

4 February 2019

13070/17531

The General Manager  
Penrith City Council  
601 High Street  
Penrith NSW 2750

Attention: Jane Hetherington, Senior Development Assessment Officer

Dear Jane,

## **DA15/0163 SECTION 4.55(1A) MODIFICATION – LOT 3989 LAKESIDE PARADE AND LOT 3991 JORDAN SPRINGS BOULEVARD, JORDAN SPRINGS**

This application has been prepared by Ethos Urban on behalf of Lendlease Communities pursuant to section 4.55(1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act) to modify Development Consent DA15/0163 relating to 3989 Lakeside Parade and 3991 Jordan Springs Boulevard, Jordan Springs.

The modifications relate to the removal of Lot 3991 and three buildings, and associated amendments to conditions of consent.

This application identifies the consent, describes the proposed modifications and provides a planning assessment of the relevant matters for consideration contained in section 4.55(1A) of the EP&A Act.

This statement should be read in conjunction with the Statement of Environmental Effects (SEE) prepared by APP dated February 2015 for the original development application.

### **1.0 Consent proposed to be modified**

Development consent DA15/0163 was granted consent by the Sydney West Planning Panel on 21 January 2016 for:

*Stage 1 Construction of 4 x Residential Flat Buildings (138 Residential Apartments), 1 x Mixed Use Building (Ground Floor Commercial Floor Space and 63 Residential Apartments), Basement Car Parking, Road Construction, Drainage Works, Public Open Space Provision, Landscape Works, Earthworks and Tree Removal.*

The consent has not been modified previously.

The original application was referred to Roads and Maritime Services, the Rural Fire Service and the NSW Office of Water. The proposed modification will modify the outcomes of those referrals based on the proposed reduction in scale of the development.

### **2.0 Proposed modifications**

The proposed modifications comprise:

- Removal of Lot 3991 and the associated Buildings 1, 2 and 3, including landscaping and infrastructure;
- Consequential amendments to conditions; and
- Provision of required waste storage facilities within Buildings 4 and 5.

The proposed modifications are described in more detail below.

It must be noted that the design of Buildings 4 and 5 is not proposed to be modified in terms of existing approved dwelling, building height and bulk, access or parking. Minor internal building changes are proposed relating to waste storage facilities required within the buildings per existing conditions of consent.

Minor changes to landscaping surrounding Buildings 4 and 5 are proposed including additional embellishment. These changes are outlined within the amended plans.

It is proposed that a condition of consent be imposed requiring the submission of amended plans identifying only Buildings 4 and 5 and Lot 3989 to Council, prior to the issue of a Construction Certificate. This is required due to the time constraints involved with preparation of those plans.

## 2.1 Modifications to the development

The following modifications are proposed to the approved development and relate to the removal of three buildings and Lot 3991:

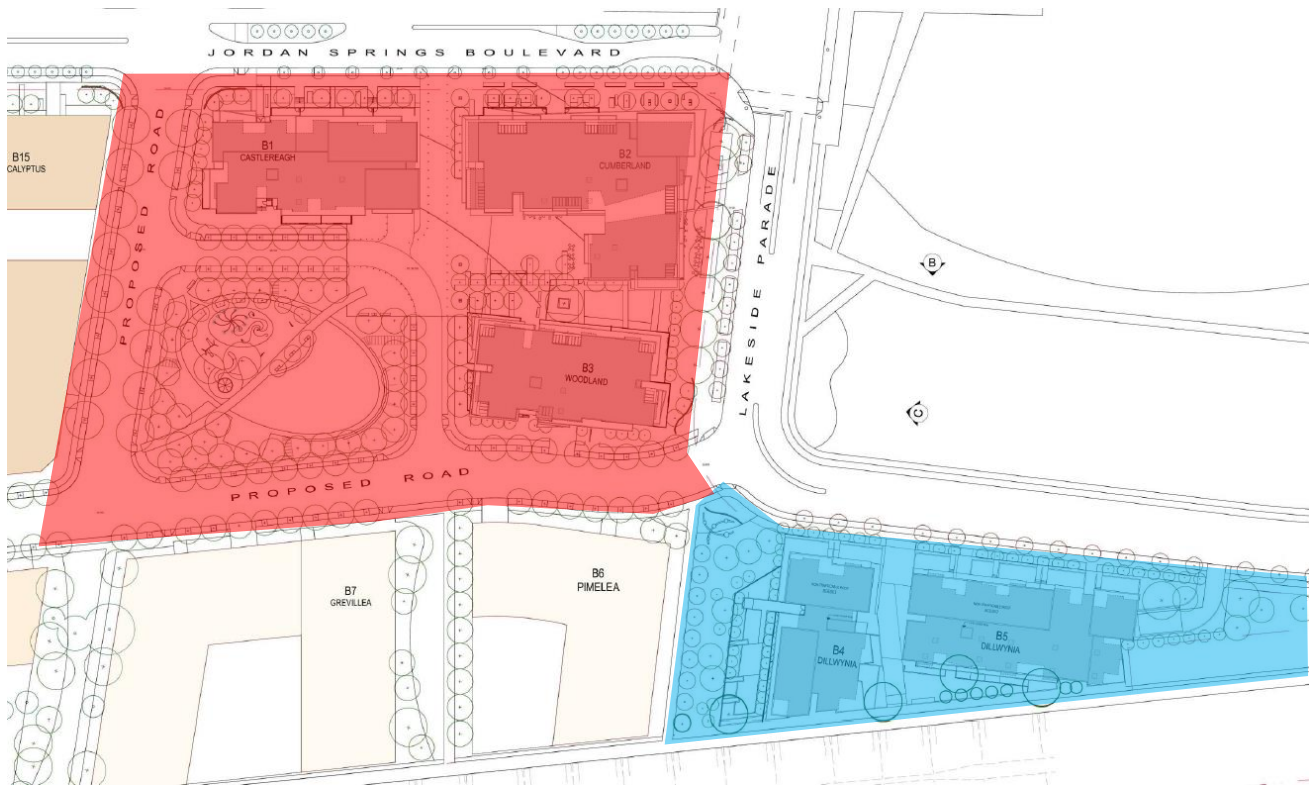
- Removal of Lot 3991 from the site, resulting in a new site area of 5,025m<sup>2</sup> associated with Lot 3989;
- Removal of Buildings 1, 2 and 3 (Castlereagh, Cumberland and Woodland, the Central Park), situated on Lot 3991, resulting in the reduction of:
  - 137 residential apartments;
  - 626m<sup>2</sup> of non-residential floor space within Building 2; and
  - 263 car spaces.
- The removal of the 2,400m<sup>2</sup> Central Park;
- Removal of internal roads;
- Retention of three trees located on Lot 3991;
- Provision of waste storage facilities in Buildings 4 and 5; and
- Provision of landscaping including embellishment of publicly accessible space for Buildings 4 and 5.

