

BRIEFING DETAILS

BRIEFING DATE / TIME	Monday, 25 September 2023, 10:00am to 11:30am
LOCATION	Videoconference

BRIEFING MATTERS

PPSSWC-236 – Penrith – DA22/0213 – 184 Lord Sheffield Circuit, Penrith - Construction of Part 13 Storey & Part 31 Storey Mixed Use Commercial & Residential Development including One (1) Level of Basement Car Parking, Five (5) Storey Podium including Ground Floor Supermarket & Retail Tenancies, First Floor Child Care Centre & Medical Facility & Four (4) Levels of Car Parking, Two (2) Residential Towers (Tower A - 241 Residential Apartments; Tower B - 75 Residential Apartments), Rooftop Plant Rooms, Through-Site Pedestrian Link & Associated Site Works.

PPSSWC-237 – Penrith – DA22/0214 – 184 Lord Sheffield Circuit, Penrith - Construction of Part 13 Storey & Part 25 Storey Mixed Use Commercial & Residential Development including One (1) Level of Basement Car Parking, Five (5) Storey Podium including Ground Floor Retail Tenancies, First Floor Commercial Tenancy & Five (5) Levels of Car Parking, Two (2) Residential Towers (Tower C - 74 Residential Apartments; Tower D - 163 Residential Apartments), Rooftop Plant Rooms & Associated Site Works.

PANEL MEMBERS

IN ATTENDANCE	Justin Doyle (Chair) and David Kitto
APOLOGIES	Brian Kirk, Carlie Ryan and Ross Fowler
DECLARATIONS OF INTEREST	Louise Camenzulli declared a conflict of interest as her firm is providing legal advice to the Applicant

OTHER ATTENDEES

COUNCIL ASSESSMENT STAFF	Peter Wood, Sandra Fagan
APPLICANT	Andrew Harvey, Justyn Ng, Mark Hovey, Deborah Landes and Frank Katsanevas
RSDA	Tim Mahoney, Sharon Edwards

KEY ISSUES DISCUSSED

Part 3A Concept Plan

- The Panel acknowledged receipt of Adrian Galasso SC’s legal advice on the matter and requested that the Secretariat refer it to the Department of Planning & Environment’s legal team for review and opinion, to be provided to the Panel to assist in their understanding of this issue.

Sun Access

- The Panel noted the Applicant had just lodged a Clause 4.6 request with each DA to vary the sun access development standard in the Penrith LEP.

Design Excellence

- The Applicant indicated that the Design Excellence Panel had recently considered revised plans for the DAs – which included a community infrastructure proposal - and was supportive of the revised plans.

Community Infrastructure

- The Applicant indicated that it had developed options for a community infrastructure proposal to address previous concerns raised by the Panel that the community infrastructure should be included in the DAs, but that it was struggling to get Council to agree to meet and discuss the proposal.
- The Panel noted that these options appeared to address its previous concerns but that any revised offer for a community infrastructure would need to be submitted formally to Council and properly evaluated before the amended DAs could be determined.
- Council raised concerns about the length of time the DAs had already been under assessment and indicated that it is likely to take a long time to resolve this and other issues associated with the DAs.
- Consequently, it was adamant that the Applicant should withdraw the DAs and resubmit them once the issues had been resolved.
- Alternatively, it believes the Panel should determine the DAs on the available information.

PREVIOUS KEY ISSUES DISCUSSED

The Applicant provided a response to the four key issues raised by the Panel in its Record of Briefing, dated 29 March 2023.

Part 3A Concept Plan

- The site is subject to a Part 3A Concept Plan, which was approved by the Minister for Planning in November 2011. However, it is also the subject of the key site amendment to the Penrith LEP in 2017.
- The development proposal is based on the key site amendment to the LEP and is the product of extensive consultation with Council.
- Nevertheless, it is inconsistent with the Part 3A Concept Plan and consequently the DA cannot be determined until this inconsistency is addressed.
- The Applicant has sought legal advice on options to address the inconsistency, which include the surrender of the concept plan, and is currently waiting for feedback from the Department of Planning and Environment on these options.

Design Excellence

- In April 2023, the Government Architect waived the requirement for an architectural design competition for the development proposal under Clause 8.4(3) of the LEP subject to conditions, including requiring the Applicant to obtain the endorsement of Design Excellence Panel for the revised plans.
- The Applicant has not complied with these conditions yet.
- The Panel noted the waiver only applied to the requirements in Clause 8.4(3) of the LEP and not to those in Clause 8.4(5).

Planning Panels Secretariat

- However, the Applicant indicated it was relying on Clause 8.7(3) of the LEP – not those in Clause 8.4(5) - to secure approval for the proposed exceedance of the maximum height controls in the LEP.

Community Infrastructure

- The Applicant has held further discussions with the commercial arm of Council since the DA was exhibited and is now waiting for feedback from Council on the revised community infrastructure proposal it made in November 2022.
- Council's assessment team noted these discussions but indicated that the Applicant should submit a formal community infrastructure offer to Council via the Planning Portal so it could be considered in the assessment of the merits of the DA. It also indicated that it is likely to renotify the DA once the formal offer is made.

Sun Access

- The Applicant has carried out further investigations into the sun access impacts of the development proposal and considers it would have less impacts than a compliant scheme on site.