

MEMORANDUM

Reference: PPSSWC-236 and PPSSWC-237 (Council Reference: DA22/0213 & DA22/0214)

To: Sydney Western City Planning Panel Secretariat

From: Sandra Fagan – Principal Planner

Date: 4 October 2023

Subject: **Development Applications for 41, 184, and 192 Lord Sheffield Circuit, Penrith**

On 27 September 2023 Council staff forwarded to the Panel Secretariat, 2 x completed planning assessment reports for two development applications (DA22/0213 and DA22/0214). The reports seek determination of the respective applications and note that a public meeting is required because of the number of submissions received. To date Council has not been formally advised of the intended determination meeting date and time.

On the evening of **03 October 2023**, the applicant uploaded two documents to the NSW planning portal. Being as follows:

- A ten-page letter dated 29 September 2023 addressed to the Panel Secretariat, and outlining the applicant's response to the Panel Briefing on 25 September 2023; and
- An amended Voluntary Planning Agreement outlining an amended Offer for Community Infrastructure. The offer relates to embellishment of the through-site link as part of DA22/0213, and a first-floor indoor recreation facility as part of DA22/0214. It is noted that although the date of the Draft VPA is 03 September 2023, it appears that this is a typographical error and the correct date is 03 October 2023, which aligns with the date the offer was uploaded to the portal.

The Panel is the consent authority for the two development applications and as such, the Panel is requested to consider the following provisions:-

Section 37(1) of the Regulation states: "*An applicant may, at any time before a development application is determined, apply to the consent authority for an amendment to the development application*".

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Section 37(6) of the Regulation states: *"If the amendment will result in a change to the development, the application must contain details of the change, including the name, number and date of any plans that have changed, to enable the consent authority to compare the development with the development originally proposed"*.

Section 38 of the Regulation states: *"The consent authority may, through the NSW planning portal, approve or reject an application for an amendment to a development application submitted under section 37"*.

Having regard to the above provisions, it is requested that the Panel reject the request to amend the development applications. In reaching a decision as to whether to reject the request to amend the development applications, the following should be considered:

- The development applications were lodged 558 days ago.
- Council staff have completed the assessment of the applications and the assessment reports were provided to the Panel Secretariat on 27 September.
- The development applications can be determined following a public meeting.
- This is the sixth offer for community infrastructure uploaded to the portal.
- The offer relating to the first-floor indoor recreation facility is identical to a previous offer uploaded to the portal on 23 May 2022
- The offer remains unsatisfactory based on the current information provided.
- The architectural drawings have not been updated to reflect the offer.
- The offer relating to the first development application (DA22/0213) is solely to embellish the proposed publicly accessible through-site link. It is questionable whether the value and nature of this offer is adequate for the proposed development in DA22/0213, noting that Tower A is proposed to have a building height of 107m.
- The offer relating to the second development application (DA22/0214) is for the first-floor indoor recreation facility located in Tower C, which is proposed to be constructed as stage 2 of the development. The timeframe for stage 2 is unclear.
- The offer for the recreation facility does not address preliminary design comments from the Design Integrity Panel at their meeting on 21

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September 2023, including the size and proportions of the room, acoustic considerations to enable a range of activities without impacting of residential amenity, and improved connection to the ground floor and through-site link.

- The offer for the recreation facility does not address matters relating to; whether the space is fit for purpose to allow a range of sporting uses; ensuring public access; ongoing ownership and management responsibilities; ongoing maintenance costs; and how the value is determined for the purpose of the community infrastructure offer.

Please confirm the Panel's position on the Applicant's request to amend the development application via the NSW Planning Portal.

Please also confirm as a matter of urgency, the scheduled date and time for the requested public determination meeting on the above two development applications.