The proposed changes result in the development now proposing 64 residential dwellings across two buildings.

**Table 1 Modified Development Summary**

Description	Modification					Comment
Site Area	5,026m <sup>2</sup>					
Yield	Building No.	1 Bedroom	2 Bedroom	3 Bedroom	Total	
	Building 4	4	20 (incl. 4 adaptable)	0	24	No change
	Building 5	8 (incl. 4 adaptable)	32	0	40	No change
	Total	12	52	0	64	No change

Description	Modification		Comment
Parking	Resident Parking	95 (12 accessible)	No change
	Visitor Parking	13	No change
	Bicycle Parking	15	No change



**Figure 1** Approved development layout showing the components to be retained (blue) and removed (red)  
 Source: Mosca Pserras Architects



**Figure 2** The components of the development proposed to be removed include Buildings 1,2 and 3 and the Central Park  
*Source: Mosca Pserras Architects*



**Figure 3** Buildings 4 and 5 are to be retained and the landscaping to be further embellished  
*Source: Mosca Pserras Architects*

## 2.2 Modification to conditions and development description

The proposed modifications described above necessitate amendments to the consent conditions which are identified below. Words proposed to be deleted are shown in **bold strike through** and words to be inserted are shown in **bold italics**.

For completeness, the following description re-states all aspects of the proposed modified development for which approval is sought, but clearly indicates where no change is proposed from the approved design.

### 2.2.1 Description of Development

The modified description of the development is summarised as follows:

Stage 1 Construction of ~~4~~ **2** x Residential Flat Buildings (~~138~~ **64** Residential Apartments), ~~1 x Mixed Use Building (Ground Floor Commercial Floor Space and 63 Residential Apartments)~~, Basement Car Parking, Road Construction, Drainage Works, Public Open Space Provision, Landscape Works, Earthworks and Tree Removal.

#### Justification

The removal of two residential flat buildings and the one mixed use building necessitates the proposed change to the 'Description of Development'.

### 2.2.2 Details of the Land to be Developed

The modified legal description and property address of the land to be developed is summarised as follows:

Legal Description:	<del>Lot 3991 DP 1190132</del>
	Lot 3989 DP 1190132
Property Address:	3989 Lakeside Parade, JORDAN SPRINGS NSW 2747
	<del>3991 Jordan Springs Boulevard, JORDAN SPRINGS NSW 2747</del>

#### Justification

The amendment to the legal and property description is necessitated by the removal of Lot 3991 and three buildings from the approved consent.

### 2.2.3 Condition 1

The development must be implemented and/or installed substantially in accordance with the following plans stamped approved by Council, the application form and any supporting information received with application, except as may be amended in red on the attached plans and by the following conditions.

Drawing Title/ Report Title	Plan Number/ Reference Number	Prepared by	Date
Cover Sheet	14016 AP01 Issue B	Mosca Pserras Architects	21 September 2015
Master Plan	14016 AP02 Issue B	Mosca Pserras Architects	
Data Drawing	14016 AP03 Issue A	Mosca Pserras Architects	13 February 2015
Site Plan	14016 AP04 Issue B	Mosca Pserras Architects	21 September 2015

