

**Property:** 48 & 50 SMITH STREET, 2-18 MACK STREET, 18 & 20 DAWES STREET, 410, 412, 414, 428, 430 & 430A GREAT WESTERN HIGHWAY, WENTWORTHVILLE

**Proposal:** S96(2) MODIFICATION TO THE WENTWORTHVILLE LEAGUES CLUB BUILDING SEEKING TO AMEND WESTERN ATRIUM AT GROUND FLOOR; MINOR INTERNAL RECONFIGURATION OF GROUND FLOOR BAR AND INTRODUCTION OF A NEW ASIAN KITCHEN; AND NEW SMOKER'S TERRACE AT LOWER GROUND FLOOR.

**Applicant:** DAVID WILLIAMS – PURE PROJECTS (NSW) PTY LTD

**Owner:** WENTWORTHVILLE LEAGUES CLUB

**Land Zoning:** PART 6(c) SPECIAL PURPOSES OPEN SPACE ZONE AND PART 2(A) RESIDENTIAL - UNDER HOLROYD LEP 1991

**Application Number:** 2009/381/3

**Executive Officer:** Director of Environmental and Planning Services

**File Number:** DA2009/381-11

### **Summary**

Council has received a Section 96(2) application proposing to modify Development Consent No. DA2009/381/1 granted by the Western Sydney Joint Regional Planning Panel (JRPP) on 13 September 2010, relating to the Wentworthville Leagues Club.

The consent gave approval to *“Development for the purposes of a club including the demolition of 8 dwellings, alterations and additions to the existing club building, car parking and, with respect to land in excess of 25m distance from the 6(c) zone boundary, landscaping works”*.

Since the granting of the original consent, the Club has undertaken further design development and now proposes modifications to the approved alterations and additions, in line with the Club's development objective of providing an expanded and upgraded Club premises that will cater to the changing needs of the Club's members now and in the future.

The proposed modifications involve the following:

- Minor internal reconfiguration of the bar and service area and introduction of a 'Global Asian Kitchen' at ground level;
- Alterations to the approved western atrium/terrace (ground floor – interim arrangements); and

- Alterations to the Magpie Bar (lower ground floor) by partitioning off a new smokers terrace with full height glazing to the terrace.

The reconfiguration of the bar and service area and introduction of a 'Global Asian Kitchen' at ground floor level are internal modifications only.

The proposed modifications to the western atrium involves a minor increase of 26m<sup>2</sup> to the overall gross floor area of the premises, due to a minor extension to the slab to create 3 small projecting bays beyond the approved building facade. This will increase the capacity of this 'smoker's terrace' from 60 to 90 patrons. However, this does not affect the on-site parking demand, as the additional 80 spaces approved for the properties at Nos. 2-10 Mack Street will more than cater for this potential increased patronage.

The provision of a new smokers terrace at lower ground floor level, associated with the Magpie Bar involves partitioning off a small section of the existing bar area with full height glazing, to provide an open air terrace, enclosed by a metal balustrade to restrict entry/exit to/from the Club via this terrace (N.B. The floor level of the smokers terrace is approximately 820mm above the adjoining access roadway). This does not involve additional floor space.

The proposed modifications were placed on public exhibition between 7 September and 7 October 2011. During this time, no submissions were received.

The modifications are considered to be acceptable and it is recommended that the consent be modified.

#### **Critical Dates/Application History**

<b>Date</b>	<b>Action</b>
24/08/11	DA 2009/195/3 lodged.
7/09/11 to 7/10/11	Public notification of the Section 96 Application.
12/10/11	External & internal referrals completed.
12/10/11 – 20/10/11	Assessment and preparation of assessment report.
24/11/11	Referral of application to the JRPP for determination.

#### **Background**

In September 2011, the Western Sydney Joint Regional Planning Panel (JRPP) granted deferred commencement consent to *development for the purposes of a club including the demolition of 8 dwellings, alterations and additions to the existing club building, car parking and, with respect to land in excess of 25m distance from the 6(c) zone boundary, landscaping works.*

In January 2011, Holroyd City Council granted consent to a development application (DA2010/549) relating to five (5) residential properties adjoining the club at Nos. 2-10 Mack Street, Wentworthville. This consent granted approval to *demolition of 5 dwellings, construction of an 80 space carpark for the Wentworthville Leagues Club, boundary fences, tree removal and landscaping.* The inclusion of these five (5) properties and their redevelopment for car parking increased the overall on-site parking associated with the club to a total of 860 spaces.

