

AMENDED NOTICE OF MOTION

COURT DETAILS

Court	Land and Environment Court of New South Wales
Class	1
Case number	2021/355201

TITLE OF PROCEEDINGS

First Applicant	Urban Apartments Pty Ltd
Respondent	Penrith City Council

FILING DETAILS

Filed for	Urban Apartments Pty Ltd, Applicant
Legal representative	Aaron Gadiel Mills Oakley Level 7, 151 Clarence Street SYDNEY NSW 2000
Legal representative reference	AXGS/JZAS/3554691
Contact name and telephone	Julide Ayas [REDACTED]
Contact email	[REDACTED]

PERSONS AFFECTED BY ORDERS SOUGHT

Urban Apartments Pty Ltd, Applicant and Penrith City Council, Respondent.

HEARING DETAILS

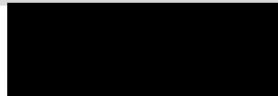
This motion is listed at

ORDERS SOUGHT

1. The Applicant is granted leave to file and serve the amended class 1 application at tab 28 to Exhibit JA-1.
2. The Court exercising under s 39(2) of the *Land and Environment Court Act 1979* the function of the consent authority under clause 55(1) of the *Environmental Planning and Assessment Regulation 2000* agrees to the Applicant amending or varying the development application DA20/0167 to rely on the plans and documents listed in the Schedule.
3. The Applicant is to lodge the amendment of the development application on the NSW planning portal within 7 days of this order and notify the Respondent after it has been lodged.
4. The Applicant is to file an affidavit confirming satisfaction of order 3 within 7 days after the Applicant has complied with order 2.
5. In the event the Applicant is unable to lodge the amended development application on the NSW Planning Portal as directed in 3 above, the Applicant is to notify the Court via Online Court as soon as possible and no later than 14 days and request that the matter be relisted for further directions.
6. Upon satisfaction of orders 3 and 4, that pursuant to section 8.15(3) of the *Environmental Planning and Assessment Act 1979* the Applicant pay the Respondent's costs thrown away as a result of the amendment of the application for development consent, as agreed or assessed.
7. The hearing dates of 18 to 22 July 2022 are confirmed.
8. The Respondent file and serve an amended statement of facts and contentions by ~~17 June 2022~~ 29 June 2022.
9. The Applicant is to file and serve any amended statement of facts and contentions in reply by ~~20 June 2022~~ 1 July 2022.
10. The parties are to lodge an agreed Online Court communication seeking ~~any~~ variation to the orders for expert evidence made on 29 March 2022 by ~~22 June~~ 4 July 2022.
11. The parties have liberty to restore on three working days' notice.

SIGNATURE

Signature of legal representative



Capacity

Solicitor

Date of signature

14 June 2022

NOTICE TO PERSON AFFECTED BY ORDERS SOUGHT

If you do not attend, the court may hear the motion and make orders, including orders for costs, in your absence.

REGISTRY ADDRESS

Street address

The Land and Environment Court of NSW
Level 4, 225 Macquarie Street
Windeyer Chambers
Sydney NSW 2000