Drawing Title/ Report Title	Plan Number/ Reference Number	Prepared by	Date
<del>Building 1, 2 &amp; 3 Basement 2</del>	<del>14016 AP05 Issue C</del>	<del>Mosca Pserras Architects</del>	<del>30 October 2015</del>
<del>Building 1, 2 &amp; 3 Basement 1</del>	<del>14016 AP06 Issue C</del>	<del>Mosca Pserras Architects</del>	<del>30 October 2015</del>
<del>Building 1, 2 &amp; 3 Ground Floor</del>	<del>14016 AP07 Issue D</del>	<del>Mosca Pserras Architects</del>	<del>30 October 2015</del>
<del>Buildings 1,2 &amp; 3 Level 1</del>	<del>14016 AP08 Issue B</del>	<del>Mosca Pserras Architects</del>	<del>30 October 2015</del>
<del>Buildings 1,2 &amp; 3 Level 2</del>	<del>14016 AP09 Issue B</del>	<del>Mosca Pserras Architects</del>	<del>30 October 2015</del>
<del>Buildings 1, 2 &amp; 3 - Level 3</del>	<del>14016 AP10 Issue B</del>	<del>Mosca Pserras Architects</del>	<del>30 October 2015</del>
<del>Buildings 1, 2 &amp; 3 - Level 4</del>	<del>14016 AP11 Issue B</del>	<del>Mosca Pserras Architects</del>	<del>30 October 2015</del>
<del>Buildings 1, 2 &amp; 3 - Level 5</del>	<del>14016 AP12 Issue B</del>	<del>Mosca Pserras Architects</del>	<del>30 October 2015</del>
<del>Buildings 1, 2 &amp; 3 - Roof</del>	<del>14016 AP10 Issue A</del>	<del>Mosca Pserras Architects</del>	<del>12 February 2015</del>
Building 4 – Basement 1 & 2	14016 AP14 Issue B	Mosca Pserras Architects	30 October 2015
Building 4 - Ground and Level 1	14016 AP15 Issue B	Mosca Pserras Architects	30 October 2015
Building 4 - Level 2 & 3	14016 AP16 Issue B	Mosca Pserras Architects	30 October 2015
Building 4 – Roof	14016 AP17 Issue A	Mosca Pserras Architects	12 February 2015
<del>Building 1,2 &amp; 3 – Elevations</del>	<del>14016 AP18 Issue A</del>	<del>Mosca Pserras Architects</del>	<del>12 February 2015</del>
Building 1, 2, 3, 4 & 5 – Elevations	14016 AP19 Issue A	Mosca Pserras Architects	12 February 2015
Building 1, 2, 3 & 4 - Sections	14016 AP20 Issue A	Mosca Pserras Architects	12 February 2015
Building 1, 2, 2 & 4 Adaptable Units	14016 AP21 Issue A	Mosca Pserras Architects	12 February 2015
Engineering Details - Subdivision and Roadworks	9776/DA00 – DA14 Issue B	J. Wyndham Prince	4 August 2015
Site Survey	Job Reference 132673 Drawing Number DETL-001/A	Lawrence Group	25/6/2013
Statement of Environmental Effects	10164 – Stage 1 Parklands Estate, Jordan Springs	APP Corporation	February 2015
<b>S4.55(1A) Modification Statement of Environmental Effects</b>	<b>17532</b>	<b>Ethos Urban</b>	<b>February 2018</b>
Bushfire Protection Assessment	14GOSBUS-0413	Ecological Australia	3 February 2015
Building Code of Australia Report & Access for People with a Disability	MSA0632BC_REV01	Matt Shuter & Associates	12 February 2015
Landscape Strategy	S14-0080	Clouston Associates	13 February 2015
<del>Engineering Details - Subdivision and Roadworks</del>	<del>9776/DA00 – DA14 Issue B</del>	<del>J. Wyndham Prince</del>	<del>4 August 2015</del>
Stormwater Concept Design	Reference number 20140381, Sheets SW01-SW15, Revision A	SGC Consulting Engineers	18 December 2014
Parking and Traffic Assessment	14S1013100	GTA Consultants	12 February 2015
Species Impact Statement	13092RP2	Cumberland Ecology	February 2015
Acoustic Impact Assessment	20131158.2/0112A/R1/JL	Acoustic Logic	1 December 2014
Waste Management Plan	-	-	-

## Justification

The plan references are to be amended to reflect the intended scope of changes and the design changes as provided in the amended plans, in particular removing reference to plans relating to Buildings 1, 2 and 3. One set of engineering plans is listed twice and therefore proposed to be removed to ensure clarity of approved plans.

Those plans which highlight specifics of Buildings 4 and 5 will be amended to reflect the required design changes which include the provision of waste storage facilities and additional landscape embellishments, and provided to Council prior to the issue of a Construction Certificate.

### 2.2.4 New Condition 1A

Amended Plans showing the approved development on Lot 3989 are to be submitted to Council for approval and stamping which identify Buildings 4 and 5 in their entirety including details of landscaped areas and embellishment prior to the issue of a Construction Certificate.

## Justification

It is requested that Council include a new Condition 1A within the modified consent to allow for the required amended plans to be provided prior to the issue of a Construction Certificate due to time constraints.

### 2.2.5 Condition 3

~~Lot 3989 DP 1190132 & Lot 39941 DP 1190132 are to be consolidated as one lot. Written evidence that the request to consolidate the lots has been lodged with Land and Property Information division of the Department of Lands is to be submitted to the certifying authority before the Construction Certificate for the development can be issued by the certifier.~~

~~A copy of the registered plan of consolidation from Land and Property Information division of the Department of Lands is to be submitted to the Principal Certifying Authority (PCA) and Penrith City Council, if Council is not the PCA, prior to the issue of the Occupation Certificate for the development.~~

## Justification

It is proposed to delete this condition due to Lot 3991 DP1190132 (noting the condition incorrectly references Lot 39941) being removed from the approved development. Consequently, this condition is no longer relevant.

### 2.2.6 Condition 4

~~Prior to occupation of the commercial tenancies located within the Building 2 "Cumberland", a separate development approval is to be obtained from Penrith City Council.~~

## Justification

This condition is proposed to be deleted as Building 2 is being removed from the proposal.

### 2.2.7 Condition 19

Lighting within the development shall be designed and constructed in consideration of the following:

- All areas intended to be used at night should allow appropriate levels of visibility through effective lighting. This includes: ~~the public square and adjoining~~ common areas; all building entries; ~~paved pedestrian thoroughfare between building 1 ('Castlereagh') and Building 2 ('Cumberland');~~ and building frontages (e.g. under awning lighting) along ~~Jordan Springs~~

**Boulevard, Lakeside Parade and new proposed roads; footpaths surrounding the 'Central Park' (adjoining street lighting may be sufficient to light these footpaths).**

