



PCU042307

With Compliments



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Darius,
Please find attached 1x copy of 596(1)
application to modify SSD 5243 - Stage 2A @
North Penrith. Once you have had a chance
to review please confirm how many
additional copies you require any other
copies you require.

CONVENIENCE COPY ONLY - NOT STATE RECORD
DEPARTMENT OF PLANNING & INFRASTRUCTURE
DOCUMENT SCANNED INTO OBJECTIVE
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(GA 36)

Department of Planning
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7 MAR 2013
Scanning Room

NSW GOVERNMENT
Planning & Infrastructure
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DEVELOPMENT ASSESSMENT AND
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10749

27 February 2013

Heather Warton
Director Metropolitan and Regional Projects North
Department of Planning & Infrastructure
23-33 Bridge Street
SYDNEY NSW 2000

Attention: Denise Robertson

Dear Heather

**NORTH PENRITH STAGE 2A - SECTION 96(1) MODIFICATION TO AMEND CONDITIONS OF
CONSENT STAGE 2A, NORTH PENRITH**

Thank you for your recent correspondence advising Landcom (now UrbanGrowth NSW) that the Minister for Planning and Infrastructure's delegate approved the State Significant Development Application (DA) for Stage 2A of the North Penrith Development (SSD 5243).

The purpose of this letter is to formally request the Minister for Planning and Infrastructure (or his delegate) modify SSD 5243 pursuant to the provisions of Section 96(1) of the Environmental Planning and Assessment Act, 1979 (EP&A Act). Prior to the determination of SSD 5243, UrbanGrowth NSW was provided with a copy of the Department of Planning and Infrastructure's draft Notice of Determination and recommended conditions of consent for review and comment. UrbanGrowth NSW responded to the Department via email and in doing so requested the Department revise the draft Notice of Determination and recommended conditions of consent to clarify the intent of the conditions, correct errors and ensure consistent terminology was used throughout the consent. A copy of UrbanGrowth NSW comments are attached.

We note the Department received UrbanGrowth NSW's comments within the required timeframe, and that there was no further correspondence regarding the draft conditions or any indication given to UrbanGrowth NSW that the Department did not support the requested amendments. Rather, the Department verbally indicated at the time that the requested amendments were supported in-principle. Notwithstanding this, and having reviewed the final Notice of Determination and approved conditions of consent, it appears that none of UrbanGrowth NSW's requested amendments have been adopted in the final Notice of Determination and conditions. We understand that the Department has acknowledged the omission of UrbanGrowth NSW's requested amendments as an inadvertent error and attributed it to unforeseen resourcing circumstances which resulted in the DA being handed over to a temporary caretaker in the final stages of the assessment.

UrbanGrowth NSW now requests SSD 5243 be modified as per the attachment. The amendments are considered minor, largely administrative, and do not raise any new or significant issues beyond those already approved. In this context, it is our view that the modification does not need to be notified. Additionally, as the modification sought is a consequence of the Department's error, it is also requested that the Section 96(1) modification fee be waived in this instance.

Your urgent attention to this matter is greatly appreciated as the activation of the Development Consent cannot proceed without the amendments to the conditions of consent being corrected.

Should you have any queries about this matter, please do not hesitate to contact me on 9956 6962 or sballango@jbaplanning.com.au.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Ballango', with a large loop at the end.

Stephanie Ballango
Associate

Attachments : UrbanGrowth NSW schedule of amendments to conditions of consent

CC: Michael Williams - Senior Development Manager, UrbanGrowth NSW

North Penrith Stage 2A Comments on Draft Conditions

- Generally there is inconsistency between use of the terms 'PCA', Principal Certifying Authority, certifier and certifying authority. Suggest that 'Certifying Authority' should be adopted consistently through the conditions.