In April 2011, Council modified DA2009/381/1 under Section 96(1) of the Act to relocate Condition 2.2 of the deferred commencement conditions (Schedule A) to Schedule B. This condition related to the need for amended plans to be prepared to reflect the design changes required by the RTA. This condition became Condition 89a of Schedule B and a further condition (Condition 89b) was added to Schedule B to ensure that the amended plans incorporated a left out egress onto the Great Western Highway from the Wenty Leagues Club site.

At the same time that the Section 96(1) modification was granted, Council wrote to the Club to advise that the conditions of deferred commencement under DA2009/381/1 had been complied with to Council's satisfaction, such that the consent became operative on 18 April 2011.

Since the original consent was granted, a detailed design review process of the development has been undertaken, incorporating an analysis of the scheme in terms of the function and operational analysis of various components of the development. This has resulted in a number of minor design changes being identified and these are now the subject of this Section 96 application.

### **Locality**

The subject site is an irregular shaped allotment located on the northern side of the Great Western Highway at Wentworthville, approximately 23km west of the Sydney CBD, 3km north west of Parramatta and 7km south east of Blacktown. The site has its current primary frontage and vehicular access to Smith Street. Adjoining the eastern side of the site is Ringrose Park and Monty Bennett Oval. To the west are low density residential properties in Mack Street and Dawes Street. The Club is the registered owner of the majority of these residential properties. Opposite the site on the northern side of Smith Street are low density residential properties. There is a T-way Bus Stop approximately 300m from the Club in Finlayson Street. Hills Bus Routes 700 & 708 between Parramatta and Blacktown / Constitution Hill operate along Smith Street and Wentworthville Railway Station is approximately 1km from the Club.

As described above, since the original consent was granted, the Club has expanded into the adjoining residential properties at Nos. 2 to 10 Mack Street, demolishing the five (5) dwellings and constructing an additional 80 space car parking area.

The site now comprises twenty seven (27) allotments, being:

- Lots 1 & 2, DP 529686 (part No. 414 Great Western Highway)
- Lot 5, DP 1150633 (part No. 414 Great Western Highway)
- Lots A, B & C, DP 360339 (Nos. 410 & 412 & part No. 414 Great Western Highway)
- Lots A, C, D & E, DP 29408 (Nos. 48 & 50 Smith Street and part No. 414 Great Western Highway)
- Lot B, DP 407978 (No. 430 Great Western Highway)
- Lots F & G, DP 365200 (part No. 414 & No. 428 Great Western Highway)
- Lots 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18 & 19 DP 26822 (Nos. 2, 4, 6, 8, 10, 12, 13, 14, 15, 16, 17 & 18 Mack Street)
- Lots 111 & 112, DP 619226 (Nos. 18 & 20 Dawes Street)

## Proposal

The proposed modifications are described in the Statement of Environmental Effects that accompanies the application and consist of the following:-

- Modification to the western atrium at ground floor:
  - The western atrium/terrace forms part of the interim arrangement and will be removed once the main entry/porte cochere is constructed. The approved interim atrium has been modified to incorporate acoustically sensitive design. The atrium will be fully enclosed with openings to the roof to allow for natural ventilation. A minor slab extension will accommodate three projecting bays resulting in a 26m<sup>2</sup> increase in floor space. Fixed planter beds will be introduced creating an improved landscape outcome for members and guests.
- Modifications to the lower ground floor including:
  - The introduction of a new smokers terrace at the eastern elevation. The proposed terrace does not result in additional floor space but rather creates a cordoned off section of the existing 'Magpie Bar' with full height glazing.
  - With the creation of this new terrace, the proposal will include a new metal balustrade to restrict members and guests entering and exiting the Club via this new terrace.
- Reconfiguration of aspects of the ground floor layout to improve function including:
  - An amended design to the ground floor bar.
  - Introduction of a 'Global Asian Kitchen' at the piazza floor providing improved dining choice for members and guests.