- Proposed 'low level bollard lighting' should be sturdy of construction and evenly spaced.
- Pedestrian pathways, laneways and access routes in outdoor public spaces should be lit to the minimum Australian Standard of AS 1158. Lighting should be consistent in order to reduce the contrast between shadows and illuminated areas.
- Lighting should be designed in accordance with AS4282 – Control of the obtrusive effects of outdoor lighting .
- Lighting should have a wide beam of illumination, which reaches to the beam of the next light, or the perimeter of the site or area being traversed. Moreover, lighting should clearly illuminate the faces of users of pathways. As a guide, areas should be lit to enable users to identify a face 15 metres away.
- Streetlights should shine on pedestrian pathways and possible entrapment spaces as well as on the road.
- Lights should be directed towards access/egress routes to illuminate potential offenders, rather than towards buildings or resident observation points.
- Lighting should take into account vegetation and landscaping that may act as an entrapment spot.
- Lighting should be designed so that it is 'vandal tough' or difficult for vandals to break.
- Avoid lighting spillage onto neighbouring properties as this can cause nuisance and reduce opportunities for natural surveillance.
- Illuminate possible places for intruders to hide.
- All lighting should be maintained and kept in a clean condition with all broken or burnt out globes replaced quickly.
- ~~Commercial/ retail frontages must be well lit (e.g. under awning lighting) to improve visibility of this area at night and to minimise opportunities for graffiti and malicious damage.~~
- Lighting should be consistent in order to reduce the contrast between shadows and illuminated areas.

### Justification

This condition is to be amended to remove reference to Buildings 1, 2 and 3, and the commercial/retail uses. All other matters relating to lighting are still relevant and proposed to be retained.

### 2.2.8 Condition 21

The following access and security measures shall be included within the development:

- Install intercom, code or card locks or similar for main entries to buildings including car parks.
- Signage/information should be made available requesting residents to not leave doors wedged open.
- Australian Standard 220 door and window locks should be installed in all dwellings.
- Clear and distinct signage should be placed on the exterior of the building advising that entry into the residential premises is for residents only.
- Electronic security gates must be provided at basement car park entrances. Access must be restricted to residents ~~and commercial tenants~~ only.



- Mail areas should be provided in a location that does not allow access to personal mail by the public.
- The access point should be in a secure area with natural surveillance.
- Pedestrian entry to basement parking should be through security access via the main buildings.
- Fire exit or egress doors leading from the car park should be clearly sign posted with illuminated directional signage. These doors should not be able to be opened from the outside.
- Storage areas must be well secured and well lit.
- Install viewers on entry doors to allow residents to see who is at the door before it is opened.
- CCTV should be considered for ~~commercial tenancies and~~ basement car park areas of the development.

### Justification

The modifications to Condition 21 remove reference to the commercial tenancies which form part of Building 2, as proposed to be removed from the consent.

### 2.2.9 Condition 22

~~The following commercial building identification measures shall be included within the development:~~

- ~~• Clear building identification assists in wayfinding (particularly for emergency services) and is especially important when there is a mix of commercial space and residential dwellings within a development.~~
- ~~• Street numbers must be at least 7cm high, and positioned between 1m and 1.5m above ground level on the street frontage.~~
- ~~• Street numbers must be made of durable materials preferably reflective or luminous, and should be unobstructed (e.g. by foliage).~~
- ~~• Location maps and directional signage should be provided to assist with wayfinding and delineation between public space and private space.~~

### Justification

Condition 22 is to be removed as the development as it is proposed to be modified no longer includes a commercial use.

### 2.2.10 Condition 44

#### b) Loading Zone

Prior to the release of a Construction Certificate, amended architectural plans are to be submitted to Penrith Council for approval detailing the provision of an onsite loading zone for the purpose of waste collection heavy rigid vehicle ~~for buildings 1-3 and a second~~ for buildings 4 & 5 ~~with incorporation of future service to building 6.~~

#### k) Waste Storage Area

Prior to the issue of a Construction Certificate, plans are to be submitted to and approved by council which addresses the following; a communal waste storage room to be constructed for buildings 4 & 5 ~~as a separate enclosed room with incorporation of service capability for future development on the site (e.g. Building 6 by way of separate development application).~~

The design will need to incorporate dual doors, abloy keys systems, drainage connected to the sewer, adequate lighting, ventilation and dual doors.

**l) Bin Allocation to development**

The following development will need to accommodate the following bin allocation for the service of residual and recyclable waste streams:

Dual Chute System: Compaction (implementation of a linear or circular carousel system)				
Building 1	Building 2	Building 3	Building 4	Building 5
<del>2x1100L Bins (no compaction)</del>	<del>5x1100L Bins (no compaction)</del>	<del>3x1100L Bins (no compaction)</del>	2x1100L Bins (no compaction)	3x1100L Bins (no compaction)
<del>2x1100L Bins (no compaction)</del>	<del>5x1100L Bins (no compaction)</del>	<del>3x1100L Bins (no compaction)</del>	2x1100L Bins (no compaction)	3x1100L Bins (no compaction)
<del>2x1100L Service Bins</del>	<del>2x1100L Service Bins</del>	<del>2x1100L Service Bins</del>	2x1100L Service Bins	2x1100L Service Bins
<del>Total= 6x1100L Bins</del>	<del>Total= 12x1100L Bins</del>	<del>Total= 8x1100L Bins</del>	Total= 6x1100L Bins	Total= 8x1100L Bins

\*Service Bins: Additional bins allocated to the dwelling to enable chutes to continue operation, whilst collection fleet is placed in the waste collection bay.

**Justification**

Condition 44 is proposed to be amended to remove references to Buildings 1, 2 and 3 which are being removed from the approved development. This includes references to waste storage and bin numbers associated with those buildings.

**2.2.11 Condition 62**

Demolition and construction works that are carried out in accordance with an approved consent that involve the use of heavy vehicles, heavy machinery and other equipment likely to cause offence to adjoining properties shall be restricted to the following hours in accordance with the NSW Environment Protection Authority Noise Control Guidelines:

Mondays to Fridays, 7am to 6pm

Saturdays, 7am to 1pm (if inaudible on neighbouring residential premises), otherwise 8am to 1pm

No work is permitted on Sundays and Public Holidays.

