

PENRITH LOCAL PLANNING PANEL

DETERMINATION AND STATEMENT OF REASONS

APPLICATION NUMBER	DA25/0331
DATE OF DETERMINATION	9 July 2025
PANEL MEMBERS	Graham Brown (Chair) Kate Bartlett (Expert) Jeremy Swan (Expert) Harold Dulay (Community Representative)
DECLARATIONS OF INTEREST	No conflicts of interest were declared
LISTED SPEAKERS	David Austin Justine Lendvai Dorotea Seed Michael Seed Nicole Ochoa Carol Vella
LIST OF ADDITIONAL ATTENDEES	James Heathcote – Council – Development Assessment Planner Jake Bentley – Council – Senior Development Assessment Planner Gavin Cherry – Council – Development Assessment Coordinator Katelyn Davies – Council – Panel Management Support Officer Albert Florido

Penrith City Council
PO Box 60, Penrith
NSW 2751 Australia
T 4732 7777
F 4732 7958
penrith.city

	Carol Vella Lal Singh Gill Maandeep Gill
APOLOGIES	Sandra Fagan – Council – Principal Planner

Hybrid Public Meeting held in person and via video conference on Wednesday 9 July 2025, starting at 12.00pm.

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

DA25/0331, Demolition of Existing Structures and Construction of a Two Storey 68 Place Child Care Centre with Basement Parking at No. 94 Melville Road St Clair, NSW, 2759.

Panel Consideration

The Panel had regard to the assessment report prepared by Council staff, supporting plans and information, and the following environmental planning instruments and policies:

- State Environmental Planning Policy (Biodiversity and Conservation) 2021
- State Environmental Planning Policy (Resilience and Hazards) 2021
- State Environmental Planning Policy (Transport and Infrastructure) 2022
- and the Child Care Planning Guideline
- Penrith Local Environmental Plan 2010
- Penrith Development Control Plan 2014

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In terms of considering community views, the Panel noted there were fourteen (14) submissions received in response to the public notification of the Development Application, whilst the Panel also listened to registered speakers at the public meeting. The nature of the submissions were also addressed within the Council's Assessment Report.

Panel Decision

In accordance with Section 4.16 of the Environmental Planning and Assessment Act 1979, DA25/0331, Demolition of Existing Structures and Construction of a Two Storey 68 Place Child Care Centre with Basement Parking at No. 94 Melville Road St Clair, NSW, 2759 be refused as recommended by Council Staff subject to the following amendments

- Reason for Refusal No. 3 is to be amended to include reference to Clause 7.6 – Salinity of Penrith LEP 2010

Reasons for the Decision

- The Panel agreed with Council's assessment of the proposal and the reasons for refusal outlined within the Council Assessment Report.
- The Panel cannot be satisfied that the proposal has addressed and complied with Clause 7.6 – Salinity of PLEP 2010. The proposal is not supported by a geotechnical assessment report, and it has not been identified if the site is affected by salinity or what construction methodology is required to be adopted in response to identified ground conditions.
- The proposal is not supported by an Ecological Sustainable Development Report or similar assessment, that sufficiently addresses the provisions of Clause 7.4 Sustainable Development of PLEP 2010. The Panel cannot be satisfied that the proposal has sufficiently addressed and complied with Clause 7.4 of the PLEP 2010.
- The proposal fails to provide design details for the management of water quality and water quantity. As a result, it has not been demonstrated that the site can suitably manage stormwater disposal, and it has not been demonstrated that the water sensitive urban design requirements of Chapter C3 – Water Management of PDCP 2014 and Chapter 6 of the State Environmental Planning Policy (Biodiversity and Conservation) 2021 have been satisfied.
- The proposal fails to sufficiently address and comply with Clause 7.30 – Urban Heat of Penrith LEP 2010 and Chapter C14 – Urban Heat of PDCP 2014. The proposal does not provide sufficient landscape and deep soil zone areas for shrub and tree canopy planting, that can provide for


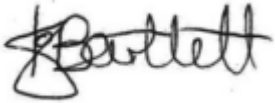

naturalised shade, coupled with overreliance on synesthetic turf which does not provide for suitable urban heat mitigation measures.

- The ground floor arrangement is not considered to be supportable as the proposed location of indoor play areas and toilets impedes line of sight and surveillance opportunities between Playroom 1 and the majority of the outdoor play area. In addition, the location of storage rooms north of the playrooms further impedes natural light and outlook despite the northern orientation. The proposal warrants reconsideration of the ground floor configuration to ensure that greater connectivity between indoor and outdoor play areas is achieved and sufficient levels of solar access and outlook are provided.
- Necessary amendment of the proposal to achieve required basement setbacks, minimum 2.0m wide boundary screen landscaping dimensions, compliant fence alignments and a reconfigured ground floor arrangement will alter the quantum of nominated outdoor play areas to an extent, that compliance with Clause 3.26 of the SEPP cannot be taken to be complied with unless there is a corresponding reduction in placement numbers.
- The proposal provides an overall spatial arrangement, streetscape presentation, mass and scale which is inconsistent with the built form and landscape character of the locality. The proportions of the first-floor comparative to the ground floor accentuates the inappropriate bulk and scale of the development, with the extent of cantilevered first floor impeding natural light and amenity to the ground floor.
- The Panel formed the view that the access driveway should be explored from Banks Drive rather than Melville Road. It is noted that the rear setback is informed by the current gradient requirements for the driveway. A relocated driveway would allow for the protection and retention of the existing street tree and improve finished ground and floor levels relative to natural ground level. The location of the driveway must be informed by setback requirements to the intersection tangent and compliant sight lines. This should be supported by further traffic analysis and additional traffic modelling. This is also warranted given the consistent evidence of high traffic volumes and queue lengths as depicted in photographs submitted to the Panel in support of submissions received.

- The Panel formed the view that the access arrangements within the basement are unsupportable. Access to the lift lobby via the accessible space shared area is a poor planning outcome. The arrangement also does not allow for safe and efficient movement of waste with bin transfer through the lift lobby.
- The Panel considered representations made during the Public Meeting, most notably concerning traffic and noise. The Panel were not satisfied that these matters were adequately addressed in the Proposal as outlined in Council Officers report.
- The proposed development is not considered to be in the public interest.

Votes

The decision was unanimous.

Graham Brown (Chair) 	Kate Bartlett (Expert) 
Jeremy Swan (Expert) 	Harold Dulay (Community Representative) 