As a consequence of the proposed modifications, the applicant is seeking modification to the conditions of consent as follows:

1. ***Amendment of Condition 2 - Approved Development Plans***, to reflect the amended design and drawing references. Accordingly, the applicant requests that the following be included as part of Condition 2: -
  - *Drawing No. A110, Interim Ground Floor Design Arrangement, Revision D, dated July 2009, prepared by Altis Architecture;*
  - *Drawing No. A113, Interim Lower Ground Floor Design Arrangement, Revision A, dated July 2011 and prepared by Altis Architecture;*
  - *Drawing No. A115, Floor Plans, Revision C, dated July 2011 and prepared by Altis Architecture;*
  - *Drawing No. A203, Elevations and Sections, Revision B, dated July 2011 and prepared by Altis Architecture;*

- *Acoustic Report prepared by Renzo Tonin & Associates (TE191-07F02(rev 0) Section 96 Letter.doc) dated 8 August 2011;*

2. ***Deletion of Condition 49 – Acoustic Measures*** – Due to its location in proximity to nearby residential premises, this condition required the preparation and submission of a report / letter prepared by an Acoustic Report recommending appropriate noise attenuation measures for the western atrium/terrace.

A report was prepared by Renzo Tonin and the applicant advises that the recommended attenuation measures have been incorporated into the modified design for the western atrium / terrace. As such, the applicant is seeking deletion of this condition on the basis that it has now been satisfied.

## **Assessment**

### **Section 96 of the Environmental Planning and Assessment Act 1979**

#### ***96 Modification of consents – generally***

...

#### ***(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***

The proposed modifications relate to further design improvements to the approved use of the premises for a Club and do not introduce any new land uses or activities that have the potential to have a greater impact on the amenity of the area than those associated with the originally approved development. With the exception of the minor (26m<sup>2</sup>) increase in the floor area of the western atrium/terrace, the modifications are generally within the confines of the originally approved building footprint. The proposed modifications will not affect the traffic and parking demand of the Club.

As such, it is considered that the development, as proposed to be modified, will be “essentially or materially” the same as that originally approved and therefore, satisfies the threshold test established by the NSW Land & Environment Court as to what is considered to be “substantially the same development”. In this regard, the physical characteristics of the modified scheme will remain substantially the same as the originally approved scheme and the nature and magnitude of the potential impacts of the development will not significantly alter as a consequence of the proposed modifications.

Accordingly, Council can be satisfied that the development, as amended, is substantially the same development as the development described in the original application.

*(b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) 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*

The proposed modifications do not relate to any conditions imposed as a requirement of a concurrence or general terms of approval from the RTA or Sydney Water.

*(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*

Council notified the Section 96(2) application between 7 September and 7 October 2011.

*(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.*

No submissions were received in relation to the proposed modifications.

*(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 79C (1) as are of relevance to the development the subject of the application.*

The application, as amended, was assessed against the matters for consideration listed under Section 79C(1) of the *Environmental Planning & Assessment Act 1979*, as amended. The assessment is as follows:-

***"79C(1) Matters for consideration – general"***

*(a) The provisions of:-*

*"(i) any environmental planning instrument, and"*

***Environmental Planning and Assessment Act 1979***

***Integrated Development***

***Water Management Act 2000***

The original development application was classified as *Integrated Development* under Section 91 of the *Environmental Planning & Assessment Act 1979* due to the need for further approvals to be obtained under the *Water Management Act 2000* as the approved multi storey car park is to be constructed over and in the vicinity of the concrete stormwater drainage channel known as Coopers Creek that runs across the south eastern corner and along the eastern side of the site.

The proposed modifications do not affect this part of the development. Notwithstanding, the Section 96 application was referred to the Office of Water for comment. The Office of Water responded, advising that due to recent amendments to the Water Management (General) Regulation referral of this Section 96 modification and any subsequent Section 96 modifications does not require referral to the Office of Water. This is on the basis that the site is exempt from requiring a Controlled Activity Approval under Clause 26 of Schedule 5 of the Regulation because the site is *waterfront land relating to a river where the channel of the river is fully concrete lined or is a fully enclosed pipe channel*.

#### ***State Environmental Planning Policy (Infrastructure) 2007***

The Infrastructure SEPP seeks to facilitate the effective delivery of infrastructure across the State and consolidates, amends and repeals a number of earlier State policies. Of particular relevance to this application is Section 104 of the SEPP which requires particular forms of development to be referred to the RTA for consideration. The Club use falls within Column 2 of Schedule 3 of the SEPP as the development is *for the purpose of a Premises licensed under the Liquor Act 1982 or the Registered Clubs Act 1976 and provides car parking in excess of 200 spaces*. As such, Council was required to refer the original application to the RTA (Sydney Regional Development Advisory Committee) for consideration.

