

Statement of Environmental Effects

SECTION 4.55 (1A) MODIFICATION TO DA18/0999: STAGING AMENDMENTS
ASSOCIATED WITH EAST SIDE QUARTER, 2-10 RETREAT DRIVE, PENRITH



Prepared by: Think Planners
Document Date: 1 December 2019
Consent Authority: Penrith City Council



QUALITY ASSURANCE

PROJECT: Statement of Environmental Effects– S4.55 Staging ESQ
ADDRESS: 2-10 Retreat Drive, Penrith
COUNCIL: Penrith City Council
AUTHOR: Think Planners Pty Ltd

Date	Purpose of Issue	Rev	Reviewed	Authorised
1 December 2019	Lodgement Issue	Final	JW	JW
1 December 2019	Revised 4.55 (2)	Final	JW	JW

Integrated Development (under S91 of the EP&A Act). Does the development require approvals under any of the following legislation?	
Fisheries Management Act 1994	No
Heritage Act 1977	No
Mine Subsidence Act 1992	No
Mining Act 1992	No
National Parks and Wildlife Act 1974	No
Petroleum (Onshore) Act 1991	No
Protection of the Environment Operations Act 1997	No
Roads Act 1993	No
Rural Fires Act 1997	No
Water Management Act 2000	No*
Concurrence	
Penrith LEP (Glenmore Park Stage 2) 2009- Director General	No
SEPP 1- Development Standards	No
SEPP 64- Advertising and Signage	No
SEPP 71 – Coastal Protection	No
SEPP (Infrastructure) 2007	No*
SEPP (Major Development) 2005	No
SREP (Sydney Harbour Catchment) 2005	No

**Amendments do not trigger need for re-referral to Water NSW or RMS*



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1. Introduction and Summary

This Statement of Environmental Effects is prepared as part of the supporting documentation relating to an S4.55(1a) modification to the East Side Quarter Development Application granted consent under DA18/0999.

The modification proposed relates to amendments to the staging of the development, noting the original DA was submitted that incorporated 3 stages- Stage 2A, 2B and 3. However the ongoing design and construction program has led to the proposal being undertaken in 4 distinct stages as follows:

- Stage 2A: Which accommodates the mixed use component and 77 apartments
- Stage 2B: Which accommodates 97 apartments and part of the riparian;
- Stage 3A: Which accommodates 72 apartments and part of the riparian;
- Stage 3B: Which accommodates 74 apartments and the final portion of the riparian.

Further the construction of the new roads (private roads) will also be staged to reflect the timing necessary to provide vehicular access to each stage and temporary turning heads provided as required.

Accordingly the consent is sought to be amended accordingly and is supported by:

- Staging Plan prepared by Turner: Dwg No. DA-810-005 P2 dated 26/11/19;
- Staging Plans prepared by J Wyndham Prince: Dwg No 110251- DA 200, DA 201, DA202, DA203, dated 19/11/19.

Requested amendments to the consent and conditions are set out further in this statement in a table format to assist in identifying the relevant amendments required to facilitate the staging and ensure that the PCA can issue Construction Certificates and Occupation Certificates for the relevant stages of the development.

As discussed with Council the construction program is time critical and therefore we request that Council assesses the modification in a timely manner and the consultant team is able to respond quickly to any further requests for information.

2. The Site

The original Statement of Environmental Effects by SJB Planning provided a detailed and comprehensive outline of the site context and locality and that should be referred to in relation to the site and locality details.

Since the time of that report being prepared ESQ Stage 1 has progressed in terms of construction with an aerial photograph provided below.



