



Our reference: ECM: 9197663
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David Glasgow
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Dear David,

Response to Request for input into the Secretary's Environmental Assessment Requirements (SEARS) for a Winter Sports Resort at 2-4 Tench Avenue, Jamisontown

I refer to the above request for SEAR's received by Council on 30 June 2020. Thank you for the opportunity to comment on the proposed development. The following comments are provided for consideration and inclusion in the SEAR's response:-

Permissibility and Planning Proposal Details

The submitted Scoping Report makes references to proposed amended development standards contained within a draft Planning Proposal under assessment by Council and the proposal is dependant on the acceptance, progression and gazettal of these standards.

The scoping report however is not entirely accurate in the commentary on the nature of the amendments, and the factors that inform and substantiate consideration of those amendments. This is clarified in the detail below below.

The Planning Proposal under assessment by Council is seeking to facilitate an increase in the maximum building height development standard being up to 54m. It is imperative however that it be noted that the proposal to increase height is only on the basis of the development meeting the following criteria:

- A substantial component of the development provides for an indoor ski slope facility, and a maximum floor space ratio (FSR) of 1.2:1 is not to be exceeded.
- Any suggestion of a floor space ratio greater than 1.2:1 (up to a maximum of 1.45:1) can only be considered if the development features a hotel component.
- The development must be designed in accordance with a site-specific Development Control Plan (DCP) prepared for the site which provides additional planning and design guidance for development.
- The design of the development and built form is the subject of an architectural design competition; and

- A “sunset clause” applies, where the local LEP provision will cease to exist three years after the date the LEP is made.

The applicant has correctly identified design excellence as a key issue as the proposed LEP standards for this site currently are predicated on the need for an architectural design competition. Council has recently been advised by the Government Architect that enquiries have been made by the applicant for a waiver to the design competition and it is noted that the scoping report also suggests a competition is not required. The suggestion for a waiver is unsatisfactory and contradicts the intentions of the planning proposal and the acceptance of the potential height amendment as indicated.

It is Council’s view that the establishment of development suitability in the draft planning proposal is directly tied to the need for a design competition hence the dependency of the proposal on that process occurring. The competition requirement cannot be waived as the draft provisions are not contained within Clause 8.4 of the Penrith LEP 2010 due to the fact that the site is not within the Penrith City Centre. Unlike Clause 8.4, the provisions proposed in the planning proposal do not provide for the capability of a waiver to a design competition. On this basis, the progression of any development on this site is subject to the competition process, which cannot commence until such time as the planning proposal is progressed to permit the proposal by way of amended development standards, and a site specific Development Control Plan is prepared, accepted and adopted by Council.

To date, Council has provided in principle support to progress the planning proposal to Gateway and exhibition, however the planning proposal has not progressed to the point of being an exhibited draft environmental planning instrument as yet, and Council has not accepted the built form schemes as submitted in support of the planning proposal or those contained within this scoping report. The suggestions within the scoping report that the DCP is expected to be finalised by Council this month (July 2020) are incorrect. Council officers are working with the proponents on preparing a draft DCP and exhibiting that alongside the Planning Proposal, once Council has considered and resolves to place the draft DCP on exhibition.

It is therefore considered that the proposed request for SEAR’s is premature as the resulting development is not yet suitable having regard to the current provisions within the applicable environmental planning instrument (Penrith LEP 2010). Before consideration of SEAR’s or progression of a development proposal is undertaken it is considered necessary that a site specific DCP is prepared to the satisfaction of Council and at the very least exhibited, from then a design competition has been undertaken that is informed by a Council accepted site specific DCP, and the planning proposal has progressed to the point of gazettal.

Site Suitability, Contextual Integration and Urban Design Considerations

While Council has provided in principle support to progress the planning proposal to Gateway and exhibition as outlined above, there are still key site constraints that were deemed to warrant the preparation of a site specific development control plan, to address the site’s attributes and constraints, and inform a necessary and suitable built form outcome that is both site responsive and contextually relevant given the considerable contrast in adjoining development forms as existing, the adjacent rural zoning and differing contextual character of



the area. The submitted DCP by the applicant as part of the planning proposal is not considered to meet or achieve these requirements.