Postal address

GPO Box 3565
SYDNEY NSW 2001

Telephone

02 9113 8200

Schedule

- (a) Amended architectural plans prepared DKO:
- (i) Drawing DA000 ('Title Page'), revision C dated 9 May 2022;
 - (ii) Drawing DA001 ('Calculations'), revision D dated 9 May 2022;
 - (iii) Drawing DA100 ('Site Analysis'), revision C dated 9 May 2022;
 - (iv) Drawing DA102 ('Site Plan'), revision C dated 9 May 2022;
 - (v) Drawing DA200 ('Basement 01 Plan'), revision E dated 9 May 2022;
 - (vi) Drawing DA201 ('Ground Floor Plan'), revision G dated 9 May 2022;
 - (vii) Drawing DA202 ('Mezzanine Floor Plan'), revision E dated 9 May 2022;
 - (viii) Drawing DA203 ('Level 1'), revision E dated 9 May 2022;
 - (ix) Drawing DA204 ('Level 2'), revision E dated 9 May 2022;
 - (x) Drawing DA205 ('Level 3 Plan'), revision E dated 9 May 2022;
 - (xi) Drawing DA206 ('Level 4 Plan'), revision E dated 9 May 2022;
 - (xii) Drawing DA207 ('Level 5 Plan'), revision E dated 9 May 2022;
 - (xiii) Drawing DA208 ('Level 6 Plan'), revision E dated 9 May 2022;
 - (xiv) Drawing DA209 ('Level 7 Plan'), revision E dated 9 May 2022;
 - (xv) Drawing DA210 ('Level 8-9 Plan'), revision E dated 9 May 2022;
 - (xvi) Drawing DA211 ('Level 10 Technical Floor'), revision E dated 9 May 2022;
 - (xvii) Drawing DA212 ('Typical Levels 11, 12, 14, 15, 17, 18, 20, 21, 22'), revision E dated 9 May 2022;
 - (xviii) Drawing DA213 ('Terrace Levels 13, 16, 19, 22, 25), revision E dated 9 May 2022;
 - (xix) Drawing DA214 ('Typical Levels 26, 27, 29, 30, 32, 33, 35, 36'), revision E dated 9 May 2022;

- (xx) Drawing DA215 ('Terrace Levels 28, 31, 34, 37'), revision E dated 9 May 2022;
- (xxi) Drawing DA216 ('Level 38 Plan'), revision E dated 9 May 2022;
- (xxii) Drawing DA217 ('Level 39 Plan'), revision E dated 9 May 2022;
- (xxiii) Drawing DA218 ('Level 40 Plan'), revision E dated 9 May 2022;
- (xxiv) Drawing DA219 ('Level 41 Plan'), revision E dated 9 May 2022;
- (xxv) Drawing DA220 ('Level 42 Plan'), revision E dated 9 May 2022;
- (xxvi) Drawing DA221 ('Level 43 Plan'), revision E dated 9 May 2022;
- (xxvii) Drawing DA222 ('Roof Plan'), revision E dated 9 May 2022;
- (xxviii) Drawing DA225 ('Pre & Post Adaptable Unit Layouts'), revision C dated 9 May 2022;
- (xxix) Drawing DA226 ('Accessible Unit Layouts'), revision C dated 9 May 2022;
- (xxx) Drawing DA227 ('Silver Standard Livable Housing Unit Layouts'), revision C dated 9 May 2022;
- (xxxi) Drawing DA300 ('Elevations – Sheet 01'), revision E dated 9 May 2022;
- (xxxii) Drawing DA301 ('Elevations – Sheet 02'), revision E dated 9 May 2022;
- (xxxiii) Drawing DA302 ('Elevations – Sheet 03'), revision E dated 9 May 2022;
- (xxxiv) Drawing DA303 ('Elevations – Sheet 04'), revision E dated 9 May 2022;
- (xxxv) Drawing DA304 ('Sections – Sheet 1'), revision E dated 9 May 2022;
- (xxxvi) Drawing DA305 ('Sections – Sheet 2'), revision E dated 9 May 2022;
- (xxxvii) Drawing DA307 ('Streetscape Montage'), revision C dated 9 May 2022;
- (xxxviii) Drawing DA308 ('Streetscape Montage'), revision C dated 9 May 2022;
- (xxxix) Drawing DA309 ('Finishes Board'), revision C dated 9 May 2022;
- (xl) Drawing DA400 ('Solar Calculations'), revision C dated 9 May 2022;
- (xli) Drawing DA401 ('Solar Calculations'), revision C dated 9 May 2022;

