

18 February 2019

Ms Kathryn Saunders
Penrith City Council
PO Box 60
PENRITH NSW 2751

Dear Kathryn,

SECTION 4.55 - CONDITION 18 DA18/0298, 15 ENGINEERS PLACE, PENRITH

This Statement of Modification is prepared on behalf of St Hilliers (applicant) to support a section 4.55(1A) application to modify Condition 18 of DA18/0298 (approved 9 August 2018) in relation to Lot 2 DP1240166

Condition 18 relates to Penrith City Council (Council) approving the detailed design plans for the through-site link prior to issuing the Construction Certificate (CC). This application seeks to move the requirement of having the design detail of the through-site link approved prior to Occupation Certificate (OC). There is no proposed change to the approved design, land uses and development yields.

1. PROPOSED MODIFICATION

Under the provisions of section 4.55(1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act), it is proposed to amend Condition 18 of DA18/0298.

The necessary amendment to Condition 18 is detailed below. The following provides the formatted amended conditions (~~striketrough~~ for deletions; **bold** for additions):

*18. Prior to the issue of a ~~Construction~~ **Occupation** Certificate, ~~detailed design plans for the through-site link, including levels, paving, drainage, kerb, gutter, pram ramp, all fixtures, street furnishings, lighting, CCTV and public art will have detailed design plans~~ ~~are to be submitted to and approved by Penrith City Council and be installed and finished in accordance with those plans to the satisfaction of Penrith City Council.~~*

The through-site link plans are to be prepared in consultation with the Landscape Architect Supervisor Design and Projects at Penrith City Council and are to include the following details:

- (a) A set of civil plans including sections, levels, paving, drainage, kerb, gutter and pram ramp details,*
- (b) The design details of all fixtures and street furnishings,*
- (c) A Lighting Plan. CCTV is to be installed within the through-site link and camera locations are to noted on lighting plans.*
- (d) A Detailed Public Art Plan and Design Development documentation, in accordance with the stamped approved Engineers Place Public Art Plan V3 dated 15 May 2018, prepared by Guppy Associates Management.*

This modification allows the proponent to obtain a CC expeditiously and commence works.

The modified condition maintains the requirement to prepare and submit for approval the through-site link design details. The original condition did not require Council approval of the works prior to issuing an OC. The modified condition by way of the following part of the modified condition provides assurance that the works will be undertaken to the satisfaction of Council: "be installed and finished in accordance with those plans to the satisfaction of Penrith City Council".

The through-site links works are required to be completed upon occupation regardless to allow for the outdoor dining area to be setup and for trading to commence for the ground floor commercial tenancy.

2. PLANNING ASSESSMENT

2.1. SECTION 4.55(1A) ASSESSMENT

The appropriate means of administering this application is under section 4.55(1A) of the EP&A Act. The modifications are substantially the same development for the following reasons:

- The modified development does not propose any changes to the approved land uses and design.
- The modified development does not depart from the approved development as the proposed modification relates to the timing of satisfying conditions of consent related to the through-site link.

The proposed modifications are of minimal environmental impact given all of the modifications relate to the timing of satisfying conditions of consent. The modified development will not generate any additional environmental impacts.

2.2. SECTION 4.15 ASSESSMENT

The modified proposal remains consistent with Penrith LEP, DCP and relevant Regulations. The modified condition does not hinder the ability of the site to be suitable for the approved development and land uses. The proposal remains in the public interest.

3. CONCLUSION

The modified scheme is acceptable under the relevant considerations of section 4.15 of the EP&A Act. It is therefore recommended that approval be granted to the proposed modification.

If you have any questions, please don't hesitate to contact Ryan Macindoe on (02) 8233 7631.

Yours sincerely,

A handwritten signature in blue ink, appearing to read "R Macindoe".

Ryan Macindoe
Senior Consultant