Key considerations in the consideration of any development on the subject site and / or the preparation of a site specific DCP are as follows:-

- The subject site immediately adjoins land zoned RU4 primary production small lot. The resulting interface and land use outcomes have considerable potential to be odds with each other and any review of development capability It must be demonstrated through the establishment of suitable development standards and DCP provisions that the interface and development relationship between the subject site and adjoining developments, and differing land uses and land use zones can be sympathetically addressed and impacts ameliorated through building form, setbacks, height, landscaping and other means.
- There needs to be further consideration given to the relationship of the proposed increased heights on the Precinct as a whole, or how the proposed development of this scale, would integrate with future development in the locality.
- The proposed height is linked to a specific intended use and height requirements associated with that use. Nonetheless, a detailed urban design review that incorporates a contextual analysis of the precinct a whole, inclusive of the single storey adjoining built form context, the scale relationship of the proposal to the heritage item to the north, and the integration of this form of development within this broader precinct is required. Any development proposal must be substantiated on contextual planning grounds and the resulting proposed height transitions must contextually integrate into the planned character of the precinct. Of specific note is the location of the greatest height adjacent to a rural zone boundary being the eastern boundary.
- A comprehensive Visual Impact Assessment that considers the way in which view corridors from major roads and other public places will be affected by the proposal. The study should consider the precincts relationship to the City Centre, and the implications of increased height and floor space in the Riverlink Precinct, to the viability and planned development opportunities in the City Centre.
- The east-west orientation and narrow depth of the site presents significant constraints to future development. These concerns are outlined below:-
 - i) **Overshadowing:** The shadow diagrams submitted with the draft planning proposal demonstrate that multiple dwellings on the adjacent property to the south, a manufactured home park known will not receive any sunlight between 9am and 3pm on the 21 June. The scoping report suggests that the resulting overshadowing impost is in part suitable as there are no specific DCP requirements for tourist accommodation however this is not sufficient grounds to negate this from being a key issue to be addressed and mitigated where possible, in the design of the proposal. This aspect will need to be a key consideration in the formulation of a development control plan that is site responsive (not development responsive) if the planning proposal is gazetted. The spatial arrangement of the

built form on the site should be informed by the provisions prepared and adopted within a site specific DCP.

- ii) Bulk and scale: There is still concern with the suggested maximum building heights on this single lot in isolation from the broader precinct, as it will provide for a disconnected built form when located immediately adjacent to single storey buildings. In particular, the juxtaposition of the single storey manufactured homes to the south and the mass created by a building with the proposed 54m heights will be a challenge to suitably address and respond to. This aspect will need to be a key consideration in the formulation of a development control plan that is site responsive (not development responsive) if the planning proposal is gazetted. This aspect will also be a key consideration in the next phase of the planning proposal assessment, when the proposal has been publicly exhibited for comment.
- iii) Scenic values: The western portion of the site is mapped as land with Scenic and Landscape Values under Clause 7.5 of LEP 2010. The location and design of the development must minimise the visual impact of development from major roads and other public places. The Visual Impact Assessment originally submitted with the planning proposal insufficiently addresses the impact of increased building heights on key view corridors, in particular views from Mulgoa Road to the Nepean River, views to the Blue Mountains Escarpment, and views from Emu Plains across the Nepean River.
- iv) Heritage Planning: The adjacent site is listed as local heritage item Madang Park and consists of a heritage homestead and trees. Council's Heritage consultant has advised that the proposed structure will have a significant impact on the views to and from the heritage item. The impact due to the excessive height on both the front and obliquely to the south east of Madang Park is not able to be supported from a heritage perspective.

Environmental Considerations

The documentation submitted suitably identifies the environmental aspects of the development that require detailed assessment, including the need for a Noise Impact Assessment. In completing that assessment, the acoustic consultant(s) will need to consider the internal noise criteria that apply to the different components of the development, ensuring compliance with applicable internal noise criteria is achieved within each of the various 'uses' of the development itself. Also, in completing the Noise Impact Assessment, operational noise predictions will need to be modelled and assessed based upon the cumulative 'worst-case' scenario where all noise sources are assessed, including (but not limited to) noise from patrons, vehicles, and mechanical plant and equipment.

Traffic Management Considerations

The following traffic analysis would need to be submitted in support of any proposal progressed for this site:-

- A detailed Traffic and Parking Assessment Report prepared by a suitably qualified traffic engineering consultant in accordance with the RTA (now TfNSW) Guide to Traffic Generating Development 2002 shall be submitted with any Development Application. In addition to the requirements detailed in the guide, the report shall assess the following:
 - Impact of the proposed development on low density local roads with consideration for local road environmental capacities and impact on residential amenities.
 - Impact of the proposed development on surrounding intersections (subject to traffic generation assessment of the proposed development) and any measures proposed to address these impacts.
 - The Traffic Report is to assess the likely demand for bus, motorcycle and bicycle parking. The development must be designed to accommodate the assessed demand for bus, motorcycle and bicycle parking on the site.

