

Schedule 4

Explanatory Note

Environmental Planning and Assessment Regulations 2000

(Clause 25E)

Explanatory Note

Planning Agreement

Under section 93F of the *Environmental Planning and Assessment Act 1979* (NSW) and Clause 25E of the *Environmental Planning and Assessment Regulations 2000*

1 Parties

Penrith City Council ABN 43 794 422 563 of 601 High Street, Penrith New South Wales (**Planning Authority**)

Penrith Rugby League Club Limited ABN 57 000 578 398 of Mulgoa Road, Penrith New South Wales (**Developer**)

2 Description of Subject Land

The land located at the address 63, 73, 83, 123 – 135 Mulgoa Road, Penrith, New South Wales and contained in folio identifies Lot 1021, DP812335, Lot 1 DP1043008, Lot 151 DP863625 and Lot 13 DP710086 (part).

3 Description of Proposed Change to Environmental Planning Instrument

The Developer has submitted a Planning Proposal to the Planning Authority to rezone the Land.

An Amending LEP will facilitate additional development of the 'Panthers Penrith Precinct' on the Land being a mixed use development inclusive of 12,500m² GFA of retail, 25,000m² NUFA of Outlet Centre, 25,000m² GFA of campus style offices, entertainment facilities, hotel accommodation, seniors living, residential, recreation facilities, and exhibition space.

4 Summary of Objectives, Nature and Effect of the Draft Planning Agreement

The objective of the draft Planning Agreement is to manage the ongoing operation of the proposed Outlet Centre associated with the 'Panthers Penrith Precinct'.

The nature of the draft Planning Agreement is a contractual relationship between Penrith City Council and the Developer for the provision of Development Contributions as listed in Schedule 3 to manage the proposed Outlet Centre being a component of the Development and how it will be provided.

The effect of the draft Planning Agreement is that the Developer must provide Development Contributions that include:

- (a) Annual reporting by tenants providing evidence of compliance with the Site Controls for the Outlet Centre.
- (b) Annual reporting by the land owner to Council in relation to the tenants' compliance with the Site Controls for the Outlet Centre.
- (c) A requirement that all leases contain mandatory provisions that state that all lessees must only sell types of goods specified in the Outlet Centre definition.
- (d) Annual production and submission to Council of a Management Plan by Centre Management.

The draft Planning Agreement:

- (a) Contains a schedule including the description, purpose and timing required in relation to the above Development Contribution.
- (b) Includes a requirement that the Developer will not transfer ownership to another party of any separate lot created by Subdivision to contain the Outlet Centre where it will be used for an Outlet Centre use until the Outlet Centre is approved, constructed and is operational.
- (c) Includes a requirements that the consent authority must not consent to a development application for the Outlet Centre unless a minimum of 15,000sqm of floor space of other development (not being commercial, residential or retail) is developed on the Land prior to or concurrently with an Outlet Centre.
- (d) Does not exclude the application of s94, s94A and s94EF of the Act to the Development.
- (e) Is required to be registered on the Land as security.

5 Assessment of the Merits of the Draft Planning Agreement, including the impact on the public or any relevant section of the public

The draft Planning Agreement satisfies the objectives through the Developer making Development Contributions for the ongoing management of a proposed Outlet Centre being a component of the Development to ensure minimal retail impacts by the Development and to ensure that the Development maintains a community benefit.

The positive impact on the public is that the public will gain benefit from the Development Contributions.

The negative impact on the public is that Penrith City Council will need to monitor the Development Contributions

6 Other Matters

6.1 How the draft Planning Agreement promotes public interest and one or more of the objects of the Act

The draft Planning Agreement promotes the public interest by:

- Promoting and coordinating the orderly and economic use and development of the Land.

And therefore promotes the objects of the *Environmental Planning and Assessment Act 1979* as set out in s5(a)(ii).

6.2 How the draft Planning Agreement promotes one or more of the elements of the council's charter under Section 8 of the Local Government Act 1993

The draft Planning Agreement is consistent with Council's charter under Section 8 of the Local Government Act 1993:

- (a) to have regard to the long term and cumulative effects of its decisions
- (b) to engage in the long term strategic planning on behalf of the local community; and
- (c) to keep the local community and the State government (and through it, the wider community) informed about its activities

6.3 The planning purpose/s served by the draft Planning Agreement

The draft Planning Agreement will provide for a reasonable means of achieving the planning purpose by ensuring that the proposed Outlet Centre is properly managed and monitored to ensure there is a net community benefit to enable Development to occur.

6.4 Whether the draft Planning Agreement conforms with Council's capital works program

The draft Planning Agreement does not impact on Council's capital works program.