

**ANGEL PLACE
LEVEL 8, 123 PITT STREET
SYDNEY NSW 2000**

URBIS.COM.AU
Urbis Pty Ltd
ABN 50 105 256 228

18 July 2022

Mr Justin Doyle
Chair
Sydney Western City Planning Panel

enquiry@planningpanels.nsw.gov.au

Dear Mr Doyle,

PPSSWC-144 - PENRITH - DA21/0130-13 PARK ROAD WALLACIA

I am writing to you on behalf of our client St John's Bowling Club the applicant for the above matter.

DA21/0130 proposes alterations and additions to the Wallacia Country Club, a new swimming pool and gym complex, new synthetic bowling green, a putting green and alterations and expansion of the existing car park.

DA21/0130 was considered by the Sydney Western City Planning Panel (the Panel) at a public meeting on 26 April 2022. The determination was deferred by the Panel and on 3 May 2022 the record of deferral was issued to the Applicant, requesting further justification for the requested changes to the draft conditions of consent.

Urbis has subsequently provided two submissions to Penrith City Council (Council) and the Panel responding to the deferral and the draft conditions of consent. This final submission confirms the Applicant's position in relation to draft Condition 6, the 'surrender condition'. It also responds to the Panel's request for further consideration of the permissibility of the golf clubhouse.

DRAFT CONDITIONS

Draft condition 6 states:

Prior to the issue of any Construction Certificate and prior to works commencing at the site (including tree removal), Consent no. DA19/0875 is to be surrendered in accordance with Clause 68 of the Environmental Planning and Assessment Regulation 2021.

The Applicant's position in respect of draft Condition 6 remains unchanged. It is unnecessary to surrender DA19/0875. The development approved by DA19/0875 includes the Nepean Gardens cemetery which is an entirely different element to the scope of work proposed by DA21/0130.

We have previously provided an alternative condition which would modify DA19/0875 to take out the scope of works relating to the golf clubhouse proposed under DA21/0130. It is within the Panel's power to require such a modification under s4.17(1)(b) and s4.17(5) of the EP & A Act. Council has also advised that they do not object to modifying DA19/0875 in this manner.

Council however contend that a comprehensive Section 4.55(2) modification of DA19/0875 is required to remove all reference to the works to the Wallacia Country Club.

Council and the Applicant agree that a modification to DA19/0875 is appropriate, rather than requiring surrender of DA19/0875. However, Council's suggested approach has significant cost impositions on the Applicant, requiring the preparation of multiple reports and amended documentation. We request that the Panel consider these practical implications when making a decision in relation to Condition 6.

Draft Condition 7 states:

The use of the clubhouse is to cease operation at any such time the related golf course ceases operation or closes for a period of more than 3 months (other than for the purposes of maintenance or public health orders).

As previously advised, the Applicant accepts this condition. The Applicant accepts the characterisation of the golf clubhouse as a permissible use ancillary to the golf course. Proposed Condition 7 is therefore logical, and the Applicant is willing to accept this without alteration.

PERMISSIBILITY

We understand that the Council and the Panel do not consider that the previous submissions have adequately addressed the permissibility of the golf clubhouse, specifically the proposed extension of the golf clubhouse building into the adjacent lot which is within the RU5 Village Zone.

The Applicant is of the view that the golf clubhouse may lawfully operate in the RU5 zone for reasons including that:

1. it is an incidental/ancillary use that subserves the lawfully existing golf course (*Peters v Manly Municipal Council* [2007] NSWCA 343; *Foodbarn Pty Ltd v Solicitor-General* (1975) 32 LGRA 157);
2. recreation facilities (outdoor) as defined in the Penrith LEP (which includes ancillary buildings) is an express permitted use in that zone; and
3. the extension of the golf clubhouse into that zone as proposed has already been approved under DA19/0875 for Nepean Gardens Cemetery.