Other construction works carried out inside a building/~~tenancy~~ and do not involve the use of equipment that emits noise are not restricted to the construction hours stated above.

The provisions of the Protection of the Environment Operations Act, 1997 in regulating offensive noise also apply to all construction works.

**Justification**

Removal of the reference to tenancy is proposed as no commercial uses will form part of the development due to the removal of Building 2 from the approved development.

**2.2.12 Condition 66**

Prior to the issue of any Construction Certificate, the Certifying Authority shall ensure that a S138 Roads Act application, including the payment of application and inspection fees, has been lodged with,

and approved by Penrith City Council (being the Roads Authority under the Roads Act) for the following works:

- ~~Construction of a new intersection, right turn bay and pedestrian facilities at Jordan Springs Boulevard & Road No 3~~
- ~~Construction of a new intersection and central median at Lakeside Parade & Road No 1~~
- Construction of path paving and landscaping works for the frontage of the development site in the road reserve of ~~Jordan Springs Boulevard and~~ Lakeside Parade.
- ~~Heavy duty layback and driveway for garbage truck access off Jordan Springs Boulevard.~~

The layout of the intersections shall be generally in accordance with the plans by J Wyndham Prince, reference 9776/DA00-11, revision B, dated 04/08/2015.

Engineering plans are to be prepared in accordance with the development consent, Penrith City Council's Design Guidelines for Engineering Works for Subdivisions and Developments, Engineering Construction Specification for Civil Works, Austroads Guidelines and best engineering practice.

Contact Penrith City Council's Development Engineering Department on telephone (02) 4732 7777 or visit Penrith City Councils website for more information.

### Justification

The modifications to this condition seek to remove works generally associated with Buildings 1, 2 and 3, and existing approved internal roads that are to be removed.

### 2.2.13 Condition 68

~~Prior to the issue of any Construction Certificate the Certifying Authority shall ensure that the proposed roads have accordance with Penrith City Council's Design Guidelines for Engineering Works for Subdivisions and Developments, Construction Specification for Civil Works and the following criteria:~~

Road No.	Road Reserve Width	Carriageway Width	Verge	Footpath (1.5m)	E
<del>1 - Ch 0.00-80.51</del>	18.6m	11.0m	3.8m	Both sides	5
<del>1 - Ch 80.51 - 157.93</del>	15.8m	11.0m	3.8m (left)	Left side	5
<del>3 - Ch 0.00-60.81</del>			1.0m		
<del>3 - Ch 60.81-end</del>	19.6m	11.0m	3.8m (left) 4.8m (right)	Both sides	5
<del>4 - (whole road excluding shared)</del>	12.8m	6.0m	3.0m (left)	Both sides	5
<del>4 - (shared zone)</del>	12.8m	6.0m	3.0m (left) 3.8m (right)	Full width paving	5

~~A copy of the pavement design prepared by a suitably qualified geotechnical engineer must accompany the application Certificate.~~

### Justification

This condition is proposed to be deleted as no internal roads are proposed to be developed as part of this modification. Buildings 4 and 5 do not require separate internal roads for vehicular access into their basement area.

#### 2.2.14 Condition 69

~~A Stage 3 (detailed design) Road Safety Audit (RSA) shall be undertaken in accordance with Austroads Guide to Road Safety Part 6: Road Safety Audit, on the proposed roadworks by an accredited auditor who is independent of the design consultant. A copy of the RSA shall accompany the design plans submitted with the Construction Certificate or Roads Act application.~~

~~Prior to the issue of the Construction Certificate or Section 138 Roads Act approval, the Certifying Authority shall ensure that the recommendations of the RSA have been considered in the final design, through review of the Road Safety Audit Checklist, including Findings, Recommendations and Corrective Actions.~~

~~A copy of the Road Safety Audit shall be submitted to Penrith City Council by the applicant or Certifying Authority for information purposes.~~

### Justification

This condition is to be deleted as no internal roads requiring a Road Safety Audit are proposed.

#### 2.2.15 Condition 71

The stormwater management system ~~for Buildings 1, 2 & 3 and private open space areas~~ shall be provided generally in accordance with the concept plans lodged for development approval, prepared by SGC Consulting Engineers, reference number 20140381, sheets SW01, **SW11** - SW15, revision A, dated 18.12.2014.

Engineering plans and supporting calculations for the stormwater management systems are to be prepared by a suitably qualified person and shall accompany the application for a Construction Certificate. Prior to the issue of any Construction Certificate the Certifying Authority shall ensure that the stormwater management system has been designed in accordance with Penrith City Council's Stormwater Drainage for Building Developments and Water Sensitive Urban Design (WSUD) Policy.

### Justification

The original condition did not account for Buildings 4 and 5 which the stormwater plans also address. Amendment of the condition now includes Buildings 4 and 5 while removing reference to Buildings 1, 2 and 3, and the plans that are now irrelevant.

#### 2.2.16 Condition 76

~~Prior to the issue of any Construction Certificate a performance bond is to be lodged with Penrith City Council for road works associated with the provision of a new intersections in Jordan Springs Boulevard and Lakeside Parade along with path paving and landscaping works within the road reserve fronting the development frontage.  
The value of the bond shall be determined in accordance with Penrith City Council's adopted Fees and Charges.~~

### Justification

The condition is proposed to be deleted as there are no intersections proposed with Jordan Springs Boulevard or Lakeside Parade.