- (xlii) Drawing DA402 ('Eye of the Sun'), revision D dated 9 May 2022;
- (xliii) Drawing DA403 ('Solar Study'), revision C dated 9 May 2022;
- (xliv) Drawing DA404 ('Cross Ventilation Calculations'), revision C dated 9 May 2022;
- (xlv) Drawing DA405 ('GFA Calculations'), revision D dated 9 May 2022;
- (xlvi) Drawing DA406 ('GFA Calculations'), revision D dated 9 May 2022;
- (xlvii) Drawing DA407 ('C.O.S & Deep Soil Calculation'), revision C dated 9 May 2022;
- (xlviii) Drawing DA408 ('Apartment Mix'), revision C dated 9 May 2022;
- (xlix) Drawing DA409 ('Storage Diagrams'), revision C dated 9 May 2022;
- (l) Drawing DA410 ('Public Art Location Plan'), revision C dated 9 May 2022;
- (li) Drawing DA411 ('Building Separation'), revision B dated 9 May 2022;
- (lii) Drawing DA412 ('Overshadow Analysis'), revision B dated 9 May 2022;
- (liii) Drawing DA413 ('Communal Open Space'), revision B dated 9 May 2022;
- (liv) Drawing DA417 ('Overshadowing Study – Sheet 1'), revision B dated 9 May 2022;
- (lv) Drawing DA418 ('Overshadowing Study – Sheet 2'), revision B dated 9 May 2022;
- (lvi) Drawing DA419 ('Overshadowing Study – Sheet 3'), revision B dated 9 May 2022;
- (lvii) Drawing DA420 ('Overshadowing Study – Sheet 4'), revision B dated 9 May 2022;
- (lviii) Drawing DA421 ('Shadow Study RE1 Zone – Winter Solstice'), revision A dated 9 May 2022;
- (lix) Drawing DA422 ('Shadow Study RE1 Zone – Summer Solstice'), revision A dated 9 May 2022;
- (lx) Drawing DA425 ('Apartment Mix'), revision A dated 9 May 2022;

(Ixi) Drawing DA426 ('Shadow Study RE1 Zone – Winter Solstice'), revision A dated 9 May 2022;

(Ixii) Drawing DA500 ('Light Spill Diagram'), revision A dated 9 May 2022.

(Tab 1)

(b) Schedule of amendments to accompany the architectural plans **(Tab 2)**.

(c) DCP overlay drawings prepared by DKO:

(i) Drawing DA501 ('DCP Overlay 1:200');

(ii) Drawing A502 ('DCP Overlay 1:500').

(Tab 3)

(d) Stormwater Concept Design plans prepared by SGC Consulting Engineers:

(i) Drawing SW100 ('Cover Sheet'), revision J dated 6 June 2022;

(ii) Drawing SW200 ('Stormwater Concept Design Basement Plan'), revision J dated 6 June 2022;

(iii) Drawing SW201 ('Stormwater Concept Design Ground Floor Plan'), revision J dated 6 June 2022;

(iv) Drawing SW202 ('Stormwater Concept Design Roof Plan'), revision J dated 6 June 2022;

(v) Drawing SW300 ('Stormwater Concept Design Detail Sheet – Sheet 1 of 2'), revision J dated 6 June 2022;

(vi) Drawing SW400 ('Erosion and Sediment Control Plan and Details'), revision J dated 6 June 2022;

(vii) Drawing SW500 ('Stormwater Concept Design Music Catchment Plan'), revision J dated 6 June 2022;

(viii) Drawing SW501 ('Stormwater Concept Design HGL Analysis & Long Section'), revision J dated 6 June 2022

(Tab 4)

(e) Public Domain – Civil Works plans prepared by SGC Consulting Engineers:

