



15 February 2017

Mr Gavin Cherry

Penrith City Council
PO Box 60
Penrith NSW 2751

Dear Gavin,

SECTION 96 (1A) MODIFICATION APPLICATION DA16/0519- PROPOSED HOTEL, ST MARY'S RUGBY LEAGE CLUB.

1. INTRODUCTION

This Statement of Environmental Effects (SEE) has been prepared to accompany an application under section 96(1A) of the Environmental Planning and Assessment Act 1979 (EP&A Act) to make minor modifications to the approved Hotel at St Mary's Rugby Leagues Club (SMRLC), Forrester Road St Mary's. The application has been prepared on behalf of St Mary's Rugby Leagues Club (the applicant).

Specifically, the application seeks to modify development consent number DA16/0519. The consent proposed to be modified relates to the construction of a six (6) storey 123 room hotel and associated parking and circulation areas.

The proposal is the subject of a Section 96(1A) modification as the modifications have been assessed to have minimal environmental impacts and will result in substantially the same development.

In support of this application please find attached:

- A completed s. 96 Application form.
- Architectural plans prepared by WMK (**Attachment 1**).
- Bushfire Statement prepared by FPA Australia (**Attachment 2**).
- Traffic and Parking Report prepared by Parking and Traffic Consultants (**Attachment 3**)
- Civil Engineering Package prepared by Northrop (**Attachment 4**)
- Path of Travel Plan for Waste Service Vehicles and Updated Waste Management Plan (**Attachment 5**)

SA6207_SMRLC_Hotel s96_Final_v2

2. BACKGROUND

Consent was granted by Penrith City Council on 12 October 2016 for the redevelopment of a portion of the SMRLC site for 6 storey 123 room hotel. Construction has now commenced and the hotel building will be located just to the east of the main club building.

New ancillary parking and circulation areas for both pedestrian and vehicles were approved and integrated into the existing parking and circulation paths within the site. The proposal also included landscaping and site drainage schemes.

The original development application was integrated development being development for a special fire protection purpose (Hotel) on Bushfire Prone Land. General Terms of Approval were issued by the Rural Fire Service on 7 September 2016 and were attached to the development consent.

Pre-Lodgement Meeting

A pre-lodgement meeting was held with Council on 16 January 2017. The key matters raised in the meeting related to future modifications of the consent. These are summarised in Table 1 below:

- The modifications should be capable of satisfying s.96(1A) of the EP&A Act 1979 subject to the SEE addressing the relevant s96(1A) provisions and s79C considerations.
- A modification of the approved package would require amended architectural drawings and civil plans (refer **Attachment 1 and 4**).
- The proposed modifications will necessitate a traffic statement assessing car parking access arrangements and internal circulation efficiencies (refer **Attachment 3**).
- Any modification effecting impervious areas of the site would be required to address of Council's Water Sensitive Urban Design Policy (refer **Attachment 4**).
- Any changes to drainage arrangements would require an amended drainage plan (refer **Attachment 4**).
- Revised WMP (if the details in the current plan require amendments) (refer **Attachment 5**).
- Application to confirm that no changes to building location and other planning for bushfire protection considerations are proposed (refer **Attachment 2**).
- SEE to include all conditions sought to be amended and indicate suggested wording
- Application will require notification however if lodged as a s.96(1A) will not require advertising.

The above matters have been addressed within this SEE and in the accompanying supporting documentation.