#### 2.2.17 Condition 79

~~Prior to the commencement of works, a dilapidation report of all infrastructures fronting the development in Jordan Springs Boulevard is to be submitted to Penrith City Council. The report is to include, but not limited to, the road pavement, kerb and gutter, footpath, services and street trees and is to extend 50m either side of the development.~~

### Justification

This condition is proposed to be deleted as no development fronts Jordan Springs Boulevard – Buildings 4 and 5 as proposed to be retained front Lakeside Parade.

#### 2.2.18 Condition 91

~~Prior to the issue of an Occupation Certificate directional signage and linemarking shall be installed indicating directional movements and the location of customer parking to the satisfaction of the Principal Certifying Authority.~~

### Justification

This condition is proposed to be deleted as no customer parking is proposed due to Building 2 and the non-residential uses being removed from the development.

#### 2.2.19 Condition 92

~~Prior to the issue of an Occupation Certificate an application for proposed street names must be lodged with and approved by Penrith City Council and the signs erected onsite. The proposed names must be in accordance with Penrith City Council's Street Naming Policy.~~

### Justification

Condition 92 is proposed to be deleted as no new streets are now proposed.

#### 2.2.20 Condition 94

Prior to the issue of an Occupation Certificate a maintenance bond is to be lodged with Penrith City Council for all subdivision works, ~~intersection works in Jordan Springs Boulevard and Lakeside Parade~~ along with path paving and landscaping works within the road reserve fronting the development frontage. The value of the bond shall be determined in accordance with Penrith City Council's adopted Fees and Charges.

### Justification

The condition is to be amended to reflect there being no intersection works proposed due to the removal of Buildings 1, 2 and 3 which introduced new roads through the site.

### 2.2.21 Condition 99

~~Prior to the issue of a Construction Certificate the Certifying Authority shall ensure the following~~  
~~1. The intersection of Road No 3 and Road No 4 is to be designed as a conventional intersection with kerb and gutter kerb returns.~~  
~~2. The crown of Road No 4 is located within the centre of the pavement.~~

#### Justification

Roads No 3 and No 4 are proposed for removal from the development as part of this modification, making this condition surplus to the consent.

### 2.2.22 Condition 101

~~Prior to the issue of a Construction Certificate, full details of the proposed shared zone are to be lodged with Penrith City Council and approved by the Local Traffic Committee.~~

#### Justification

The shared zone was proposed on Road No 4 which is to be removed as part of the removal of Lot 3991, Buildings 1, 2 and 3 from this development. This condition is therefore to be deleted.

### 2.2.23 Condition 109

~~Prior to the commencement of landscape works on site, an amended landscape plan is to be prepared and submitted to Penrith Council for approval addressing the following:~~

- ~~• Activation of the plaza and common open space areas around Building 3, 4 & 5 through the provision of appropriate furniture and facilities.~~
- ~~• Shading features shall be provided within the Central Park to provide additional cover from the elements.~~
- ~~• The use of concrete seating is to be removed and replaced with seating of an alternative material that is more comfortable to users. Seating is to include backs, armrests and spaces beside for inclusive use.~~
- ~~• The provision of street trees and turf are to be provided between the kerb and gutter and pedestrian path. No shrub or swale planting in verges is permitted.~~
- ~~• Street trees are to be consistent with the St Marys Development Control Strategy. General waste and recycling bins are to be provided within the Central Park area.~~
- ~~• Fencing details and security measures to be implemented within the Central Park to ensure the area is retained as common open space~~
- ~~• Picnic table settings shall be designed to be accessible. Raised tree planters are to be avoided in deep soil areas.~~

#### Justification

Condition 109 relates to the 'Central Park' proposed as part of the original approval. This Park is no longer proposed to be provided, being located on Lot 3991 which is to be excised from the consent. Deletion of this condition is proposed.

#### 2.2.24 Condition 100

Prior to the release of an Occupation Certificate, a community management plans is to be prepared in relation the "Central Park" detailing the management of the common open space for the occupants of the residential units and associated visitors.

##### Justification

This condition relates to the 'Central Park' which is proposed to be removed as part of this modification and therefore deletion of this condition is required.

#### 2.2.25 Condition 111

Prior to the release of an Occupation Certificate, an 88B restriction is to be registered against to property detailing the "Central Park" is to be retained as a common open space for the maintenance and benefit occupants of the development and their visitors.

##### Justification

This condition relates to the 'Central Park' which is proposed to be removed as part of this modification and therefore deletion of this condition is required.

#### 2.2.26 Condition 112

This condition is imposed in accordance with Penrith City Council's Section 94 Contributions Plan(s) for District Open Space. Based on the current rates detailed in the accompanying schedule attached to this Notice, ~~\$740,484.00~~ **[to be confirmed]** is to be paid to Council prior to a Construction Certificate being issued for this development (the rates are subject to quarterly reviews). If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted Section 94 plan. The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule. Council should be contacted prior to payment to ascertain the rate for the current quarterly period. The S94 invoice accompanying this consent should accompany the contribution payment. The Section 94 Contributions Plan for District Open Space may be inspected at Council's Civic Centre, 601 High Street, Penrith.

Alternatively, evidence is to be provided detailing that the expected dwelling density has been included within calculations detailed under the Voluntary Planning Agreement between Lend Lease and Penrith City Council.

##### Justification

Due to the change in the scale of the development contribution amounts would have changed. It is requested Council re-calculate the required contribution and amend this condition accordingly.

#### 2.2.27 Condition 113

This condition is imposed in accordance with Penrith City Council's Section 94 Contributions Plan(s) for Cultural Facilities. Based on the current rates detailed in the accompanying schedule attached to this Notice, ~~\$68,983.00~~ **[to be confirmed]** is to be paid to Council prior to a Construction Certificate being issued for this development (the rates are subject to quarterly reviews). If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted Section 94 plan. The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule.