Notwithstanding the Applicant's view of the permissibility of the clubhouse in the RU5 zone, following consideration and consultation with Council the Applicant has decided to amend the plans for DA21/0130 so that the golf clubhouse does not extend into the adjacent lot. The building extension formerly proposed in this location consisted of an area of outdoor gaming. This outdoor gaming area is now proposed to be located on the eastern side of the building, within the footprint of the existing outdoor terrace. In the Applicant's view this will remove any doubt on the permissibility of the proposed works to the clubhouse and provide a clear pathway to approval.

The Applicant requests to amend the development application pursuant to clause 37 of the *Environmental Planning and Assessment Regulation 2021* (EP & A Reg). An addendum statement of environmental effects (SEE) addressing the change to the application follows below.

1. INTRODUCTION

This addendum SEE has been prepared by Urbis on behalf of the Applicant in support of the proposed amendment to DA 21/0130. This SEE should be read in conjunction with the originally submitted SEE prepared by Urbis dated March 2021 and supporting development application documentation.

It assesses the amended application against the relevant considerations of section 4.15 of the Environmental Planning & Assessment Act 1979 (EP&A Act). Council has authority to accept this amended DA package under clause 37 of the EP&A Reg.

The addendum SEE and accompanying information has been lodged through the New South Wales Planning Portal as well as provided directly to Panel.

1.1. SUPPORTING INFORMATION

The following documentation is submitted in support of this addendum:

- Amended architectural plans prepared by Axil Architects – **Appendix A**
- Amended landscape plans prepared by Vital Design – **Appendix B**
- Amended civil and stormwater plans – prepared by Warren Smith and Partners – **Appendix C**
- Addendum to acoustic assessment – prepared by Acoustic Logic – **Appendix D**

1.2. BACKGROUND AND PROPOSED AMENDMENTS

The site is located at 13 Park Wallacia and is legally described as Lot 1 DP1254545 and Lots 3 and 4 DP 18701. The existing golf clubhouse building is sited on Lot 1 DP1254545.

In March 2021 a DA21/0130 was lodged for alterations and additions to the Wallacia Country Club, a new swimming pool and gym complex, new synthetic bowling green, a putting green and alterations and expansion of the existing car park.

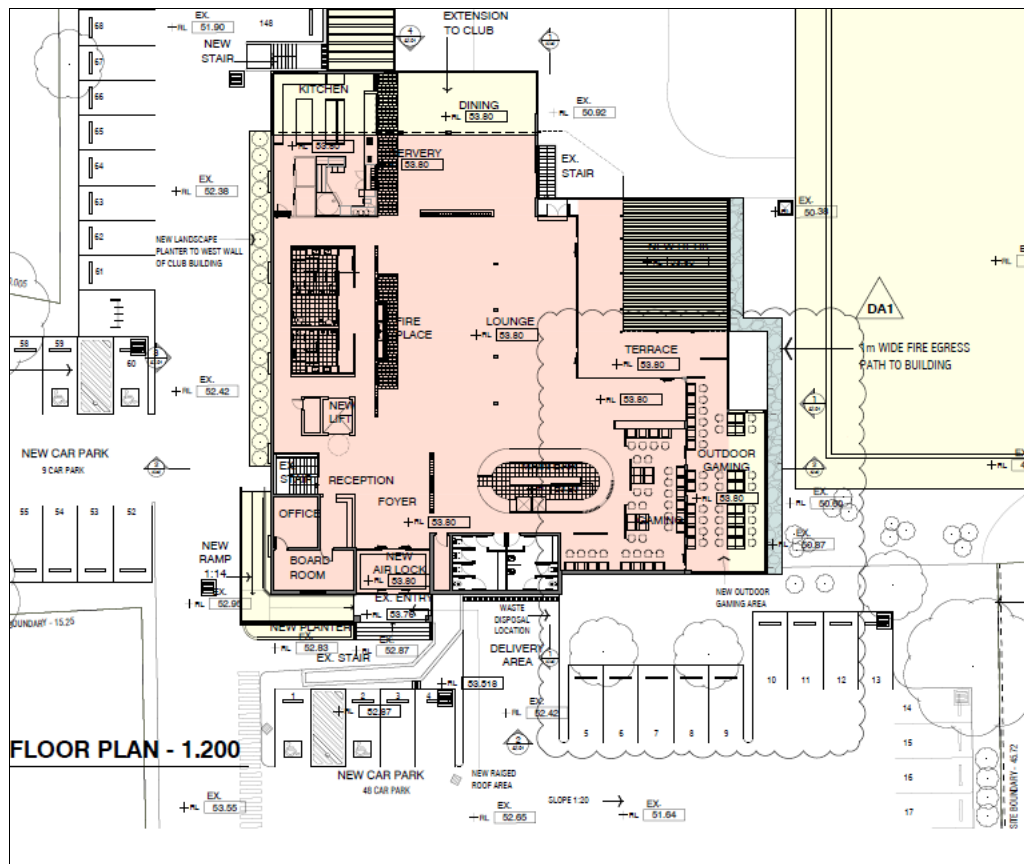
As detailed above, the assessment and consideration of DA21/0130 by the Western City Planning Panel raised queries about the permissibility of the expansion of the golf clubhouse into the adjacent lot to the south (Lot 3 DP 18701) which is in the RU5 Zone. The amendments to the proposal have been made in direct response to these queries.