3. PROPOSED MODIFICATION TO APPROVED DEVELOPMENT

3.1. PROPOSED MODIFICATION

It is proposed to modify the approved development in the following manner:

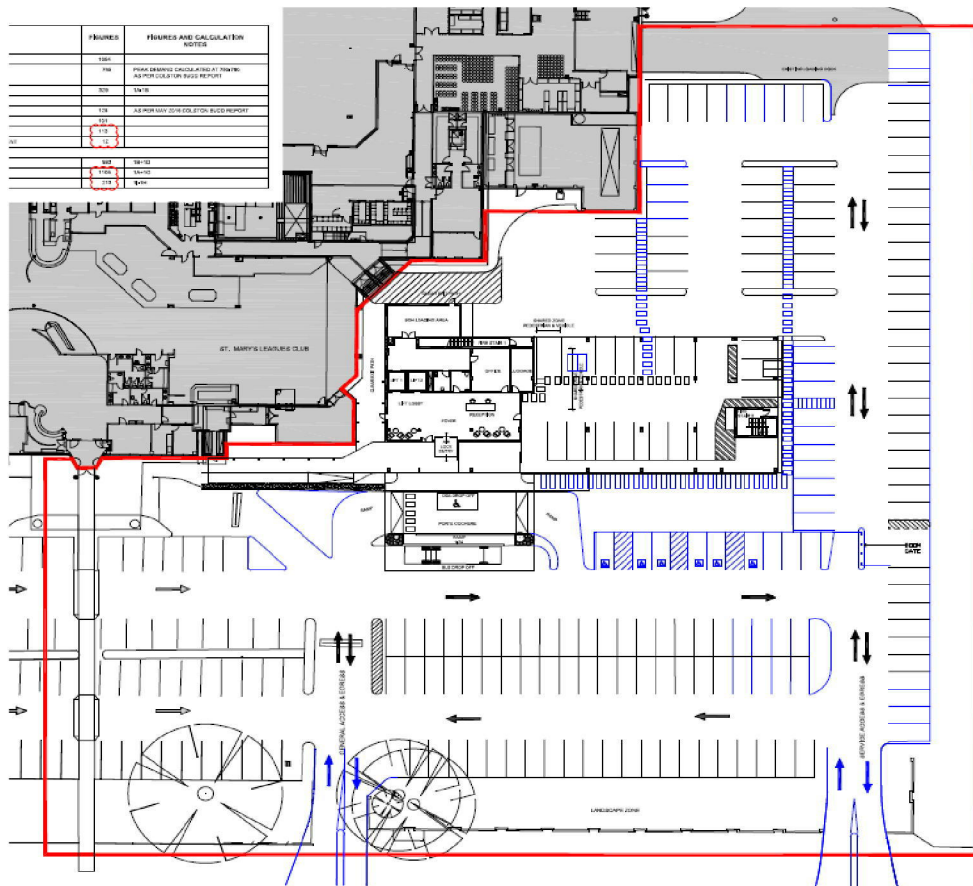
- Revise the approved car parking layout and rationalise the number car parking spaces associated with the hotel which will result in 12 additional car parking spaces to the to the overall number of car parking spaces for the site prior to the approval of D16/0519;
- Demolish and relocate the existing eastern driveway approximately 58.8m to the west to provide dedicated service vehicle access point ('The Eastern Driveway'). The Eastern Driveway will provide a new cross-over to Boronia Road to access to the internal site circulation and back of house areas and;
- Convert the approved central 'egress only' driveway ('The Central Driveway') to a two-way driveway for service vehicle, bus entry and general vehicle exit to Boronia Road This driveway will provide access to the general club parking in the south-east corner of the site, the hotel designated parking on the eastern side of the site and access to the 'Port Cochere' located at the club/hotel entrance.
- Relocate the approved boom gate to control access to dedicated hotel parking and back of house service areas for SMRLC.
- Improvements to the pedestrian access through the car park consisting of raised pedestrian crossings & extension to pedestrian path to meet Boronia Road footway. New kerbs and driveway median strips are also proposed to facilitate two-way entry and egress to both driveways.
- Minor changes in the approved water quality management strategy which proposes to provide 5 x 310mm ZPG Stormfilter cartridges in addition to existing site treatment devices.
- Minor increase in height to the approved parapet by 200mm. This will increase screening to any visible lift and roof plant equipment which consistent with Condition 12 of the consent, which states:

'Any plant equipment to be located in the roof areas shall be appropriately screened and designed to integrated with the building design and not to be located where it may be visible when viewed from the public domain'.

