proposed car park and stormwater basin design. Compensatory tree planting has been proposed as part of the development proposal, and additional canopy tree planting within the car park has been required via a recommended condition.

### **Previous Site Approvals**

There is no information in Council's records in relation to the authorised hours of operation for the previous hotel on the site.

Although consent was issued on 26 April 2000 (refer to Attachment No. 1) for extended hours of operation (until 2am, Thursday to Saturday) for the function rooms and restaurant of the former Log Cabin Motor Inn on the southern part of the former site, this consent did not relate to the hotel operation on the northern part of the former site.

The previous built form and car parking areas can be seen from the aerial photo over the page, dated 17 September 2011, which is prior to the fire which occurred on the site.

Car parking on the eastern side of Memorial Avenue was informal and provided in an overflow arrangement. The northern part of the site was the hotel, with the motel on the

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southern part. The abovementioned function rooms and restaurant were located in the middle of the site.



Source: Nearmap, 17 September 2011



Source: Nearmap, 1 October 2020

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## Urban Design Review Panel Advice

A copy of advice dated 3 March 2020 provided by Council's Urban Design Review Panel in relation to the proposal is provided at Attachment No. 2. The advice was provided for the proposal just prior to the lodgement of the development application.

## Acoustic Barrier

The recommendation in the Acoustic Report (page 21) is for a 1.5m high solid balustrade along the full length of the southern end of the external deck on level 1, as detailed below.



The condition requiring details of this acoustic treatment has been recommended as this edge has a key interface with the pedestrian bridge and no details were provided on how this will be treated.

## Condition 4

Condition 4 has been recommended due to the proposed food premises requiring registration under Section 100 of the Food Act 2003.

## Condition 10

The Social Impact Assessment noted that a courtesy bus will be offered by the hotel on Friday and Saturday nights which will assist patrons with a safe journey home. No hours of operation were provided in the Social Impact Assessment, and no courtesy bus was noted in the Plan of Management. The recommended condition of consent could be expanded to include the operating hours for the bus commencing from 5pm to closing time on Friday and Saturday nights.



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## Conditions 17 & 19

The proposal seeks to clean, maintain and 'make safe' the pump house. There is no specific detail on what this may involve and therefore Condition 17 is recommended to ensure that any replacement of material or repair works has due consideration to heritage provisions.

The applicant has indicated that if possible, the pump house may be incorporated in the development in the future, however it is unknown at this stage what this may involve. Condition 19 has been recommended should the applicant wish to pursue a proposed use and/or undertake works on the pump house, warranting a separate development application.

## Conditions 75 & 76

Condition 75 is a general condition requiring an application and rudimentary plans and details for a Section 138 Roads Act approval.

Condition 76 is a specific condition requiring an application and detailed engineering plans and details for specific works to be undertaken for the development that require a Section 138 Roads Act approval.

## Condition 92

Condition 92 outlines the need for approval by the Local Traffic Committee for any regulatory or advisory line marking and signage for public roadways. "No Stopping" and "No Parking" signage will be required within the cul-de-sac on Memorial Avenue to ensure trucks have the ability to turn around.

The reference in the condition to this being a pre-requisite prior to the issue of an Occupation Certificate could be removed should it be deemed unreasonable.

## Condition 99

Condition 99 has been included as the eastern end of the car park is a flood flow conveyance area and to ensure that any fill proposed is minimised so as to not impact on flood flow conveyance or flood heights.

A recommended wording change to the condition to provide clarification in this regard is outlined below.

*Prior to the issue of a Construction Certificate, the Principal Certifier shall ensure that the filling and final height of the car park within the area below RL 25.8m AHD is designed to match with existing ground levels to minimise the impact on flood flow conveyance and flood heights. Full details are to be submitted with the application for a Construction Certificate.*

## Condition 106

Fairly lights have not been proposed as part of the lighting plan. The condition is

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recommended to protect view lines to the pedestrian bridge should fairy lights be considered in the future.

## **Condition 107**

An amended landscape plan has been conditioned to ensure an acceptable landscape outcome is achieved in relation to the key dot points within the condition.

The civil plans reflect a reconfigured car park and cul-de-sac. The car park reconfiguration, being the re-location of two car parking spaces from the south-western corner, was the result of Council's Landscape Architect and Heritage Advisor requiring additional planting behind the Explorers Memorial. The additional planting was to ensure the Explorers Memorial has an appropriate backdrop, similar to what is currently viewed, when traveling north along Nepean Avenue. This was discussed with the applicant at a meeting and the reconfigured car park reflects this discussion, however the landscape plan was not amended to demonstrate the planting that will be provided.

No street tree planting along Memorial Avenue, between the car park and the hotel, is proposed on the landscape plan, and therefore this has been conditioned. The street trees planted should extend to the cul-de-sac, and therefore the amended landscape plan should include the cul-de-sac configuration and proposed landscaping.

No details of the perimeter screen planting to the car park have been provided on the landscape plan. The legend indicates 'Proposed Planting refer to Plant Schedule'. The Plant Schedule lists a number of species but does not specify their locations. As the car park area is expansive, and this has been an area of concern raised in public submissions, it needs to be ensured that the appropriate screening of the hardstand area is achieved.

There is more opportunity to provide canopy cover within the car park area than has been considered in the landscape plan. Cooling the expansive hardstand area and reducing the heat island effect is the desired outcome.

Finally, Council has prepared a Nepean River 'Our River' Riparian Vegetation Management Plan (VPM). The landscape plan reflects a number of species from the VMP however a detailed design layout has not been provided.

Wendy Connell  
**Senior Development Assessment Planner**