The following amendments have been made to the proposed scope of the development:

- deletion of proposed outdoor gaming extension to the golf clubhouse on Lot 3 DP18701.
- relocation of outdoor gaming area to the existing external deck on the eastern elevation of the golf clubhouse, with associated external louvred screen.
- five (5) additional car spaces are proposed to be provided on the area formerly identified for outdoor gaming. Additional landscaping is proposed to this parking area.

An excerpt of the proposed ground floor plan is shown at Figure 1 showing the relocated outdoor gaming area on the east of the building and new car spaces numbers 5-9. All golf clubhouse development is solely located on Lot 1 DP 1254545.

Figure 1 Ground floor Plan



All other aspects of the proposed development remain as described in the SEE submitted with the DA21/0130. The proposed development remains materially the same as that originally proposed.

2. SECTION 4.15 ASSESSMENT

The amended application is considered acceptable having regard to all relevant legislation, planning instruments and controls (as discussed in Section 5 of the March 2021 SEE), including:

- *Rural Fires Act 1997*
- *Water Management Act 2000*
- *State Environmental Planning Policy (Resilience and Hazards) 2021**
- *State Environmental Planning Policy (Transport and Infrastructure) 2021**
- *State Environmental Planning Policy (Biodiversity and Conservation) 2021**

The asterisk * denotes legislation that has repealed and consolidated former SEPPs that were considered in the original March 2021 SEE. The assessment contained in the March 2021 SEE remains valid, as the amended application remains consistent with the considerations discussed therein.

Further consideration of the amended application is made, having regard to:

- *Penrith Local Environmental Plan 2010*

2.1. PENRITH LOCAL ENVIRONMENTAL PLAN 2010

The *Penrith Local Environmental Plan 2010 (PLEP 2010)* is the principle environmental planning instrument applying to the site. An assessment of the amended proposal against the relevant provisions of the PLEP 2010 is provided below.

2.1.1. Zoning and Permissibility

The golf course and golf clubhouse building are in an area zoned C3 Environmental Management under PLEP 2010. The portion of the existing carpark located south of the clubhouse, with frontage to Park Road, is in an area zoned RU5 Village.

There is evidence of continued and lawful use of the site as a golf course and registered Club, dating from 1932. The golf course and golf clubhouse rely on and operate under the existing use rights provisions of the *Environmental Planning and Assessment Act 1979* (EP&A Act) and Environmental Planning and Assessment Regulation (The Regulation) which allow the continued operation of the site as a golf course and registered club pursuant to Part 4 Division 4.11 of the EP&A Act and Part 7 of the Regulation.

