



STATEMENT OF ENVIRONMENTAL EFFECTS

MODIFICATION OF DA16/1083

21-25 WOODRIFF STREET, PENRITH

JUNE 2020

ASTINA GROUP

STATEMENT OF ENVIRONMENTAL EFFECTS

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Client and Land Details

Client: Astina Group
Subject Site: Lot 106 DP 1236304, 21-25 Woodriff Street, Penrith
Proposal: Proposed Modification of DA16/1083



Warwick Stimson RPIA
Director



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1 INTRODUCTION

1.1 PROJECT OVERVIEW

Stimson & Baker Planning has been engaged by Astina Group to prepare a Statement of Environmental Effects in relation to a proposed modification of Development Application DA16/1083.

Construction of the development is well underway and as such the client has been focusing on the final fit out and function of the building. In this context, the proponent is seeking a modification in relation to the top level of the building, principally to the layout of the bar, kitchen, and gym. The proponent will also be seeking a liquor licence for this area and formal approval of that function is sought to be recognised in the consent.

This report describes the proposed modifications in detail and undertakes an assessment of the proposal against the relevant aims, objectives, and development provisions of Council's LEP and DCP, and Section 4.15 of the Act.

1.2 HISTORY OF THE APPLICATION

The following applications have been considered by Penrith Council to date.

Development Application Number	Relevant Dates	Comments
DA16/1083	Approved 24 September 2018	Operational Consent Granted
DA16/1083.02	Approved 13 February 2019	Approval Granted for the removal of Condition 11.

1.3 SUPPORTING DOCUMENTATION

The proposed is accompanied by the following documentation:

Documentation	Prepared by
Architectural Drawings	Morson Group

2 THE SITE AND SURROUNDS

The subject site and its surrounds have the following characteristics.

Site Address	21-25 Woodriff Street, Penrith
Lot/DP	Lot 106 DP 1236304
Site Area	2732sqm (approx.)
Local Government Area	Penrith City Council
Zoning	B4 Mixed Use
Current Land Use	Approved as a mixed-use development
Proposed Land Use	No changes proposed
Surrounding Land Uses	Commercial
Topography	Generally flat
Heritage	Not relevant for this proposal
Flooding/Overland Flow	Not relevant for this proposal