Condition	Comments
A1	OK
A2	Typo (erroneous apostrophe) in c) i) Not sure why the subdivision plan is specifically referenced – it forms part of the documents that are referenced in parts a) and b) of the condition
A3	Suggest deletion of last sentence in condition – there are no 'elevations' in the plans, so that reference is not relevant
A4	Query the intention of this condition – the purpose of the DA was to demonstrate consistency with the referenced documents – not sure when else we would need to do this?
A5	OK
A6	There is a conflict in the timing in the condition – first it is stated as 'prior to issue of subdivision certificate' but then later stated as 'prior to the commencement of works'. Note however that as part of Modification 1 to the concept plan (approval pending), Landcom and Council agreed to alternate timing for payment of section 94 as follows: <ul style="list-style-type: none"> Payment for dwelling houses, dual occupancies and subdivision is to be prior to construction certificate of the dwelling Payment for integrated housing applications, multi-unit and shop-top housing, and housing for older people it to be prior to occupation certificate for the dwelling.
A7	OK
A8	OK
A9	OK
B1	Typo at end of e)
B2	Note only general comment about use of 'Certifying Authority' for consistency
B3	The reference to traffic facilities (roundabouts, median islands etc) is not relevant to this application and should be deleted. The inclusion of RMS for consultation on road design is not relevant as RMS has no role in the roads being constructed under this application. Condition should reference Penrith City Council only.
B4	OK
B5	This condition is not relevant to the Stage 2A works and should be deleted.
B6	OK

Condition	Comments
B7	Note only general comment about use of 'Certifying Authority' for consistency
B8	Note only general comment about use of 'Certifying Authority' for consistency
B9	Some confusion with this condition – the heading is 'Plans to Council' but the condition states 'to the satisfaction of the Director-General'. Is the requirement for fencing details to be submitted to Council or the Department? Note that the fencing details are already shown on the landscape plans – therefore question the need for this condition in any event.
B10	Note only general comment about use of 'Certifying Authority' for consistency
B11	Note only general comment about use of 'Certifying Authority' for consistency
B12	Note only general comment about use of 'Certifying Authority' for consistency
B13	Note only general comment about use of 'Certifying Authority' for consistency
B14	Note only general comment about use of 'Certifying Authority' for consistency
B15	The statement 'all infrastructure fronting the North Penrith development' is vague. Suggest the wording should be 'a dilapidation report of all existing infrastructure with an interface to the Stage 2A area.'
B16	There is a reference to services 'affected by the underground structure'. There is no underground structure proposed in Stage 2A works – suggest this condition is not relevant and should be deleted.
B17	OK
B18	This condition should be prior to the release of subdivision certificate – not prior to commencement of works.
C1	OK
C2	OK
C3	OK
C4	Note only general comment about use of 'Certifying Authority' for consistency
C5	Note only general comment about use of 'Certifying Authority' for consistency
C6	Note only general comment about use of 'Certifying Authority' for consistency
C7	There is a reference to the Construction Noise and Vibration Management Plan being approved by the Director-General. Suggest the plan should be submitted prior to commencement of works, but there should not be a reference to it being approved by the Director-General.

Condition	Comments
C8	OK
C9	OK
C10	OK
C11	OK
C12	OK
C13	OK
C14	OK
C15	Question whether this condition is really necessary?
C16	OK
C17	Suggest this condition should be relocated to section B, as it is 'prior to commencement of works'.
C18	OK
C19	OK
C20	The requirement to register the site in AHIMS is not reasonable, as it requires any object found to be registered before any assessment of its significance is made. Registration in AHIMS should be subject to the outcomes of the investigations that are required under the condition.
D1	Note only general comment about use of 'Certifying Authority' for consistency
D2	Suggest this condition reference the specific subdivision that precedes Stage 2A. Condition should read 'Prior to the issue of a subdivision certificate, the Stage 1.1 subdivision that creates Lot 1193 in DP 1171491 shall be registered'.
D3	OK
D4	OK
D5	OK
D6	OK
D7	OK – note road names have already been approved so this condition is actually superfluous
D8	OK
D9	OK
D10	OK
D11	OK
D12	A Site Audit Statement is already provided with the application. Why does this need to be submitted again?
D13	Note only general comment about use of 'Certifying Authority' for consistency
D14	Note only general comment about use of 'Certifying Authority' for consistency

Condition	Comments
D15	OK
D16	OK
D17	Note only general comment about use of 'Certifying Authority' for consistency
D18	The heritage interpretation works are embedded within primarily the landscaping works as submitted for Stage 2A. Completion of those works (which is subject to review by the Certifying Authority) will by default complete the interpretation works. Is it really necessary to have a specialist heritage consultant review those works?
D19	This condition duplicates condition B6 – suggest it be deleted
D20	This condition duplicates condition D17 – suggest it be deleted
D21	OK
E2	Not sure why there is a prior to occupation condition? Occupation certificate for what? Any damage caused would be picked up at the completion of works and the applicant would be required to rectify it at that point.