The parapet will share the approved finish of the exterior walls, this being precast concrete with a charcoal colour finish.

The proposed amendments are outlined in Figure 1 below:

- Figure 1 – Amended Carparking Plan (DA003)



3.2. REASONS FOR MODIFICATION:

The detailed design has progressed for the hotel and accordingly minor changes are required to the approved development. The rationale for the proposed modifications are as follows:

- To minimise any earthworks to the contaminated stockpile to the east of the site,
- To ensure safer internal vehicle circulation and minimise conflicts between service vehicles for club and hotel operations with the approved hotel porte-cochere and DDA parking spaces,
- The Parapet changes are required to screen plant and building services, fire stairs, lift overruns etc.



The proposed car parking plan (DA003) and elevations (DA500-503) have been included at **Attachment 1**. The proposed modifications will pose no additional environmental impacts and improve the function and efficiency of the development.

3.3. MODIFICATION TO CONSENT DA16/0519

Condition 1 – Approved Plans

It is proposed to modify Condition 1 of consent DA 16/0519 to reflect the titles of the modified plans.

Name of Plan	Drawing Number	Revision	Prepared by	Dated
Site Plan	DA002	A	WMK Architecture	April 2016
	DA002	B		
Car Park Plan	DA003	A	WMK Architecture	April 2016
	DA003	B		
Demolition Plan	DA010	A	WMK Architecture	April 2016
	DA010	B		
Ground Floor Plan	DA100	P2	WMK Architecture	April 2016
	DA100	B		
Level 1 Plan-Phase 1	DA101	A	WMK Architecture	April 2016
Level 1 Plan-Phase 2	DA102	A	WMK Architecture	April 2016
Level 2 to Roof Plan	DA103-107 inclusive	A	WMK Architecture	April 2016
South Elevation	DA500	A	WMK Architecture	April 2016
	DA500	B		
East Elevation	DA501	A	WMK Architecture	April 2016
	DA501	B		



Name of Plan	Drawing Number	Revision	Prepared by	Dated
North Elevation	DA502	A	WMK Architecture	April 2016
	DA502	B		
West Elevation	DA503	A	WMK Architecture	April 2016
	DA503	B		
Section A	DA600	A	WMK Architecture	April 2016
	DA600	B		
Section B	DA601	A	WMK Architecture	April 2016
	DA601	B		
Landscape Plans	101 & 102	C	Site Image Landscape Architects	29 April 2014
Landscape Details	501	B	Site Image Landscape Architects	29 April 2014
Stormwater Plan	131142	P3	TTW	06/05/2016
Concept Sediment and Soil Erosion Control Plan	C3.01	4	Northrop	07.02.2017
Sediment and Soil Erosion Control Details	C3.11	4	Northrop	07.02.2017
Siteworks and Stormwater Management Plan – Sheet 1	C4.01	4	Northrop	07.02.2017
Siteworks And Stormwater	C4.02	4	Northrop	07.02.2017



Name of Plan	Drawing Number	Revision	Prepared by	Dated
Management Plan - Sheet 2				
Siteworks And Stormwater Management Plan - Sheet 3	C4.03	4	Northrop	07.02.2017

Condition 42 and 44

Condition 42 states:

The stormwater management system shall be provided generally in accordance with the MUSIC modelling and associated concept plan/s lodged for development approval, prepared by Taylor Thomson Whitting job reference 131142 drawings SK202 to SK203 revision P5 dated 20 September 2016 as amended in red.

Updated stormwater management plans and MUSIC modelling have been provided by Northrop Consulting Engineers. It is therefore proposed to amend the Condition 42 as follows.