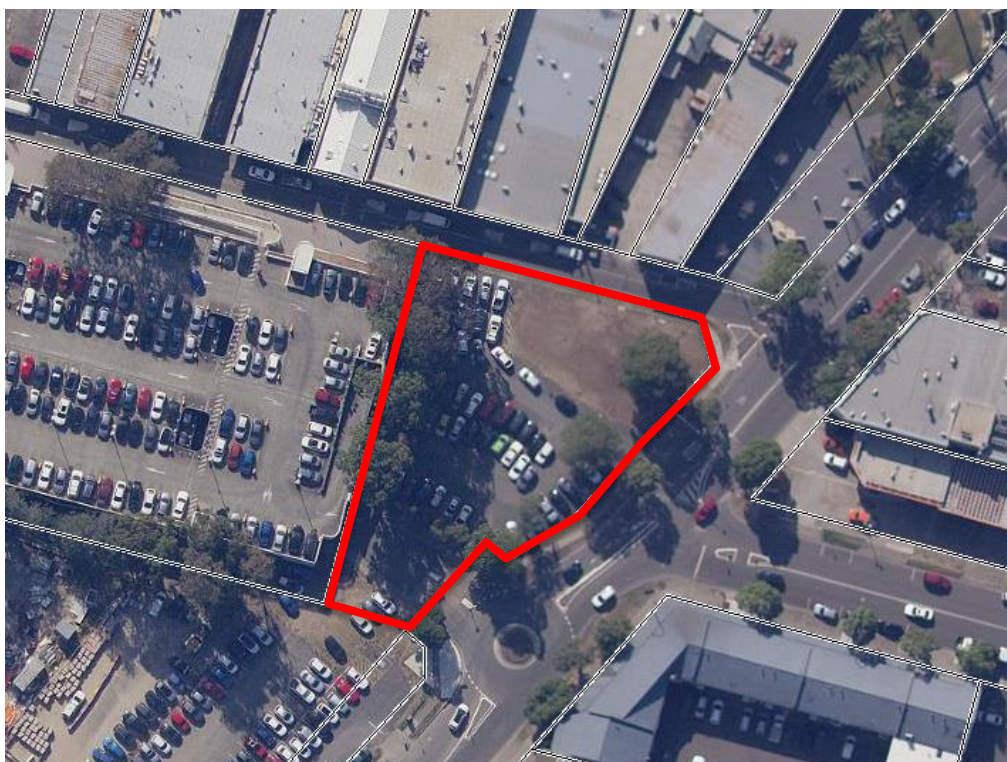


Figure 1 Subject Site - Aerial



3 MODIFICATION DESCRIPTION AND PLANNING CONTROLS

3.1 AMENDMENTS SOUGHT

The following amendments are sought to be made to the approved development.

- Reconfiguration of the conference room.
- Installation of an outdoor bar in the pool area.
- Installation of a kitchen to allow catering of conferences and food offerings for the outdoor bar.
- Reconfiguration of the gym area to improve visitor amenity.

Astina Group will also be applying for a liquor licence for the development. Like other hotels and accommodation, an on-premises accommodation liquor licence will be sought from Liquor & Gaming NSW. Further information regarding the on-premises accommodation licence can be found at the Liquor & Gaming NSW website¹.

A maximum capacity on this floor of 200 people is requested, in accordance with Section D1.6 of the accompanying BCA report. This capacity is also considered acceptable on the basis that the 58 rooms within the development is likely to accommodate a similar number of visitors.

This application also seeks consent for the hours of operation for the conference room, outdoor bar and kitchen to be extended to 10pm, seven days per week.

No other amendments are sought.

3.2 PLANNING CONTROLS

Section 4.55 of the Act provides details relating to the modification of consents as follows:

4.55 Modification of consents—generally

- (1) Modifications involving minor error, misdescription or miscalculation 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 a development consent granted by it to correct a minor error, misdescription or miscalculation. Subsections (1A), (2), (3), (5) and (6) and Part 8 do not apply to such a modification.
- (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

¹ <https://www.liquorandgaming.nsw.gov.au/operating-a-business/liquor-licences/liquor-licence-types/on-premises-licence>

- (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.

- (2) Other modifications – 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 development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and
 - (b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 4.8) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, 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 the period prescribed by the regulations or provided by the development control plan, as the case may be.

Subsections (1) and (1A) do not apply to such a modification.

- (3) In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 4.15(1) as are of relevance to the development the subject of the application. The consent authority must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified.

- (4) The modification of a development consent in accordance with this section is taken not to be the granting of development consent under this Part, but a reference in this or any other Act to a development consent includes a reference to a development consent as so modified.

In relation to the above we submit the following:

- The modification sought is not an error or misdescription. Nor is it considered to result in any significant changes to the resultant development. Accordingly, we submit the application should be considered as a s4.55(1A).
- Further supporting the application being a s4.55(1A) is the fact that no significant environmental impacts will arise as a result. Indeed, we submit the changes proposed would be imperceptible when considering the overall development and the scale of the site and buildings proposed.
- The inclusion of the kitchen and bar will not alter the utility of the building. Such amenities are common for accommodation providers and are expected by guests.
- Since there are no significant changes proposed to the approved use, function and utility of the buildings approved, Council can be 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.
- Council can therefore grant consent to the proposed modification.

4 KEY PLANNING ISSUES

The following impacts have been considered in the preparation of this development proposal.

4.1 CRIME PREVENTION AND SAFER BY DESIGN

Matters relating to the additional bar will largely be addressed through the liquor licencing process. In this regard, a Community Impact Statement will be needed, and this will be prepared consistent with Liquor & Gaming NSW's requirements at the time of lodging that application.

It is also noted that access to the top floor will be allowed for guests of the venue, including those staying on the site. Access will be controlled by on-site management at the ground floor concierge/reception desk, with CCTV being installed throughout the building.

4.2 TRAFFIC & PARKING

Since patrons will be largely drawn from those either staying on site, or attending the conference room, it is submitted the modification will not result in any increased traffic and parking demand that can't already be accommodated on the site, or within the nearby public car parks.