- As identified during the ongoing assessment of the draft planning proposal for this site, the Jamison Road / Blaikie Road intersection will need to be upgraded to incorporate a Channelised Right-Turn via a local VPA or alternative mechanism. Any land acquisition for required for this road upgrade needs to be addressed prior to entering in to a local VPA or alternative mechanism.

- The provision of off-street parking spaces shall be determined by a survey of similar sites if an appropriate rate is not included in Council's DCP C10 of the TfNSW Guide to Traffic Generating Developments. Any short fall of on-site parking will not be accepted on-street.

- Adequate facilities shall be provided on-site for servicing of the proposed development. Details shall be provided demonstrating that the design (largest) heavy/delivery vehicle is suitable for the proposed development. Heavy vehicles shall not reverse in the general car park area.

- The design of the driveway, internal roadways & ramps, car parking spaces, sight distance and loading areas shall comply with Councils DCP and Australian Standards (i.e. AS2890.1 – 2004, AS2890.2-2002 for large vehicles and AS2890.6-2009 for disabled spaces).

- All vehicles shall be able to enter and exit the site in a forward direction.

- Swept path analysis shall be provided demonstrating the following:
 - A B99 vehicle can pass a B85 vehicle at all passing areas.
 - A car can turn around within the site when all car spaces are occupied using no more than a three-point turn.
 - The largest heavy vehicle can enter and exit the driveway in a forward direction. Details of the road including, kerblines, signs, traffic devices, power poles, other structures and neighbouring driveways shall be shown on the plans.

- Proposed Wilsons Lane must be constructed full width in accordance with a Local Road in Table C10.1 under Council's DCP Part C10. Wilsons Lane is to be constructed for the full length of the site front and provide a turning head must past the proposed site boundary to Council's satisfaction.



- The distance from the exit driveway and the proposed round-a-bout on Wilsons Lane is unclear.
- Any application pursued must demonstrate that access, car parking, and manoeuvring details comply with AS2890 Parts 1, 2 & 6 and Council's Development Control Plan.

Engineering Considerations

Mainstream Flooding

- The site is affected by mainstream flooding from the Nepean River and Peachtree Creek. With the floodway of Peachtree Creek going through the site.
- Council does not support development or filling of land in the floodway. The application has not addressed flooding issue or the impacts of loss of flood storage on the surrounding properties.
- The reference to a Flood Evacuation prepared by J. Wyndam Prince that has not been attached, nor available from the department's website.
- The application must provide a comprehensive Flood Report endorsed by Council that addresses flooding and the impacts of loss of flood storage, and how the development does not cause adverse impacts to adjoining properties.

Stormwater Management and Water Sensitive Urban Design

- A stormwater concept plan, accompanied by a supporting report and calculations, shall be submitted with the application.
- The application shall demonstrate that downstream stormwater systems have adequate capacity to accommodate stormwater flows generated from the development. This may require the provision of on-site detention to reduce stormwater flows or upgrade of stormwater infrastructure to increase capacity.
- A water sensitive urban design strategy prepared by a suitably qualified person is to be provided for the site. The strategy shall address water conservation, water quality, water quantity, and operation and maintenance. The strategy must address Council's Water Sensitive Urban Design Policy and Technical Guideline as per requirements outlined within Penrith Development Control Plan 2014.

Earthworks

- No filling is permitted in the floodway for this development.
- The application is to be supported by a geotechnical report prepared by a suitably qualified person for the basement car parking areas and should include, but not be limited to, the following items; ground water movement, salinity and contamination.

As previously outlined, it is considered that the proposed request for SEAR's is premature as the resulting development is not yet suitable having regard to the current provisions within the applicable environmental planning instrument (Penrith LEP 2010). Before consideration of SEAR's or progression of a development proposal is undertaken it is considered necessary that a site specific DCP is prepared to the satisfaction of Council and at the very least exhibited, from then a design competition has been undertaken that is informed by a Council accepted site specific DCP, and the planning proposal has progressed to the point of gazettal.

Should you wish to discuss any matters further and allow for further dialogue as requested between officers, please do not hesitate to contact me on 4732 8125.

Yours sincerely,



Gavin Cherry
Development Assessment Coordinator