

11 August 2020

PENRITH CITY COUNCIL

Att: Peter Wood

## **Statement of Environmental Effects**

### **SECTION 4.55(1A) MODIFICATION REQUEST- DA18/0663: Leonay Links**

#### ***INTRODUCTION & SUMMARY***

This letter has been prepared to form part of a Section 4.55 modification request to the above mentioned development application. This follows discussion with Council staff regarding consent conditions.

There is no change proposed to the development however a review of conditions of consent has revealed issues with regard to the proposal and in proceeding with the subdivision to enable the sale of the land from the Club- which is critical given the Club's financial position.

Accordingly some changes to conditions are requested as per the below having reviewed the conditions.

#### ***Requested Condition Amendments***

##### *Condition 2(e)*

It is requested that this condition be amended to delete the words 'on the lots'. The applicant accepts the 2 for 1 replacement however as discussed with the Panel and Council a number of replacements would be on the golf course side of the development (when considering the new lot boundaries) which is considered suitable. Ultimately Council will need to be satisfied of this on the amendments in due course however deleting the wording 'on the lots' clarifies that it does not require a 2 for 1 replacement wholly on the lot that will contain the dwellings- which is likely impractical. However the intent of the condition will be satisfied regardless and future detail will be provided as per the condition.

##### *Condition 13(c)*

It is requested that (c) be deleted as the proposal is not a serviced residential aged care facility hence it is not relevant. Further this raised concern with the bank regarding the implication that the development is a serviced aged care facility (RACF) which it is not. This has no impact on the consent and we would request removal to avoid concerns from the bank and lending for funding purposes.

### Condition 52

It is requested that this condition be amended to delete the words 'Prior to the issue of a Subdivision Certificate' and replace with 'Prior to the issue of an Occupation Certificate'. This is on the basis that the subdivision does not trigger any stormwater work and this will occur with the building and should be linked to OC. It also allows the paper subdivision to occur in a timely manner.

### Condition 53

It is requested that this condition be amended to delete the words 'Prior to the issue of a Subdivision Certificate' and replace with 'Prior to the issue of an Occupation Certificate'. This is on the basis that the subdivision does not trigger any stormwater work and this will occur with the building and should be linked to OC. It also allows the paper subdivision to occur in a timely manner.

## **Planning Matters**

### *Section 4.55 Environmental Planning and Assessment 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 conditions of consent.

### **Conclusion**

We request that the consent be amended as requested above and we are happy to discuss this further with Council.

Please don't hesitate to contact me should you wish to discuss.

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