The stormwater management system shall be provided generally in accordance with the MUSIC modelling and associated concept plan/s lodged for development approval, prepared by Taylor Thomson Whitting job reference 131142 drawings SK202 to SK203 revision P5 dated 20 September 2016 as amended in red and Northrop drawings 167061 C1.02 to C1.03, C2.01, C3.01 and C3.11, C4.01 to C4.03, C8.03, C8.05, SK01.01, Stormwater Maintenance Schedule

Similarly, condition 44 states

The stormwater management system shall be provided generally in accordance with the concept plants lodged for development approval, prepared by Taylor Thomson Whitting, reference number 131142 - SK202,SK203, revision P3, dated 6/05/2016.

Engineering plans and supporting calculations for the stormwater management systems are to be prepared by a suitably qualified person and shall accompany the application for a Construction Certificate.

Prior to the issue of any Construction Certificate the Certifying Authority shall ensure that the stormwater management system has been designed in accordance with Penrith City Council's Stormwater Drainage for Building Developments and Water Sensitive Urban Design (WSUD) Policy.

It is therefore proposed to amend the Condition 44 as follows.

The stormwater management system shall be provided generally in accordance with the concept plants lodged for development approval, prepared by Taylor Thomson Whitting, reference number 131142 - SK202, SK203, revision P3, dated 6/05/2016 and Northrop

drawings 167061 C1.02 to C1.03, C2.01, C3.01 and C3.11, C4.01 to C4.03, C8.03, C8.05, SK01.01, Stormwater Maintenance Schedule

Engineering plans and supporting calculations for the stormwater management systems are to be prepared by a suitably qualified person and shall accompany the application for a Construction Certificate.

Prior to the issue of any Construction Certificate the Certifying Authority shall ensure that the stormwater management system has been designed in accordance with Penrith City Council's Stormwater Drainage for Building Developments and Water Sensitive Urban Design (WSUD) Policy.

Condition 60

Condition 60 states:

'The existing separated one way entry and exit driveway configuration onto Boronia Road is to be retained'.

We submit that this condition be **deleted** to reflect the amended carparking configuration which now proposes two-way entry and exit to the central driveway.

4. ASSESSMENT UNDER S96(1A) OF THE ACT

The relevant part of the Environmental Planning and Assessment Act 1979, states:

(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:*
- d) the regulations, if the regulations so require, or*
- e) 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*
- f) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan.*

4.1. MINIMAL ENVIRONMENTAL IMPACT

The proposed amendments relate to an increase in parapet height and parking provision on site and will not result in additional environmental impacts for the following reasons.

- The adjustments to the parapet will result in a minor increase in height of 200mm which does not have any adverse environmental or amenity impacts on neighbouring properties.

- As the site is not subject to a maximum height control, the adjustment of the parapet will not impact on any conditions of approval. Further, the modification will not extend the proposed signage zones on the southern and northern elevations of the site.
- Changes to pedestrian walkways and access points will not affect the flow of traffic or current circulation paths around the site.
- The separation of general and service vehicle access points will improve safety and better control access to dedicated hotel parking and back of house service areas.
- The additional car parking spaces will be integrated into the existing parking within the site. A surplus of car parking will ensure that parking for the club and hotel can be adequately contained on site and not spill over into surrounding streets, including Boronia Rd.
- The modifications will not significantly alter the context, scale, built form or amenity of the approved development.

4.2. SUBSTANTIALLY THE SAME DEVELOPMENT

The NSW Land and Environment Court has established several precedents as to what may be considered as being “substantially the same development”, and what should be factored into the consideration of this threshold test. The proposal remains the same as approved for the following reasons:

- The proposed development remains “essentially or materially” the same i.e. having the same essence. The facts presented in this SEE which relate to the proposed modification categorically demonstrate that the development as proposed to be modified remains substantially the same.
- The proposed modifications have been assessed as minor and as such do not result in a ‘radical transformation’ of the approved hotel development.
- A quantitative and qualitative assessment of the developments in their proper context has been undertaken within this SEE and demonstrates that the development as proposed to be modified is substantially the same.

The proposed modifications will not change the land use or substantially alter the nature of the development and as such it is considered substantially the same development.

