

7 July 2021

**Modification to DA20/0141, 36-38 Rodley Avenue, Penrith
Statement of Environmental Effects**

General Manager
Penrith City Council

By Email:
council@penrith.city

Our Ref: 18.027
Your Ref: DA20/0141

Dear Sir,

I refer to the above application and advise we have been requested to assist with a Section 4.55 modification of the approved development. This submission is to be considered as a Statement of Environmental Effects for the application.

1. Existing Approval

DA20/0141 was approved by Council on 23 July 2020, and was described as follows:

Demolition of Existing Structures & Construction of Five (5) Storey Residential Flat Building containing 16 Apartments & Two (2) Basement Levels for Car Parking & Building Facilities.

Some 87 conditions of consent were imposed on the approval.

2. Proposed Modification

Since the granting of approval, further detail design has been undertaken and the following amendments are being requested to the approved plans.

The amendment relates to the two units approved on Level 4, identified on Plan DA10 Issue A in the stamped approved set of plans, and reproduced below.

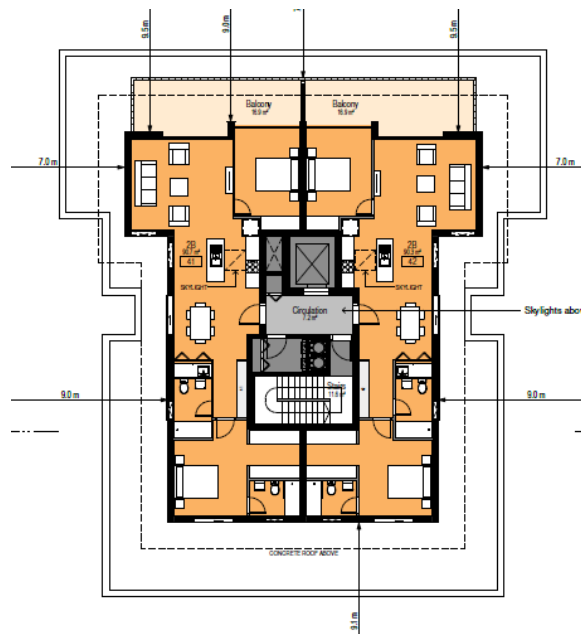


Figure 1 Level 4 approved plan

The proponent would like balconies to be added to the southern elevation of the two units, primarily in order to maximise internal amenity to those top floor units. The proposed amendment is highlighted below.

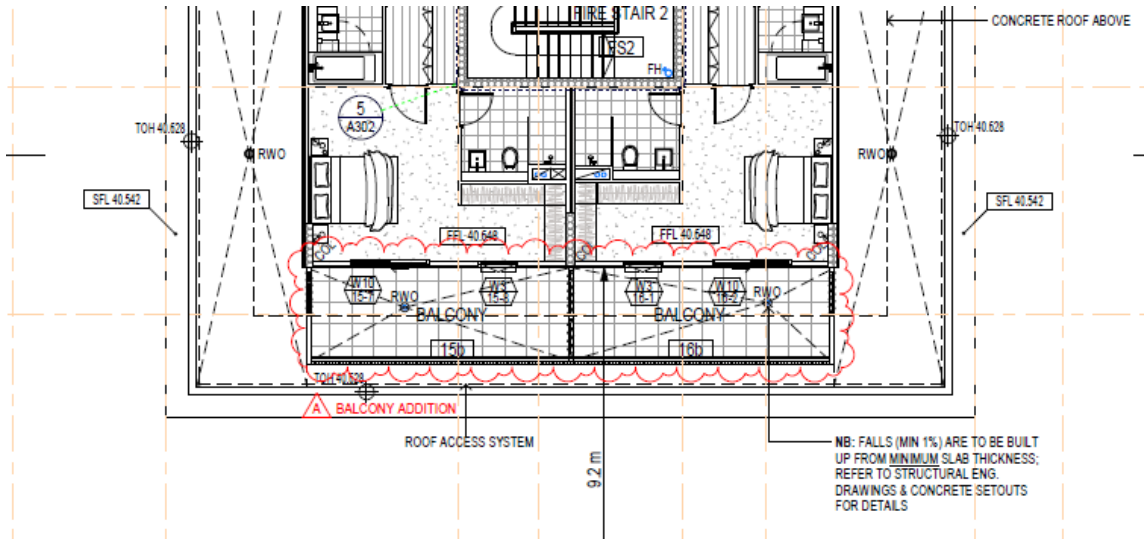


Figure 2 Plan view of proposed additional balconies

The amendment includes the installation of privacy screens to the eastern and western elevations (as well as between both balconies) and solid and louvred balustrading.

The southern elevation of the development will appear as follows.