(i) Drawing C100 ('Cover Sheet'), revision **JJ** undated

- (ii) Drawing C201 ('Public Domain – Civil Works General Arrangement Plan'), revision ~~J~~ dated ~~14~~ June 2022.
- (iii) Drawing C301 ('Public Domain – Civil Works Longitudinal Sections Sheet 1 of 2') revision J dated 14 June 2022.
- (iv) Drawing C302 ('Public Domain – Civil Works Longitudinal Sections Sheets 2 of 2') revision J dated 14 June 2022.
- (v) Drawing C401 ('Public Domain – Civil Works Cross Sections Sheet 1 of 3') revision J dated 14 June 2022.
- (vi) Drawing C402 ('Public Domain – Civil Works Cross Sections Sheet 2 of 3') revision J dated 14 June 2022.
- (vii) Drawing C403 ('Public Domain – Civil Works Cross Sections Sheet 3 of 3') revision J dated 14 June 2022.
- ~~(ii)~~(viii) Drawing C501 ('Public Domain – Civil Works Detail Sheet') revision J dated 14 June 2022.

(Tab 5)

- (f) Schedule of amendments to accompany the stormwater and civil works drawings prepared by SGC Consulting Engineers **(Tab 6)**.
- (g) Development Application – Landscape Report prepared by Turf dated 30 May 2022 **(Tab 7)**.
- (h) Noise Impact Assessment prepared by White Noise Acoustics (Revision 2) dated 13 May 2022 **(Tab 8)**.
- (i) WSUD Strategy Report prepared by SGC Consulting Engineers (Issue C) dated 18 May 2022 **(Tab 9)**.
- (j) Draft Plan of Subdivision of Lot 10 in Deposited Plan 1162271 prepared by DKO dated 16 May 2022 **(Tab 10)**.
- (k) Environmental Site Status prepared by EI Australia Pty Ltd dated 19 May 2022 **(Tab 11)**.
- (l) Flood Evacuation Report prepared by SGC Consulting Engineers dated 9 March 2022 **(Tab 12)**.

- (m) Initial Assessment – Retail Spaces at High Street Penrith prepared by Retail Strategy Group dated 27 May 2022 and Retail Strategy Group Corporate Profile (**Tab 13**).
- (n) Remediation Action Plan prepared by EI Australia (Revision 03) dated 18 May 2022 (**Tab 14**).
- (o) Waste Management Report in response to waste contentions prepared by Dickens Solutions Pty Ltd dated 15 May 2022 (**Tab 15**).
- (p) Wind Environment Desktop Assessment prepared by RWDI Australia Pty Ltd dated 3 June 2022 (**Tab 16**).
- (q) Hydrogeological Assessment for 614-632 High Street, Penrith NSW prepared by Martens dated 27 May 2022 (**Tab 17**).
- (r) Preliminary Public Art Strategy prepared by DKO dated May 2022 (**Tab 18**).
- (s) Development Application SEPP 65 Report prepared by DKO dated 9 May 2022 (**Tab 19**).
- (t) Letter from Government Architect NSW to Council re Design Excellence Competition waiver, 614-632 High Street Penrith dated 28 April 2022 (**Tab 20**).
- (u) Letter from Mills Oakley to Dentons regarding community infrastructure under clause 8.7 of the LEP dated 6 June 2022 (**Tab 21**).
- (v) Clause 4.6 Variation Request – Floor Space Ratio prepared by Think Planners Pty Ltd dated June 2022 (**Tab 22**).
- (w) Clause 4.6 Variation Request – Height prepared by Think Planners Pty Ltd dated June 2022 (**Tab 23**).
- (x) Amended Statement of Environmental Effects prepared by Think Planners Pty Ltd dated June 2022 (**Tab 24**).
- (y) Traffic and Parking Impact Assessment of the Proposed Mixed-use Development at 614-632 High Street, Penrith prepared by McLaren Traffic Engineering dated 2 June 2022 (**Tab 25**).
- (z) Draft Release of Extinguishment of Restriction on the Use of Land (Form 13RRE) (**Tab 26**).
- (aa) Email from Dentons to Mills Oakley re contention 1 dated 10 May 2022 (**Tab 27**).
- (bb) Proposed amended class 1 application form (**Tab 28**).