

PENRITH CITY COUNCIL

MAJOR ASSESSMENT REPORT

Application number:	DA14/0932.01
Proposed development:	Extension of Consent for DA14/0932.01
Property address:	Boronia Road, NORTH ST MARYS NSW 2760
Property description:	Lot 11 DP 1192443
Date received:	8 December 2016
Assessing officer	Mahbub Alam
Zoning:	E2 Environmental Conservation - LEP 2010 RE2 Private Recreation - LEP 2010
Class of building:	Class 9b
Recommendations:	

Executive Summary

Council is in receipt of an application seeking an Extension of Consent Lapsing Period under Section 95A of the *Environmental Planning and Assessment Act 1979 (the Act)* for Development Consent No. DA14/0932.

The consent notice was issued on 10 December 2014 and the consent is due to lapse on 10 December 2016. An assessment under Section 95A (Extension of lapsing period for 1 year) and Section 79C of the Act has been undertaken and the application is recommended for approval.

Site & Surrounds

The site is located on the north-eastern corner of Forrester Road and Boronia Road, St Marys.

The site contains the St Marys Rugby League Club, and associated playing and car parking fields. The site has a land area of 23.62 hectares with frontages to both Forrester and Boronia Roads.

St Marys League Club and Surrounds

The site is surrounded by a variety of land uses, including a Masters Home Improvement store to the north and open space land to the north (Ropes Creek Corridor) and east, residential properties on the southern side of Boronia Road and industrial land uses to the west (being the Dunheved Business Park).

Proposal

Section 95 Application

The subject application proposes an extension of the subject development consent period as follows:

- Current expiry date: 10 December 2016.
- Proposed expiry date: 10 December 2017.

Plans that apply

- **Section 95A - Extension of lapsing consent by 1 year**

Section 95A of the Environmental Planning and Assessment Act 1979 (the Act) states in part the following: -

"95A Extension of lapsing period for 1 year

(1) If, in granting a development consent, the consent authority reduces the period after which the consent lapses to less than 5 years, the applicant or any other person entitled to act on the consent may apply to the consent authority, before the period expires, for an extension of 1 year.

(2) The consent authority may grant the extension if satisfied that the applicant has shown good cause."

The Act enables the applicant or another person entitled to act on the consent, to apply to the consent authority for an extension of a maximum period of one year. The Act advises that the consent authority may grant the extension, if satisfied that the applicant has shown 'good cause'. It should be noted that the Act does not define 'good cause' however relevant case law suggests that the consent authority, in exercising its discretion, should base its decision on planning considerations and not external factors (for example fluctuations in the property market, etc).

In this case, the applicant has exercised an entitlement under the Act to seek an additional one year extension to the terms of the consent for DA14/0932.

The applicant has provided an acceptable reason for the request for an extension and as a result Council can be satisfied that 'good cause' has been shown. Given this, Council can use its discretion to favourably determine the Section 95A application.

Section 79C(1)(a)(i) The provisions of any environmental planning instrument

Section 79C(1)(a)(iii) The provisions of any development control plan

Section 79C(1)(d) Any Submissions

Community Consultation

The Section 95A applications were not publicly exhibited. In accordance with Appendix F4 of the Penrith Development Control Plan 2014 (DCP 2014), Council has the authority to choose not to re-notify extensions to development applications, if in the opinion of the responsible Council officer that the proposed extension is unlikely to prejudice;

- Any person(s) previously notified of the development application;
- Any person(s) who previously made a submission in respect of the development application.

The proposed extension of the consent expiration period is minor in nature and will not result in changes to the approved form. In this regard, it is considered that the proposal is unlikely to result in any prejudice on the grounds listed above.

Conclusion

The proposal was assessed under Section 95A of the Environmental Planning and Assessment Act 1979. The applicant has shown "good cause". There being no outstanding planning considerations, Council can exercise its discretion in consenting to the request for an extension of the consent period by 1 year.

Recommendation

That the consent period for DA14/0932 be extended for a period of 12 months from the date of the original notice.

CONDITIONS
