



ANGEL PLACE
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19 February 2020

Mr Peter Wood
Development Services Manager
Penrith City Council
Via Email:

Dear Peter ,

TOGA PENRITH: 634-638 HIGH STREET AND 87-91 UNION ROAD, PENRITH

Further to our recent discussions, we advise that Urbis is engaged by Toga Penrith Developments Pty Ltd (Toga) to prepare a Development Application (DA) relating to the property located at 634-638 High Street and 87-91 Union Road, Penrith.

Proposed Development Application

As outlined at our recent meeting, this DA is being prepared addressing relevant town planning controls including the intention to maximise site development density permissible under the provisions of Clause 8.7 of the Penrith LEP for 'key sites'.

The land subject to the DA is identified as part of 'Key Site 10' on the Key Sites Map in the Penrith LEP. Key provisions of the LEP relating to this site are summarised as follows:

- Clause 8.7 expresses the objective of the Key Site provision of the LEP as follows:
 - a) *'to allow higher density development on certain land in the City Centre where the development includes community infrastructure, and*
 - b) *'to ensure that the greater densities reflect the desired character of the localities in which they are allowed and minimise adverse impacts on those localities.'*
- Clause 8.7(3) specifies that:

'Despite clauses 4.3, 4.4 and 8.4 (5), the consent authority may consent to development on land to which this clause applies (including the erection of a new building or external alteration to an existing building) that exceeds the maximum height shown for the land on the Height of Buildings Map or the floor space ratio for the land shown on the Floor Space Ratio Map, or both, if the proposed development includes community infrastructure.'
- Clause 8.7(4) specifies that:

'The consent authority must not consent to the erection of a building on land to which this clause applies if the floor space ratio for the building exceeds the following floor space ratio—

(b) in relation to development on land identified as 'Key Site 3' or 'Key Site 10'—6:1.'

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- Clause 8.7(5) specifies that:

'In deciding whether to grant development consent under this clause, the consent authority must have regard to the following—

- (a) the objectives of this clause,*
- (b) whether the development exhibits design excellence,*
- (c) the nature and value of the community infrastructure to the City Centre.'*

We advise that Toga is preparing the DA seeking consent for a 6.0:1 FSR on the site addressing the provisions of Clause 8.7 and other relevant planning controls.

Proposed Community Infrastructure offer

Having regard to the provisions of Clause 8.7 of the LEP requiring the provision of 'community infrastructure', we take this opportunity to outline the intended offer proposed by Toga in this DA. In outlining the proposed approach, we have considered Council's Community Infrastructure Policy - Policy No CEP 001 (the Policy) adopted on 30 April 2018.

We outline the proposed offer of Community Infrastructure for this DA as follows:

1. The value of the required Community Infrastructure to be offered is calculated in accordance with the provisions of Section 2.4 of the Policy, being \$150 per square metre of 'additional Gross Floor Area'. Additional Gross Floor Area' is defined in the Policy as, 'any Gross Floor Area above the maximum total Floor Area identified on the Floor Space Ratio map within the Penrith LEP 2010'. (Page 9).
2. The maximum permissible GFA for the site under the Penrith LEP is 3.3:1 (including a 10% FSR bonus for achievement of design excellence). Accordingly, obtaining development consent for the desired 6.0:1 FSR triggers a requirement for the payment of \$150 per square metre for the 'additional' approved GFA above 3.3:1. Indicatively, based on a site area subject to the DA of 5,402m² this represents a maximum 'additional' 14,585m² of GFA @ \$150 per square metre, equating to a total value of \$2,187,810.
3. The Community Infrastructure contribution offer is required 'over and above' current development standards and other Council policies. In this regard, we note the requirement for the proposed development to provide contributions towards provision or improvement of public amenities and services in accordance with Section 7.11 of the Environmental Planning and Assessment Act. Having regard to relevant provision of Council's current Development Contributions Plan, we estimate the proposed development generating a required Section 7.11 payment in the order of \$7.6M (subject to the terms and conditions of the approved development consent).
4. The proposed DA includes a proposal to create a new road running north-south located on the eastern site boundary reflecting the requirements of Councils Development Control Plan. The location and construction details of this road will be consistent with that approved under the previous DA obtained for this site (DA18/0264 approved in October 2019).
5. Having regard to the 'preferred Community Infrastructure items' contained in Section 2.5 of the Policy, Toga offers to direct the calculated value of the additional floor space achieved in the new DA towards construction of a signalised intersection of the new road north-south road contained in the DA with High Street. Toga is prepared to discuss with Council the potential for Toga to design

and construct these works 'in kind' as opposed to a cash payment subject to agreement on construction details, timing, landowners' consent, RMS and other authority approvals. In the instance where the above is not achieved cash payment will be provided towards the construction of the signalised intersection.

6. We submit that this offers satisfies the 'principles of Community Infrastructure' outlined in Section 2.2 of the policy as follows:
 - a. The signalised intersection on High Street is in the public interest as it contributes to enhancing the capacity of the regional and local road network benefitting the broader community.
 - b. The signalised intersection on High Street is over and above current development standards and policies relevant to the DA.
 - c. The signalised intersection benefits to residents, workers and visitors of the broader city centre.
 - d. The value and benefits of the signalised intersection is achievable, measurable, economically viable and socially and environmentally sustainable.
 - e. The signalised intersection is consistent with the 'referred Community Infrastructure items' contained in Section 2.5 of the Policy.
7. Subject to Council feedback, Toga intends to offer to enter into a Voluntary Planning Agreement (VPA) accompanying the DA which:
 - a. Defines details of the proposed offer of Community Infrastructure.
 - b. Seeks an 'offset' of the total value of contributions payable (i.e. both Community Infrastructure and S7.11 contributions) reflecting, (i) the agreed apportioned value of the construction, embellishment and dedication of the new public road provided in the DA and, (ii) in the case of agreement for Toga to construct the new signalised intersection of the new road north-south road contained in the DA with High Street, any difference in the costs of works above the Community Infrastructure value associated with the DA.

We request Councils consideration of this Community Infrastructure offer and confirm we are happy to meet to discuss the details. Please contact me if you have any questions.

Yours sincerely,

A handwritten signature in black ink, appearing to read "John Wynne".

JOHN WYNNE
GROUP DIRECTOR

Copy: Lauren Williams, Toga.