

SECTION 4.55 (1A) MODIFICATION

Address: No. 1A Dharug Close, Mulgoa

Proposal: Equine Facility

DECEMBER 2021

No. 138 Woorarra Avenue
ELANORA HEIGHTS
NSW 2101 AUSTRALIA

p: (02) 9970 7214
e: daniel@dmpps.com.au
w: dmpps.com.au

6 December 2021

ABN: 78 176 118 998

No. 138 Woorarra Avenue
ELANORA HEIGHTS
NSW 2101 AUSTRALIA

p: (02) 9970 7214

e: daniel@dmpps.com.au

w: dmpps.com.au

Penrith City Council
PO Box 60
PENRITH NSW 2751

**STATEMENT OF ENVIRONMENTAL EFFECTS
SECTION 4.55(1A) MODIFICATION TO D-19/0455
NO. 1A DHARUG CLOSE, MULGOA**

Dear Sir,

Application is hereby made for modification of the consent issued to Development Application No. D-19/0455 pursuant to Section 4.55(1A) of the Environmental Planning and Assessment Act 1979 (EPAA).

The application seeks approval to modify the consent issued to Development Application No. D-19/0455 to enable staged construction.

Please find enclosed modified architectural plans and civil plans.

Background

Applicant:



Site:

No.1A Dharug Close
MULGOA NSW 2745
Lot 2 Deposited Plan 1153722

Local Government Area:

Penrith City Council

Approved Development:

Erection of an equine facility, including a horse show arena and demonstration field, associated civil and landscaping works, and onsite wastewater servicing.

Reference:

Development Application No. D-19/0455
Consent issued 15 April 2021

Proposed Modification

Section 4.55(1A) of the EPAA enables Council to consider modifications to development consents involving minimal environmental impact. Council can modify the consent in this manner if:

- (a) it is satisfied that the proposed modification is of minimal environmental impact, and*
- (b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and*
- (c) it has notified the application in accordance with—*
 - (i) the regulations, if the regulations so require, or*
 - (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*
- (d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.*

Subsections (1), (2) and (5) do not apply to such a modification.

The application seeks approval to modify Development Application No. D-19/0455 approved by Penrith City Council, for the erection of an equine facility, including a horse show arena and demonstration field, associated civil and landscaping works, and onsite wastewater servicing.

The facility also includes a horse show arena (541.4m²) and a demonstration field (4,919.6m²) situated behind the building for display purposes, which forms part of the sales process. The equine facility comprises the following:

- Brickface with timber cladding and aluminum posts, gutters and downpipes, and a colorbond sheet metal roof for the external materials and finishes;
- Front entrance/lobby;
- Waiting/seating area;
- Horse showing/display area;
- Meeting rooms/offices (five);
- Kitchen and staff room;
- Storage room;
- Amenities, including guest toilet, staff shower and stable hand toilet; Tack room;
- Pump rooms (two);
- Box stalls (eight);
- Car parking area;
- Earthworks, including tree removal;
- Stormwater drainage works;
- Landscaping works;
- Tree removal;
- Hours of operation from 7am to 5pm daily,
- Up to 5 staff and

- One client at a time via an appointment only basis.

Proposed Modification

On 20 October 2021, preliminary consultation was undertaken with Council Development Assessment Planner, Sufyan Nguyen who advised a S4.55(1A) Modification application would be required to Stage the development, and resolve the following matters.

Remove the approved retaining wall with amended engineering detail (batter) and fill in order to be certified by an engineer and change a small part of external cladding to brick work to the corner of the external structure.

Allow staging of the development and amend the conditions of development consent to allow for the issue of a Construction Certificate for the whole development, and, Occupation Certificates (to allow for use and occupation for that stage) in the following order of stages:

- **Stage 1** – Site works and fill areas (demonstration field, horseshow arena and structure area). All external works to allow for use of the outdoor areas.
- **Stage 2** – Footing, Slab and Structure. The footings slab and structure require an Occupation Certificate in order for insurance purposes. The proposed building external material is amended to red brick in lieu of Colourbond Maxine 340. The interior fit out will be completed as part of Stage 3.
- **Stage 3** – Fit out

Council will amend the conditions of consent to appropriately reflect the proposed staging including modification of Condition 2 as follows:

~~2. Development shall not be used or occupied until an Occupation Certificate has been issued.~~
Development shall be used or occupied in accordance with the staged development. A Construction Certificate is to be issued for the whole development, and, Occupation Certificates to permit the development to operate in stages will be issued at the completion of each stage of development in accordance with the stages as approved by this Notice of Determination.

CD Certification have advised that an Occupation Certificate (OC) can be issued if the structure is built to the bear minimum requirements including the footings, slab and structure in order to be "fit for occupation and there are no safety issues".

Therefore, the structure is to be constructed in a way that ensures that:

1. It's safe to occupy;
2. It's been built in accordance with the Building Code of Australia (BCA) and relevant Australian Standards; and
3. The construction adheres to the relevant state building laws.

In summary, when CD Certification issues the Occupation Certificates, they are attesting that the building meets certain standards and that statutory requirements have been satisfied, including but not limited to:

- The completed building is suitable for occupation or use in accordance with its classification under the BCA.
- The design and construction of the building is consistent with the development consent.
- The health and safety of the occupants have been taken into consideration (for an OC).
- A development consent is in force with respect to the building.
- A CC has been issued with respect to the plans and specifications for the building.
- A fire safety certificate has been issued for the building.
- Any report from the Fire Commissioner has been considered.
- The preconditions specified in the development consent have been complied with.

Note: A certifier can be held responsible for their actions through the liability they carry when carrying out certification work. A certifier, certifying that a proposed building complies with a statutory requirement or standard may be liable if they are negligent in doing so.

This Statement of Environmental Effects illustrates that the development consent is to be modified by staging the development, and, seeking removal of the retaining wall detail, and instead using a batter, supported by engineering drawings. The changes are considered minor and a reasonable adjustment to the approved concept.

Impact of Proposed Modifications

Staged Development

Updated architectural and civil engineering plans accompany this application in support of a staged development. There will be no environmental impact as a result of staging the development.

Conclusion

The proposed modifications have a minimal environmental impact.

The proposal will allow for a staged development.

The development to which the consent as modified relates is otherwise substantially the same development as that for which the consent was originally granted.

Yours sincerely



Emma Brown
Senior Development Planner