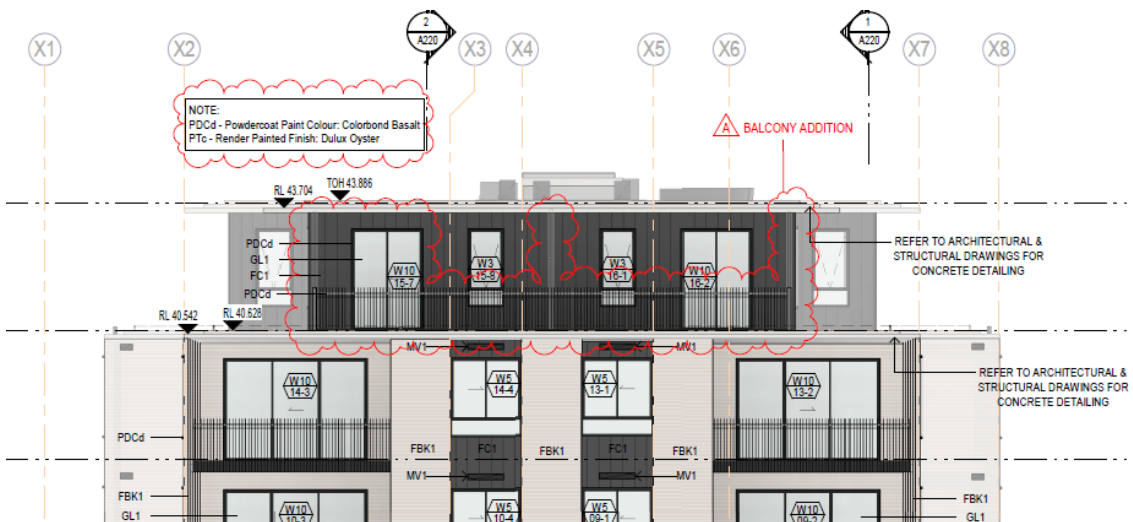


Figure 3 Southern Elevation incorporating proposed amendment

Associated amendments include the sliding doors proposed in lieu of the approved windows.

3. Required Amendments to Consent

From our reading, the plan references within Condition No 1 will require updating. It appears no other conditions require amending.

4. Section 4.55 - Modification of Consents Generally

Section 4.55 of the Act provides that a consent authority may, in certain circumstances, grant consent to an application that seeks to modify a development consent. In this circumstance, the minor nature of the amendment and the minimal impacts that arise as a result, warrant the application being requested under 4.55(1A) as follows.

(1A) Modifications involving minimal environmental impact

A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent 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.

Each of the matters listed above are dealt with in turn:

- a) The proposed plan amendments will not result in any negative environmental impact. Any concerns of overlooking or privacy impacts are ameliorated through the installation of the privacy screens and use of solid balustrading. No impacts are expected.
- b) The development would be substantially the same. Its use and building form are consistent with the original application. The development will continue to be consistent with what was described and approved in the original application.
- c) In our opinion the proposed amendment is so minor that we believe notification is not required in this instance.

Based on the discussion above the development proposal is appropriately defined as being of minimal environmental impact and is substantially the same development which enables Penrith City Council to determine the application in its current form.

5. Section 4.15 - Evaluation – Statement of Environmental Effects

Section 4.15 of the Environmental Planning and Assessment Act 1979 contains matters that need to be considered for any development application. Section 4.15 reads:

Matters for consideration—general

In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:

- (a) the provisions of:
 - (i) any environmental planning instrument, and
 - (ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Director-General has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and
 - (iii) any development control plan, and
 - (iiia) any planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F, and
 - (iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph), and
 - (v) any coastal zone management plan (within the meaning of the Coastal Protection Act 1979), that apply to the land to which the development application relates,
- (b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,
- (c) the suitability of the site for the development,
- (d) any submissions made in accordance with this Act or the regulations,
- (e) the public interest.

The development will continue to satisfy the consideration against Section 4.15 even after the amendment as:

- a) The amendment does not affect the proposal's compliance with Council's LEP.
- b) There are no Draft EPI's relating to the land that are relevant to this proposal.
- c) There are no planning agreements that apply to the land that directly impact this modification.
- d) There will be no change in any potential impacts arising as a result of the proposed amendment to the development.
- e) The site will continue to be suitable for the approved use after the amendments are made.

f) The public interest will not be diminished as a result of this application.

6. Summary

The amendments are considered minor in nature with no impact arising in relation to how the site will function or potentially impact on the locality.

Council can therefore support the application in its current form.

Please contact me on 0401 449 101 if you would like any further information.

Sincerely

Stimson Urban & Regional Planning



Warwick Stimson RPIA
Director

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