However, as the proposed modifications are essential internal and will not result in any additional traffic or parking impacts, it is at Council's discretion as to whether the proposed modifications warrant further referral to the RTA. In this instance, Council chose not to seek further comment from the RTA.

#### ***Holroyd Local Environmental Plan 1991***

The subject site is zoned part 6(c) (Special Purposes Open Space Zone) and part Residential 2(a) under the provisions of the *Holroyd Local Environmental Plan 1991* (HLEP). The proposed modifications are confined to that part of the site zoned 6(c).

Holroyd LEP adopts the definition of a *Club* provided under the *Environmental Planning and Assessment Model Provisions 1980* as follows:

*“A building used by persons associated, or by a body incorporated, for social, literary, political, sporting, athletic or other lawful purposes whether the same or of a different kind and whether or not whole or a part of such a building is the premises of a club registered under the Registered Clubs Act 1976.”*

The primary use of the site and premises as a Club satisfies this definition as the Club provides and fosters recreational and hospitality uses consistent with those described in the definition.

The use of the Club premises will not change as a consequence of the proposed modifications. Accordingly, the proposed modifications are permissible within the 6(c) zone.

The objective of the 6(c) Special Purposes Open Space Zone is as follows:-

*“(a) to designate land, whether in public or private ownership, which is or may be used for active or passive recreation or tourist purposes.”*

Despite the proposed modifications, the use of the premises is consistent with the zone objective as the land is being retained for passive recreational purposes and supports active recreational uses such as rugby league, as required under objective (a) of the Club's Constitution.

*“(ii) any draft environmental planning instrument that is or has been placed on public exhibition and details of which have been notified to the consent authority (unless the Director-General has notified the consent authority that the making of the draft instrument has been deferred indefinitely or has not been approved),”*

Draft Holroyd LEP 2011 was placed on public exhibition, with the exhibition period ending on 31 August 2011. The Wenty Leagues Club site is proposed to be zoned RE2 Private Recreation under the draft LEP. Registered clubs are permissible with consent in the RE2 zone.

The objectives of the RE2 zone are:

- *To enable land to be used for private open space or recreational purposes.*
- *To provide a range of recreational settings and activities and compatible land uses.*
- *To protect and enhance the natural environment for recreational purposes.*

The proposed modifications are compatible with the zoning objectives as they are associated with the use of the Club premises for private recreation, associated with Rugby League and the adjoining football/sports grounds.

There are no other provisions of the draft LEP that affect the proposed modifications.

*“(iii) Any development control plan, and”*

#### ***Holroyd Development Control Plan 2007***

The original application was assessed against the relevant controls of Holroyd Development Control Plan 2007. The proposed modifications are of a relatively minor nature and do not affect the degree to which the approved development satisfies the controls under the DCP.

#### ***Ringrose Park Plan of Management***

Ringrose Park and the adjoining Monty Bennett Oval (also covered by the Plan of Management), located to the immediate east of the subject site, are classified as *Community Land* under the *Local Government Act 1993*. Under the *Local Government Act 1993*, Councils are required to prepare Plans of Management for all Community Land, to ensure it is effectively planned and managed. The Ringrose Park Plan of Management took effect in December 2008, with its main objective being to guide future development of Ringrose Park within the legislative requirements of the Local Government Act, taking account of community expectations and the resources available to Holroyd City Council.

Community Land as defined by the Act and the (Community Lands) Amendment Act (1998), are to be categorised as either:

- Sportsgrounds
- Parks
- Natural Areas



- Areas of Cultural Significance
- General Community Use Areas (including drainage reserves)

Ringrose Park and Monty Bennett Oval are both classified as 'sportsgrounds'. The maintenance responsibilities for Ringrose Park and Monty Bennett Oval are jointly shared between Holroyd City Council, Wentworthville Leagues Club and the Ringrose Park Local Committee.

Ringrose Park has been leased to Wentworthville Leagues Club since 1963 and the maintenance of the Park and the surrounding structures at the northern end are entirely the responsibility of the Club. The lease agreement was renewed in 1996 and is due to expire in 2016.

The original application was considered in the context of the Plan of Management. The proposed modifications do not alter the findings of this assessment.

*"(iii) 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"*

There are no planning agreements applicable to the development.

*"(iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph) that apply to the land to which the development application relates,"*

The proposed modifications are consistent with the requirements of the Environmental Planning and Assessment Regulations, 2000.