5. SECTION 79C CONSIDERATIONS

5.1. RURAL FIRES ACT 1997

Under Section 96(1A) the proposal is not required to be referred to the NSW RFS for consultation. This is because the proposed modification has been determined to have 'minimal environmental impact.'

Nevertheless, a Bushfire Statement has been provided and is included at **Attachment 2**. This provides support for this application and concludes that:

'The revised proposal does not adversely affect the results of the original bushfire assessment and therefore alterations to the conditions of consent are not considered warranted. The revised plans have minimal environmental impact and that re-referral to the RFS is not warranted.'

5.2. STATE ENVIRONMENTAL PLANNING POLICY NO. 55 – REMEDIATION OF LAND (SEPP 55)

The proposed amendments will have no impact on the requirements of SEPP 55, as the modifications seek ensure no earthworks are required to the contaminated stockpile to the east of the site.

5.3. SYDNEY REGIONAL ENVIRONMENTAL PLAN NO. 20 – HAWKESBURY NEPEAN

The proposed amendments will have no impact on the requirements of SEPP 20.

5.4. ANY ENVIRONMENTAL PLANNING INSTRUMENT (EPI)

The application has been submitted in accordance with the requirements of Section 96(1A) of the Environmental Planning and Assessment Act 1979. The proposed modifications have considered the requirements of the Penrith Local Environmental Plan 2010 and are consistent with the relevant provisions of this plan.

Any development control plan

The proposed modifications comply with the relevant provisions of the Penrith Development Control Plan (DCP) 2014.

6. IMPACTS OF THE PROPOSAL

6.1. BUILDING HEIGHT AND VISUAL IMPACT

The site is not subject to a maximum height control, as such the minor adjustment of the parapet will not impact on any conditions of approval. Further, the modification will not extend the proposed signage zones on the southern and northern elevations of the building.

The additional parapet height will have minimal distinguishable visual impact and has been designed to blend in with the approved building. The adjustment to the parapet will screen the roof plant and lift overrun along the roofline, which will significantly improve the appearance of the building outline when viewed from the public.

As noted in the previous application, the proposal considered the approved developments impacts on the portion of the site which is identified as 'Land with Scenic and Landscape Values' under clause 7.5 of the PLEP 2010. The proposed modifications will have no impact on the following design measures taken to address the visual impact in the original development application which included:

- A 55m and 200m setback from the Boronia Road and Forrester Road Frontages respectively;
- Building periphery landscaping; and
- High quality design and finishes to the proposed hotel to complement the main club building.

The above measures were previously assessed as being acceptable to minimise the visual impact of the development from major roads and other public places, creating a suitable buffer from the public domain and drawing focus away from the at grade car parking areas.

6.2. TRAFFIC AND ACCESS

A Traffic Impact Assessment (TIA) has been prepared by Parking and Traffic Consultants (PTC) to assess the traffic and parking implications of the proposal (refer **Attachment 3**). Reference should be made to this report for a more detailed assessment of the traffic and parking impacts associated with the proposed modifications.

In terms of the traffic and parking implications of the proposed modifications we note the following:

- The improvements to pedestrian areas creates a linear and accessible path of travel for patrons of the leagues club.
- The 12 additional spaces will result in a slightly increase in the total number of car parking spaces that were available to the club prior to the approval of the Hotel DA16/0519. Nevertheless, the previous levels of car parking were assessed in the traffic and parking assessment submitted with the original DA as being more than the amount required for the operation of St. Mary's Rugby League Club.
- Service vehicles will access the loading dock on the northern side of the hotel building via the boom gate between the general and hotel parking areas and a management system will be put in place to limit the use of the loading docks to one vehicle at a time. This will limit the use of the eastern driveway vehicle to one vehicle at a time and reduce potential conflicts.