3. The Revised Proposal & Staging

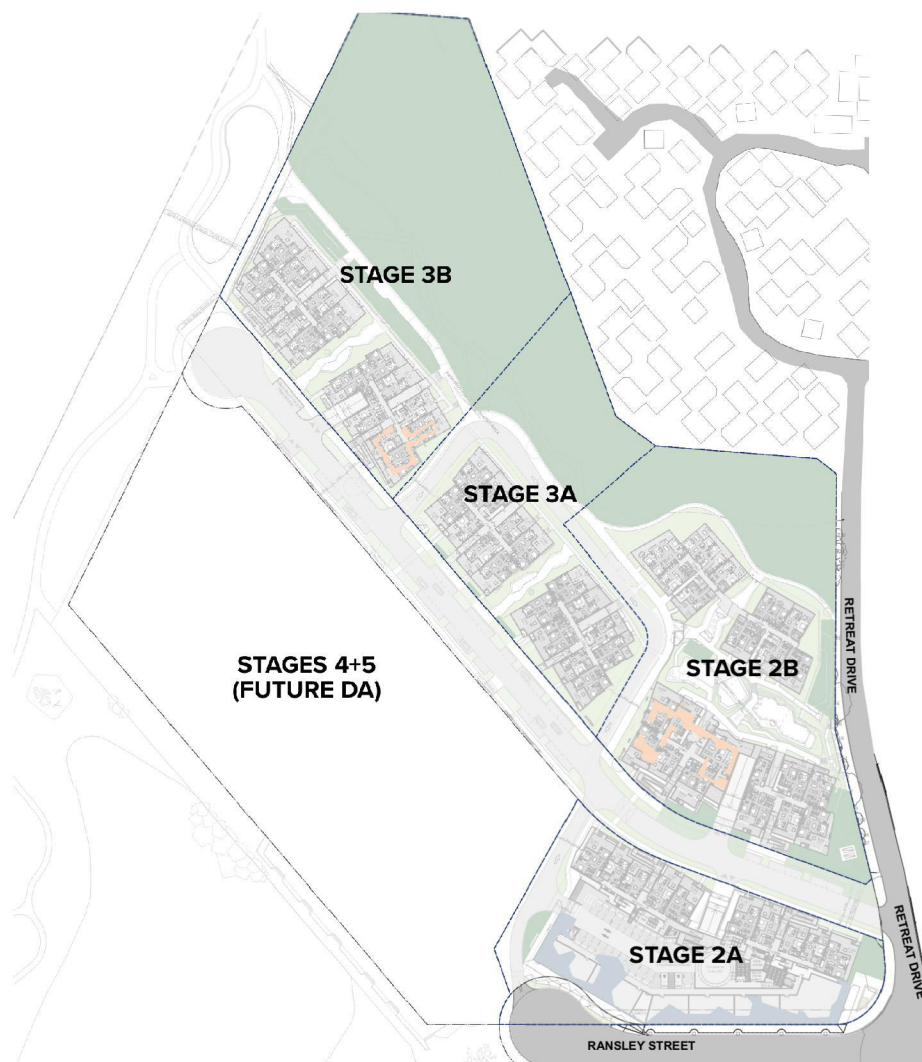
This Statement of Environmental Effects is prepared as part of the supporting documentation relating to an S4.55(1a) modification to the East Side Quarter Development Application granted consent under DA18/0999.

Staging

The modification proposed relates to amendments to the staging of the development, noting the original DA was submitted that incorporated 3 stages- Stage 2A, 2B and 3. However the ongoing design and construction program has led to the proposal being undertaken in 4 distinct stages as follows:

- Stage 2A: Which accommodates the mixed use component and 77 apartments;
- Stage 2B: Which accommodates 97 apartments and part of the riparian;
- Stage 3A: Which accommodates 72 apartments and part of the riparian;
- Stage 3B: Which accommodates 74 apartments and the final portion of the riparian.

The staging diagram is set out below.



Following the discussions with Council the issue of the rollout of the deep soil, landscaped area, and common open space for each stage has been considered and this is set out in the table below to show that suitable landscaped area, deep soil and common areas are provided to each stage:

DCP SUMMARY TABLE										
CONSTRUCTION SEQUENCE	STAGE NUMBER	SITE AREA	CUMULATIVE SITE AREA	DEEP SOIL	CUMULATIVE DEEP SOIL	LANDSCAPE	CUMULATIVE LANDSCAPE	COMMON SPACE	CUMULATIVE COMMON SPACE	MIN 25% SATISFIED
1	Stage 2B	11935m ²	11935m ²	3322m ² 28%	3322m ² 28%	5026m ² 42%	5026m ² 42%	5026m ² 42%	5026m ² 42%	YES
2	Stage 2A	6400m ²	18335m ²	192m ² 3%	3514m ² 19%	1564m ² 24%	6589m ² 36%	1564m ² 24%	6589m ² 36%	YES
3	Stage 3A	6277m ²	24612m ²	1941m ² 31%	5455m ² 22%	3071m ² 49%	9660m ² 39%	3071m ² 49%	9660m ² 39%	YES
4	Stage 3B	11689m ²	36300m ²	7710m ² 66%	13165m ² 36%	8475m ² 73%	18135m ² 50%	8475m ² 73%	18135m ² 50%	YES
	TOTAL	36300m ²		13165m ² 36%		18135m ² 50%		18135m ² 50%		YES

Road Staging & Temporary Basin

Further the construction of the new roads (private roads) will also be staged to reflect the timing necessary to provide vehicular access to each stage and temporary turning heads provided as required as below:

- Road Section 1 is to be completed prior to the issue of an Occupation Certificate for Development of Stage 2A/2B
- Road Section 2 is to be completed prior to the issue of an Occupation Certificate for Development of Stage 3A
- Road Section 3 is to be completed prior to the issue of an Occupation Certificate for Development of Stage 3B

The staging diagrams by J Wyndham Prince also show that the temporary basin will convert to a Raingarden at the completion of Stage 3B.