4.3 ACOUSTICS

Concern may be raised over the potential acoustic impacts arising from the proposed amendments. We refer to the accompanying acoustic report which formed part of the original application. The report identified that the closest 'receivers' were commercial properties and not residential. No unacceptable acoustic impacts are therefore anticipated.

5 SECTION 4.15 ASSESSMENT

An assessment of the proposal has been undertaken in accordance with the statutory requirements of the EPA Act. The following assessment against Section 4.15 of the EPA Act has been undertaken.

5.1 SECTION 4.15(1)(A)(I) – ANY ENVIRONMENTAL PLANNING INSTRUMENTS

The following relevant environmental planning instruments were considered in the original development application.

5.1.1 *Sydney Regional Environmental Plan No 20 – Hawkesbury Nepean River*

The proposed modification does not alter the original assessment of the application against the SREP. The health of the Hawkesbury Nepean River system will be protected and maintained during the construction and operation of the facility.

5.1.2 *State Environmental Planning Policy No 55 – Remediation of Land*

The proposed modification does not alter the original assessment of the application against SEPP 55. No further consideration is required.

5.1.3 *State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development.*

The proposed modification does not alter the original assessment of the application against the SEPP.

5.1.4 *Penrith Local Environmental Plan 2010*

The proposed modification continues to be permissible with consent under the LEP. The modifications would also see the development remain consistent with the objectives of the LEP and the zone itself. The proposed amendments are not in conflict with any development standards or clauses of the LEP and are therefore considered satisfactory when assessed against its provisions.

5.2 SECTION 4.15(1)(A)(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

There are no known draft Environmental Planning Instruments applicable to the subject site that are relevant to the proposed modification.

5.3 SECTION 4.15(1)(A)(III) – ANY DEVELOPMENT CONTROL PLAN

The following Development Control Plan has been considered in relation to this proposed modification.

5.3.1 *Penrith Development Control Plan 2014*

The proposed amendments do not alter the original assessment of the application against the DCP. The proposed development continues to satisfy the objectives of those controls.

5.4 SECTION 4.15(1)(A)(IIIA) – ANY PLANNING AGREEMENT OR DRAFT PLANNING AGREEMENT ENTERED INTO UNDER SECTION 7.4

There are no known planning agreements that apply to the site or development.

5.5 SECTION 4.15(1)(A)(IV) – THE REGULATIONS

There are no sections of the regulations that are relevant to the proposal at this stage.

5.6 SECTION 4.15(1)(A)(V) – ANY COASTAL ZONE MANAGEMENT PLAN

Not relevant to the proposed development.

5.7 SECTION 4.15(1)(B) – THE LIKELY IMPACTS OF THAT DEVELOPMENT

5.7.1 *Natural Environment Impacts*

There will be no impacts arising from the modification that will impact on the natural environment. This includes potential acoustic impacts, where it is noted there are no nearby receivers of a residential nature.

5.7.2 *Social and Economic Impacts*

There are no negative social or economic impacts arising as a result of this modification application.

5.7.3 *Built Environmental Impacts*

The proposed amendments will be imperceptible when viewed from the public and private domain given the overall scale and context of the development. No unacceptable built impacts will arise.

5.8 SECTION 4.15(1)(C) – THE SUITABILITY OF THE SITE FOR THE DEVELOPMENT

The proposal continues to be suitable for the site. The proposed modifications do not change the assessment undertaken at the time of the original Development Application.

5.9 SECTION 4.15(1)(D) – ANY SUBMISSION MADE

Council may undertake a notification process in accordance with its controls and policies. We welcome the opportunity to provide additional information in response to any submissions that may be received.

5.10 SECTION 4.15(1)(E) – THE PUBLIC INTEREST

Given the type of development, its general compliance with the planning controls, how the objectives are satisfied and the suitability of the site it is considered that the public interest would not be jeopardised as a result of this modification.

6 CONCLUSION AND RECOMMENDATION

The proposed development has been assessed against the requirements of the Penrith Council LEP and DCP and is considered to represent a form of development that is acceptable.

The proposed modifications are minor in the context of the scale of the approved development. There will be no perceptible changes to the development.

The proposed works result in the development remaining 'substantially the same' as what was originally approved, therefore satisfying the test of modification.

An assessment against Section 4.15 of the EPA Act has not resulted in any significant issues arising.

Accordingly, it is recommended that the proposed development be approved.