

30 April 2020

PENRITH CITY COUNCIL

Att: Peter Wood

SECTION 4.55(1A) MODIFICATION REQUEST

MIXED USE DEVELOPMENT: DA18/0999- ESQ STAGE 2 & 3

This letter has been prepared to form part of a Section 4.55 modification request to the above mentioned development application.

I refer to ongoing discussions held between Penrith City Council and Panthers Rugby League Club in relation to the ongoing issue of the Voluntary Planning Agreement (VPA) and coming to the final agreement and execution of the VPA.

I also refer to the recent Section 4.55 modification application submitted by Census Advisory on behalf of Penrith Rugby League Club seeking consent to amend the timing of the VPA as it relates to the WSCCC and the Hotel proposal.

In summary ongoing discussions between Penrith Rugby League Club, Penrith Council and the RMS has led to ongoing amendments being made to the VPA, noting that the delay in formulating the final VPA has arisen.

The agreement and entering into of the VPA is forthcoming however the current wording of the DA consent for the Cabe development means that no CC can be issued until the VPA is entered into.

Works on Stage 2A and 2B are anticipated to commence shortly, with Stage 3A and 3B to occur in the future. On that basis and in order to avoid ongoing delays it is requested that the DA consent conditions be amended to outline that the VPA must be entered into prior to the issue of an Occupation Certificate for Stage 2A and 2B- rather than the Construction Certificate and for Stage 3A and 3B to remain at prior to the issue of a Construction Certificate.

This will allow the works to commence on site for Stage 2A and 2B whilst ensuring the later stages cannot commence.

On that basis it is requested that the following conditions be amended:

- Condition 13: Replace the words '*prior to the issue of the first Construction Certificate*' with '*prior to the issue of a Construction Certificate for Stage 3A and 3B and/or prior to the issue of the First Occupation Certificate for Stage 2A and 2B*'. This is to enable the Construction Certificate to be progressed for the initial stages, noting that the requirement for the VPA to be entered into (by Panthers) is maintained, and any required 'trigger points' are required to be satisfied at OC stage.

The full wording of Condition 13 would be requested to be:

*10. 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 the Construction Certificate for Stage 3A and 3B and/or prior to the issue of the First Occupation Certificate for Stage 2A and 2B.** A copy of the signed and executed Planning Agreement is to be provided to the Principal Certifying Authority.*

*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 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 each Construction Certificate** for the development.*

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.

Jonathon Wood
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