- Service vehicle access will be limited to outside peak activity times within the car park areas, to limit the potential conflicts where service vehicles are required to manoeuvre in parking aisles.
- Delivery Hours will remain the same as under current operations.
- The road network will be able to accommodate the additional traffic from the proposed hotel. This is due to the minimal impact on traffic flows during Friday and Saturday evening peak periods as well as the maintenance of existing delivery schedules, which take place at off-peak times throughout the day.

The TIA provides the following conclusion:

“The amended car park access, arrangement, internal circulation and parking arrangements will improve the function and efficiency of the development”.

6.3. STORMAWATER MANAGEMENT AND DRAINAGE

An updated Civil Engineering Package has been provided by Northrop Consulting Engineers (refer **Attachment 4**). The package includes an Engineering Statement, Updated Drawings and Music Model SQZ Files.

The report addresses the following matters:

- Car park extension,
- Stormwater Quality Management and MUSIC modelling =,
- Provision of a maintenance program for the proposed propriety water quality control devices.

The statement concludes:

As outlined in this letter, the carpark extent has been reduced compared to the layout developed as part of the DA/0519 submission to avoid cutting into a contaminated mound. A spatial constraint has required a change in the water quality management strategy which proposes to provide 5 x 310mm ZPG Stormfilter cartridges in addition to existing site treatment devices.

It has been demonstrated that the proposed drainage strategy meets the pollutant load reduction targets set out by Penrith City Council. Overall, Northrop are generally satisfied that the stormwater runoff generated across the proposed development can appropriately managed.

It is considered that the proposed modifications will improve the on-site drainage arrangements and provides the minimum levels of protection as required by PDCP 2014.

6.4. WASTE MANAGEMENT

A waste management plan (WMP) was submitted as part of DA16/0519. This detailed the waste management measures to be undertaken during construction and during operation. The WMP noted that ongoing waste will be managed by a private contractor directly by the future Hotel operator prior to commencement of operations. This will most likely be an extension of the existing SMLC Club's waste contractor's works. The contractor will provide the recycling facilities as per the expected needs of the Hotel.



Waste storage location is to be back of house. It is proposed that waste contractors will now gain access to this location via the dedicated service vehicle access point ('The Eastern Driveway'). An updated plan showing the path of travel for waste service vehicles and Waste Management Report has been provided at **Attachment 5**.

6.5. SUITABILITY OF THE SITE

- The subject site is deemed suitable for the proposed development by virtue of the original consent to which the proposed s.96(1A) modification relates.
- There are no known major physical constraints, environmental impacts, natural hazards or exceptional circumstances that would hinder the suitability of the site for the proposed development that have not been assessed in the original application, and there are no further matters raised in this application that would alter the conclusions reached in the original assessment.

6.6. ANY SUBMISSION MADE IN ACCORDANCE WITH THIS ACT OR THE REGULATIONS

There are none relevant to the proposed modification.

6.7. THE PUBLIC INTEREST

The proposal has been assessed against the relevant planning policies applying to the site having regard to the objectives of the controls. As demonstrated in the assessment of the application, the proposal will improve the operations, function, efficiency and user experience of the development and has been assessed to have minimal environmental impacts. As such it is considered that the development application is in the public interest.



7. CONCLUSION

The proposed modifications have been considered against the relevant provisions of section 79C and 96(1A) of the EP&A Act 1979. The assessment concludes that the development as proposed to be modified is substantially the same as the approved development and will result in minimal environmental impacts:

The proposed modifications to DA16/0519 are considered to have merit and should be supported by Council.

We trust that the above and the enclosed information is sufficient to enable a prompt consideration of the proposed modification. In the meantime, however, should you have any queries in relation to the above, please do not hesitate to contact the undersigned on 028233 7660.

Yours sincerely,

A handwritten signature in black ink, appearing to read "C. Charkos".

Christophe Charkos

Senior Planner - Planning

CC Pukhar Pradhan

Enc Attachment 1-Architectural Plans

Attachment 2-Bushfire Statement

Attachment 3-Traffic Report

Attachment 4-Civil Engineering Package

Attachment 5-Waste Services and Management Report