Supporting Documentation

Accordingly the consent is sought to be amended accordingly and is supported by:

- Staging Plan prepared by Turner: Dwg No. DA-810-005 P2 dated 26/11/19;
- Staging Plans prepared by J Wyndham Prince: Dwg No 110251- DA 200, DA 201, DA202, DA203, dated 19/11/19.



Consent Condition Amendments

Requested amendments to the consent and conditions are set out in a table format to assist in identifying the relevant amendments required to facilitate the staging and ensure that the PCA can issue Construction Certificates and Occupation Certificates for the relevant stages of the development. It is understood that Council has been appointed the PCA in this instance.

Condition Number	Requested Change
Condition 1	<p>Amendment to refer to the following additional plans:</p> <ul style="list-style-type: none">- <i>Staging Plan prepared by Turner: Dwg No. DA-810-005 P2 dated 26/11/19;</i>- <i>Staging Plans prepared by J Wyndham Prince: Dwg No 110251- DA 200, DA 201, DA202, DA203, dated 19/11/19.</i>
Condition 1a (NEW)	<p>New Condition per below to assist PCA in issuing CC and OC for relevant staging.</p> <p><i>For the avoidance of doubt any reference to a Construction Certificate or Occupation Certificate is a reference to the Construction Certificate or Occupation Certificate for the relevant stage of the development and is only required to be satisfied as it relates to that stage of the development shown on the approved staging plan.</i></p>
Condition 1b (NEW)	<p>New Condition per below to provide for the Staged Delivery of Road No.1.</p> <p><i>The staging of Roads for the development are as follows:</i></p> <ul style="list-style-type: none">• <i>Road Section 1 is to be completed prior to the issue of an Occupation Certificate for Development of Stage 2A/2B</i>• <i>Road Section 2 is to be completed prior to the issue of an Occupation Certificate for Development of Stage 3A</i>• <i>Road Section 3 is to be completed prior to the issue of an Occupation Certificate for Development of Stage 3B</i>



<p>Condition 23</p>	<p>Amended Condition to reflect staging.</p> <p><i>Works within the riparian corridor (Lot 58 DP1250704) are to be completed in accordance with the Staging Plan and completed prior to the issue of an Occupation Certificate for the relevant stage.</i></p>
<p>Condition 84 & 85</p>	<p>Amended Condition to reflect the timing for the easement matters.</p> <p>From Prior to an Occupation Certificate being issued...</p> <p>To <i>Prior to the issue of the First Occupation Certificate....(remainder of condition the same)</i></p>
<p>Condition 91</p>	<p>Amended Condition to reflect timing on the GPT.</p> <p>From: Prior to the issue of a Construction Certificate.....</p> <p>To: <i>Prior to the issue of a Construction Certificate associated with Road Section 3.....</i></p>
<p>Condition 97</p>	<p>Amended Condition to reflect timing for the registration of the easement.</p> <p>Prior to an Occupation Certificate being issued...</p> <p>To <i>Prior to the issue of the First Occupation Certificate....(remainder of condition the same)</i></p>



Condition 107-109- Section 7.11 Contributions

It is requested that the Section 7.11 Conditions be amended to reflect the Staging which features the following:

- Stage 2A: Which accommodates the mixed use component and 77 apartments;
- Stage 2B: Which accommodates 97 apartments and part of the riparian;
- Stage 3A: Which accommodates 72 apartments and part of the riparian;
- Stage 3B: Which accommodates 74 apartments and the final portion of the riparian.

Therefore the payment of the contributions are sought to be payable prior to the issue of the relevant Construction Certificate for that stage. The final wording would be for discussion with Council.

4. Assessment of Planning Issues

Environmental Planning and Assessment Act 1979

The proposed development will be assessed under Section 4.15 of the Environmental Planning and Assessment Act 1979 (EP&A Act).