Council should be contacted prior to payment to ascertain the rate for the current quarterly period. The S94 invoice accompanying this consent should accompany the contribution payment. The Section 94

Contributions Plan for Cultural Facilities may be inspected at Council's Civic Centre, 601 High Street, Penrith.

Alternatively, evidence is to be provided detailing that the expected dwelling density has been included within calculations detailed under the Voluntary Planning Agreement between Lend Lease and Penrith City Council.

### **Justification**

Due to the change in the scale of the development contribution amounts would have changed. It is requested Council re-calculate the required contribution and amend this condition accordingly.

## **3.0 Substantially the same development**

Section 4.55(1A)(a) of the EP&A Act states that a consent authority may modify a development consent if *"it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all)"*.

The development, as proposed to be modified, is substantially the same development as that originally approved in that it:

- The site will retain the same approved land use of residential, noting the previously approved commercial use was ancillary to the major use proposed;
- There is no change to the maximum building height, scale or bulk of Buildings 4 and 5, resulting in no change in environmental impacts with respect to shadows and wind;
- There is no increase in overall gross floor area from the changes, with a reduction due to the removal of Buildings 1, 2 and 3;
- The gross floor area of Buildings 4 and 5 remains the same so does not result in any intensification of the approved development on Lot 3989;
- There is an overall reduction in environmental impacts due to the reduced footprint and the removal of Lot 3991 from the development;
- There is an improved environmental performance outcome associated with the modified development, compared with the approved development; and
- The modified development is generally consistent with the approved development through the provision of residential dwellings in a built form and scale compatible with the adjacent Village Centre.

## **4.0 Planning assessment**

Section 4.55(3) of the EP&A Act requires a consent authority to take into consideration such of the matters referred to in section 4.15(1) as are of relevance to the development the subject of the application and the reasons given by the consent authority for the grant of the original consent.

The planning assessment of the proposed modified development remains generally unchanged with respect to the above matters. The following matters however warrant further assessment.



#### 4.1 Compliance with statutory plans

The proposed modifications do not alter the approved development's compliance with the statutory and strategic plans as outlined below and assessed as part of the original application:

- *Environmental Protection and Biodiversity Conservation Act 1999;*
- *Environmental Planning and Assessment Act 1979;*
- *Water Management Act 2000;*
- *Rural Fires Act 1997;*
- *Sydney Regional Environmental Plan No.20 – Hawkesbury Nepean River;*
- *Sydney Regional Environmental Plan No.30 – St Marys (SREP30);*
- *State Environmental Planning Policy No. 55 – Remediation of Land;*
- *State Environmental Planning Policy No.65 – Design Quality of Residential Flat Buildings;*
- *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004;*
- *State Environmental Planning Policy (Infrastructure) 2007;*
- *State Environmental Planning Policy (State and Regional Development) 2011;*
- Western Precinct Plan and Development Control Strategy; and
- Penrith Development Control Plan 2010.

##### 4.1.1 State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Buildings

The original application was assessed against the requirements of SEPP65 and the Residential Flat Design Code (RFDC) and found to be compliant with the design quality principles.

Since the approval was granted on 21 January 2016, the RFDC has been superseded by the Apartment Design Guide (ADG) which provides updated design quality principles. Importantly, no significant changes to the design of Buildings 4 and 5 are proposed (other than amendments to waste storage areas per DA15/0163 consent conditions) and as such compliance is maintained as per the approved development:

- Principle 1: Context and Neighbourhood Character;
  - The development, as proposed to be modified, is still appropriate for its context given its location adjacent to the Jordan Springs Village Centre and proposed development adjacent to the site. The continued provision of three storeys in this location contributes to the Village Centre character as intended by the Western Precinct Plan.
- Principle 2: Built Form and Scale;
  - An appropriate scale is maintained with Buildings 4 and 5, with no physical changes proposed outside of those approved in the original consent. The design of the development provides for a clearly defined public domain and is consistent with future intended development adjacent to the site.
- Principle 3: Density;
  - There is no density control under SREP30 and the Western Precinct Plan, however the provision of 64 apartments adjacent to the Village Centre is considered appropriate and does not change the approved dwelling numbers for Lot 3989.
- Principle 4: Sustainability;
  - Buildings 4 and 5 have been provided with BASIX certification as part of the original assessment process.
- Principle 5: Landscape;

- Landscaping is still provided around Buildings 4 and 5 with communal and publicly accessible landscaped spaces present.
- Principle 6: Amenity;
  - The design as approved provides adequate levels of amenity for future occupants.
- Principle 7: Safety;
  - The proposal provides good passive surveillance with no changes proposed to external lighting, security or CCTV as part of this modification.
- Principle 8: Housing Diversity and Social Interaction; and
  - The proposal will contribute to housing diversity through a mix of one- and two-bedroom apartments.
- Principle 9: Aesthetics.
  - The design of Buildings 4 and 5 includes a range of architectural features and finishes, which assist in reducing the perceived bulk and scale of the development.

Buildings 4 and 5, remaining part of the approved development, still maintain compliance with the requirements of the ADG with the only changes to be made relating to the provision of waste storage facilities. Removal of Buildings 1, 2 and 3 from the approved development does not impede the ability of Buildings 4 and 5 from complying with the requirements of the ADG. As such, with no significant physical changes to the approved built form of Buildings 4 and 5, compliance is retained with the relevant controls.

#### **4.1.2 Sydney Regional Environmental Plan No.30 – St Marys (SREP30)**

SREP30 provides the planning framework which guides the development including performance objectives for the site. The development as proposed to be modified does not alter the outcomes of the original assessment against the SREP30 performance objectives.

The removal of Lot 3991 and Buildings 1, 2 and 3 from the approved development still ensures achievement of the performance objectives through the provision of housing, open space, stormwater management and urban form.