The Act and the Regulation also enable an existing use to be “enlarged, expanded or intensified” or “altered or extended” or “rebuilt” subject to development consent.

The permissibility of each component of the proposed development is discussed below.

- Proposed uses within the C3 zone:
 - golf clubhouse alterations and additions, putting green and carparking-prohibited in the C3 zone but rely on and make use of the existing use rights provisions of the EP&A Act and Regulation as detailed above. Accordingly, the proposed alterations and additions are permissible.
 - the Applicant accepts the characterisation of the golf clubhouse as ‘ancillary’ to the golf course (*Peters v Manly Municipal Council* [2007] NSWCA 343). DA21/0103 does not seek approval for the ongoing use of the golf club house as an operation independent of the continued use of the site for sporting purposes. The Applicant has therefore also accepted a proposed condition that ties the operation of the clubhouse to the continued operation of the golf course on the site.
 - swimming pool/ gymnasium – characterised as a ‘Community Facility’ and permissible with consent in the zone.
- Proposed uses within the RU5 zone:
 - the proposed works consist only of the formalisation of the existing car park. Car parks are permissible with consent in the zone.

The amended application deletes the expansion of the golf clubhouse into the RU5 Village zone.

The permissibility of each component of the proposed has therefore been clearly identified and demonstrated.

3. ASSESSMENT OF KEY ISSUES

3.1.1. Built form

The design has been amended to incorporate an area of outdoor gaming to the east of the existing golf clubhouse building and within the footprint of the existing outdoor deck. The outdoor gaming will now be oriented towards the bowling green and away from the street. It will be shielded using acoustic louvres and is of an unobtrusive design sympathetic to the existing building.

3.1.2. Noise Impacts

An addendum Noise Impact Assessment, prepared by Acoustic Logic and dated 11 July 2022 (**Appendix D**) was prepared to address any acoustic considerations arising from the relocated outdoor gaming area.

The assessment found that the noise level of the relocated gaming area can comply with all nominated noise criteria, subject to the adoption of the recommended acoustic mitigation measures. These include the incorporation of acoustic louvres and internal acoustic lining

3.1.3. Car Parking

The removal of the golf clubhouse extension provides spaces for five (5) additional car parking spaces. This compensates for the spaces that had to be removed during the assessment of DA21/0130 to address Council's requirement for additional landscaping.

The amended proposal now provides 148 car parking spaces which will cater for the demands of the development.

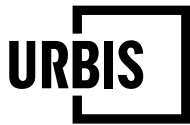
Updated civil plans (**Appendix C**) and landscape plans (**Appendix B**) have been provided showing the proposed car park arrangement.

4. SUITABILITY OF THE SITE

The proposed amendments to DA21/0130 will not result in any changes that would affect the suitability of the site to accommodate the proposed development. The site remains highly suitable for the development as outlined in the original SEE.

5. THE PUBLIC INTEREST

DA21/0130 will provide new and enhanced recreational facilities to the Wallacia community. The proposal accommodates a diverse range of recreational activities which within an expanded and upgraded golf clubhouse facility which will continue to support sporting and recreational uses on the site. Approval of the amended scheme for DA 21/0130 is therefore in the public interest.



6. CONCLUSION

Thank you for the opportunity to provide this amended application for DA21/0130 to the Panel. We trust our submission addresses the outstanding matters for consideration and provides a clear path for the determination of DA21/0130. If any questions remain, please do not hesitate to contact Rosie Sutcliffe, Senior Consultant on 8233 9913 rsutcliffe@urbis.com.au.

Kind regards,

A handwritten signature in black ink, appearing to read "David Hoy". The signature is stylized with a large, sweeping "H" and a long, trailing stroke.

David Hoy
Director
02 8233 9900
dhoy@urbis.com.au

cc: Jacqueline Klincke, Penrith City Council jacqueline.klincke@penrith.city