Section 4.55(1a) of the EPA & Act 1979

Section 4.55 of the Act provides as follows:

(1A) Modifications involving minimal environmental impact

A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if—

- (a) it is satisfied that the proposed modification is of minimal environmental impact, and*
- (b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and*
- (c) it has notified the application in accordance with—*
 - (i) the regulations, if the regulations so require, or*
 - (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*
 - (d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.*

Subsections (1), (2) and (5) do not apply to such a modification.

The proposal remains substantially the same development with relatively minor adjustments that are limited to the staged rollout of the development and subsequent adjustment to consent conditions.



Compliance with Relevant Planning Controls

State Environmental Planning Policy No.55 (SEPP 55) – Remediation of Land

There are no known contaminated sites within the Precinct, and it should be noted that the provisions of SEPP 55 and the need for remediation or otherwise has been previously addressed as part of the broader development applications applying to the site.

State Environmental Planning Policy No.65- Design Quality of Apartment Development

The amendments relate to the staging of the development and accordingly the changes do not alter the previous SEPP 65 and ADG assessment.

However following the discussions with Council the issue of the rollout of the deep soil, landscaped area, and common open space for each stage has been considered and this is set out in the table below to show that suitable landscaped area, deep soil and common areas are provided to each stage:

DCP SUMMARY TABLE										
CONSTRUCTION SEQUENCE	STAGE NUMBER	SITE AREA	CUMULATIVE SITE AREA	DEEP SOIL	CUMULATIVE DEEP SOIL	LANDSCAPE	CUMULATIVE LANDSCAPE	COMMON SPACE	CUMULATIVE COMMON SPACE	MIN 25% SATISFIED
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	TOTAL	36300m²		13165m² 36%		18135m² 50%		18135m² 50%		YES

On that basis the provisions of SEPP 65 and the ADG remain satisfied even with the proposed staging of the development.



Sydney Regional Environmental Plan No.20 (SREP 20) – Hawkesbury Nepean River

It is noted that the impact upon the Hawkesbury Nepean River was a key consideration in the Local Environmental Study that preceded the rezoning of the land. Notwithstanding, the Specific Planning Policies and Strategies of the SREP, state in (10) Urban Development –

- (a) When considering a proposal for the rezoning or subdivision of land which will increase the intensity of development of that land (for example, by increasing cleared or hard surface areas) so that effluent equivalent to that produced by more than 2,500 people will be generated, consider requiring the preparation of a Total Water Cycle Management Study or Plan.*
- (b) Consider urban design options to reduce environmental impacts (such as variable lot sizes and shapes, and the clustering of development).*

The above matters have been previously considered in the assessment of the parent DA and the current proposal will not result in any substantive impact on the Hawkesbury Nepean River.

Penrith Local Environmental Plan 2010

The subject site, to which the development applies, is zoned SP3 Tourist and the proposal maintains the land use permissibility set out in the SP3 Tourist zone and Clause 2.4 Additional Permitted Uses.