#### **4.1.3 Western Precinct Plan and Development Control Strategy**

The Western Precinct Plan and Development Control Strategy (DCS) outline site specific development controls for Jordan Springs.

The original assessment completed addressed the proposed development and considered it appropriate in terms of compliance with the requirements of the DCS.

Identified non-compliances relating to articulation and internal side setbacks and private open space associated with Building 2 have been removed based on the removal of this building from the development as proposed as part of this modification.

## **4.2 Referrals**

The original application was provided with General Terms of Approval (GTA) by the Rural Fire Service in accordance with section 100B of the *Rural Fires Act 1997* for a bushfire safety authority. The Department of Primary Industries: Water (DPI: Water, previously NSW Office of Water) also issued General Terms of Approval for a Controlled Activity Approval under the *Water Management Act 2000*.

The proposed modification is not considered to alter the original GTAs issued by these agencies. It is noted that this modification application will be referred to the Rural Fire Service and DPI: Water.

In accordance with clause 44 of SREP30 the application, being adjacent to land zoned as Regional Park, will be referred to the National Parks and Wildlife Service for review and comment.

### **4.3 Reasons given for granting consent**

Based on their assessment the Sydney West Planning Panel determined the original application was appropriate for the site and granted consent with the following reasons provided:

- the development will add to the supply and selection of housing within the City of Penrith and the Jordan Springs housing estate.
- the proposal satisfies all relevant State legislation and State and local planning controls, including the Cumberland Woodland Recovery Plan.
- the proposal will have no significant adverse environmental impacts including impacts on the Cumberland Plain ecology and will satisfactorily integrate in form and function with the adjacent Jordan Springs Centre and residential neighbourhood.

The proposed development, as amended, still achieves the above in that it:

- will still contribute to the supply and selection of housing within Penrith and Jordan Springs through the provision of 64 apartments of varying size at the same density as originally approved for Lot 3989;
- achieves compliance with the relevant planning controls; and
- will have a lesser impact than originally approved through the reduction in scale of built form and footprint based on the removal of Lot 3991 and Buildings 1, 2 and 3 from the development.

During assessment of the DA15/0163 application, Council and the Panel considered a number of key issues including:

- urban form and structure;
- future character;
- design quality and amenity;
- overshadowing;
- environmental impacts including noise, water, energy, soil and waste;
- access and movement;
- construction impacts;
- social impacts; and
- economic impacts.

The proposed modification to the development does not affect the level of compliance with the above key issues and in several situations improves the outcome through the reduction of the developable footprint. Where further assessment and clarification is required, this is provided below.

#### 4.4 Traffic and Parking

The amended development maintains compliance with the controls of the DCS as assessed and approved under DA15/0163. Specifically, Buildings 4 and 5 provide for the required number of car spaces based on the apartment mix now proposed, noting the shared basement arrangement.

**Table 2 Car parking rates**

Building	Unit Type	DCS Parking Requirement		Provided Car Spaces
Buildings 4 and 5	One bedroom (12 inc. 4 adaptable)	1 space per unit	12	95
	Two bedrooms (52 inc. 4 adaptable)	1.5 spaces per unit	78	
	Visitor spaces	1 space per 5 dwellings	13 (12.8)	13
<b>Total</b>			<b>103</b>	<b>108</b>

Furthermore, Buildings 4 and 5 provide 15 bicycle spaces, greater than the required 5 spaces.

#### 4.5 Conservation

A Species Impact Statement was completed as part of the original development application and identified that the removal of Cumberland Plain Woodland from the site would not cause significant impact to the community due to the large and viable representativeness of the community within the adjacent Regional Park. The modified development will, due to its smaller footprint, result in lesser impacts to Cumberland Plain Woodland than originally approved by Council in DA15/0163.

The original development as approved required the removal of eight trees on site. The proposed modifications now result in only five trees requiring removal.

The removal of Lot 3991 and Buildings 1, 2 and 3 result in a lesser environmental impact than originally considered and approved.

#### 4.6 Bushfire

Lot 3989 is situated within an area mapped as bushfire prone land and as such both Buildings 4 and 5 still require a Bushfire Attack Level to be applied to built form on the site. The removal of Lot 3991 and Buildings 1, 2 and 3 does not change the original assessment completed.

#### 4.7 Landscape and Open Space

Additional landscaping embellishment is to be provided on Lot 3989 to account for the removal of the Central Park approved for Lot 3991, including the publicly accessible open space. As such, this will improve the aesthetics of landscaping on Lot 3989 above that originally approved.

#### 4.8 Site Suitability and Public Interest

Lot 3991 individually can accommodate the proposed modified development being Buildings 4 and 5 with minimal adverse impact to the surrounding Regional Park. It maintains consistency with the existing character of the Village Centre to the north. The modified development will provide 64 residential dwellings within an urban environment in a manner deemed appropriate for the site through the original approval of DA15/0163.

## 5.0 Conclusion

The proposed modifications include the removal of Lot 3991 and its approved Buildings 1, 2 and 3 from the development. Buildings 4 and 5 are proposed to be retained on Lot 3989. Modifications to relevant conditions are also proposed.

In accordance with section 4.55(1A) of the EP&A Act, Council may modify the consent as:

- the consent, as proposed to be modified, is substantially the same development as that originally approved
- the environmental impacts are significantly reduced from the approved development due to the reduction in the footprint of the proposal and therefore the proposed modification is of minimal environmental impact;
- Buildings 4 and 5 maintain compliance with SREP30, the Western Precinct Plan and DCS, and SEPP65 and the ADG; and
- the proposal still provides residential dwellings in an urban context within the Jordan Springs Village Centre.

In light of the above, we therefore recommend that the proposed modification is supported by Council.

We trust that this information is sufficient to enable a prompt assessment of the proposed modification.

Yours sincerely,



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