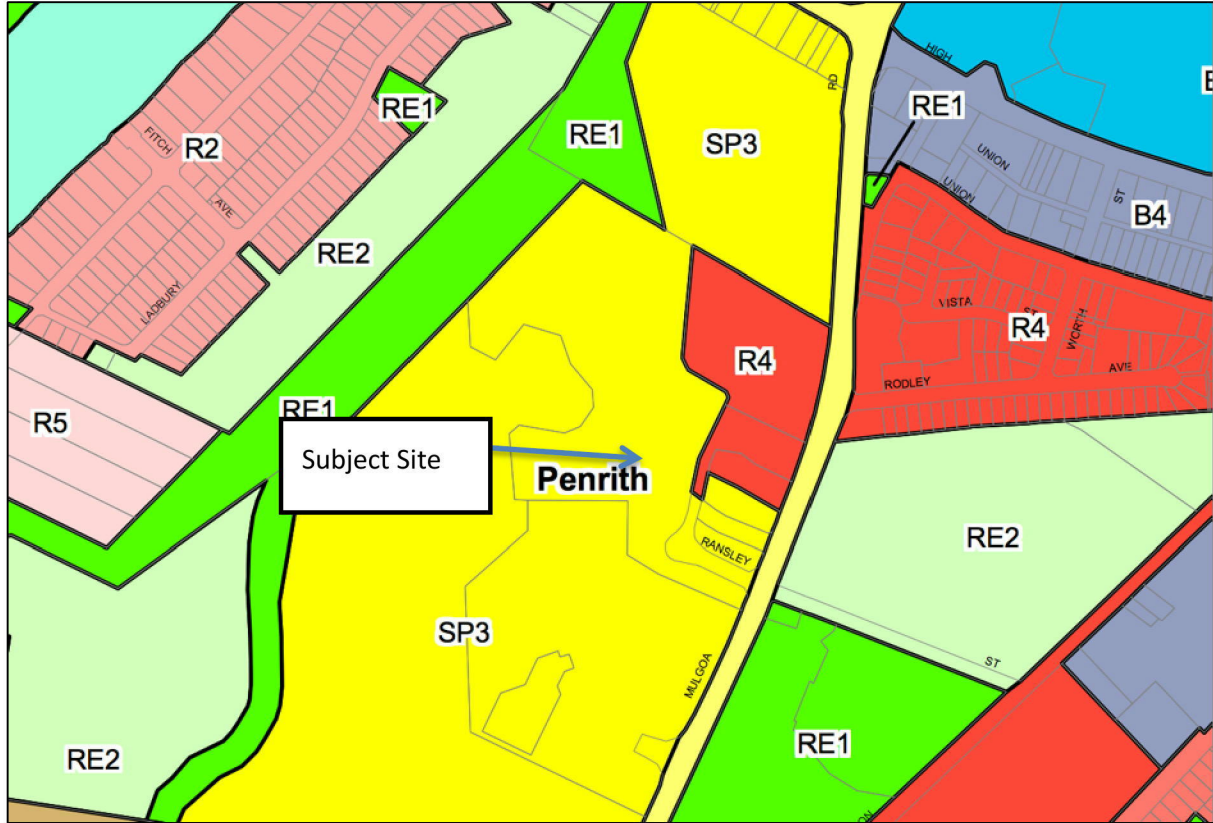


Figure 7: Zoning Extract

The proposal complies with the objectives of the SP3 Tourist Zone insofar as the development facilitates development of the land for Tourist related uses.

The other provisions of the LEP are not considered relevant given that the development proposal seeks to amend the staging of the development only.

Penrith Development Control Plan 2014

Given the amendments relate to staging no detailed discussion is provided in relation to the DCP as the amendments do not alter the consideration of the original DA.



Planning Agreement

Condition 13 & 14 of the original DA consent states:

- 13 The amended Voluntary Planning Agreement in accordance with the Letter of Offer from Panthers Rugby League Club, dated 2 August 2017 known as the 'Planning Agreement - Road Works' is to be executed by Panthers Rugby League Club, Penrith City Council and the Roads and Maritime Services **prior to the issue of a Construction Certificate**. A copy of the signed and executed Planning Agreement is to be provided to the Principal Certifying Authority **prior to the issue of a Construction Certificate**.

The Principal Certifying Authority shall be provided with a Schedule of current development applications, active consents and construction certificates (issued, yet to be issued and those that have been lodged, yet remain unissued). The Schedule is to indicate a tally of gross floor area for each development and is to be

provide written evidence, details and confirmation that the requirements and obligations required by the executed VPA have been met and if required, have been undertaken and/or completed. A copy of this Schedule is to be provided to all parties being signatory to the VPA, **prior to the issue of the Construction Certificate** for the development.

- 14 **Prior to the issue of a Occupation Certificate**, the Principal Certifying Authority is to ensure that the amended Voluntary Planning Agreement known as 'Planning Agreement - Road Works' is executed by Panthers Rugby League Club, Penrith City Council and the Roads and Maritime Services, and that all the applicable requirements of the Planning Agreement - Road Works, have been undertaken and are met.

- 3 The amended Voluntary Planning Agreement in accordance with the letter of offer from Panthers Rugby League Club, dated 15 August 2018 known as 'Planning Agreement - Road Works' is to be executed **prior to the issue of the Construction Certificate** related to the construction of the Western Sydney Community and Conference Centre (WSCCC) and a copy of the signed and executed Planning Agreement is to be provided to the Principal Certifying Authority prior to the issue of that Certificate.

The modifications do not alter the need for the Draft VPA to be formally entered into prior to the issue of a Construction Certificate.



5. Conclusion

Following a review of the relevant planning controls, it is concluded that the proposed development is consistent with the objectives, planning strategies and detailed controls of these planning documents. Consideration has been given to the potential environmental and amenity impacts that are relevant to the proposed development and this report addresses these impacts.

Having regard to the benefits of the proposal and taking into account the absence of adverse environmental, social or economic impacts, the application is submitted to Council for assessment and granting of development consent. Think Planners Pty Ltd recommends the approval of the application, subject to necessary, relevant and appropriate amended conditions of consent as set out in this SEE.