*"(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,"*

### **Noise**

The western atrium/terrace forms part of the interim arrangements and will be removed once the main entry/porte cochere is constructed (max. 5 years). Notwithstanding, during this interim period, an acceptable acoustic environment associated with the use of the terrace needs to be achieved.

Since the original consent was granted the Club has obtained development consent to demolish the adjoining dwellings at Nos. 2 – 10 Mack Street and provide additional car parking in this area. As such, the nearest residential receivers to the western atrium/terrace are now at a greater distance from the atrium/terrace, on the western side of Mack Street. Despite the proposed minor increase in the area of the atrium/terrace, the design retains the solid external facade and partially open roof form as originally approved.

Condition 49 of the original consent stated as follows:

*"Notwithstanding the interim use of the western atrium / terrace, due to its location in proximity to nearby residential premises, a report / letter is to be prepared by an acoustic consultant recommending appropriate noise attenuation measures for the western atrium / terrace."*

An Acoustic Statement in relation to the acoustic treatment of the western atrium/terrace (as well as the proposed smokers terrace on the eastern side of the Club) has been prepared by the

applicant's acoustic consultant, Renzo Tonin & Associates and is provided at *Appendix B* of the Statement of Environmental Effects. This Statement notes that due to the proposed design modifications, the physical capacity of the western atrium/terrace has increased from 60 to 90 patrons, but also acknowledges that the nearest residential receiver is now further away on the western side of Mack Street.

A further noise assessment has been undertaken by the acoustic consultant and the predicted noise levels indicate compliance with the before midnight criteria, but there is a possibility that noise levels may exceed the after midnight inaudibility criteria at the nearest affected residence. Accordingly, the assessment recommends that acoustically absorptive finishes be incorporated to the ceiling and internal walls of the terrace space so as to minimize reverberant noise build up. The Statement also recommends that the use of the terrace after midnight be restricted to a maximum of 20 patrons.

As such, with the incorporation of the acoustic attenuation measures recommended by Renzo Tonin & Associates and detailed on the amended drawings, as well as a restriction on the after midnight patronage of the terrace to no more than 20 people, it is considered that an acceptable acoustic environment will be achieved.

The applicant has requested that Condition 49 be deleted. However, in light of the above discussion, it is recommended that rather than deletion, the condition should be reworded in order to require implementation of the recommended acoustic treatments and to restrict the after midnight patronage of the terrace to no more than 20 people. Accordingly, an amended wording for Condition 49 has been provided in the recommendation.

The Statement also makes an assessment of the likely noise impacts associated with the use of the smaller smokers terrace proposed on the lower ground floor on the eastern side of the Club premises. No seating is proposed on this terrace and it is expected that it will only be used by smokers, rather than a general patron gathering area. Based on its area the acoustic consultant envisages a maximum capacity of 15 patrons. The nearest residential receiver to this terrace is No. 37A Smith Street, located on the northern side of Smith Street, north of the Club and at a distance of some 150m from the terrace. An acoustic assessment has been undertaken consistent with other similar smoking terrace areas, with patron noise levels based on raised voice sound power levels and the assumption that only 50% of people are talking at once. This assessment concludes that the use of this terrace will comply with all of the relevant noise goals and therefore, will not have an adverse impact on the acoustic amenity of nearby residents.

### ***Visual Impact & Bulk and Scale***

The proposed modifications are essentially internal. However, there will be a minor change to the form and appearance of the external facade of the western atrium/terrace as a result of the minor extension to the slab to create a 26m<sup>2</sup> increase to the size of the atrium and a minor change to the appearance of the eastern facade where the smokers terrace is proposed to be added. However, it is considered that these external modifications will not have an unsatisfactory impact on the built environment and are acceptable in terms of the appearance and overall bulk and scale of the Club premises.

It is noted that the western atrium/terrace is an interim arrangement (max. 5 years) that will be removed when the main entry/porte cochere is constructed.

### ***Traffic and Parking***

The proposed modification to the western atrium/terrace involves an increase in the size of the terrace by 26m<sup>2</sup>, creating 3 small projecting bays beyond the approved western external facade. This has the effect of increasing the capacity of the terrace by 30 patrons, from 60 to 90. This does not necessarily translate to an increase to the overall capacity of the Club premises, but at face value, the increased floor area has the potential to affect parking provision. Notwithstanding, as described earlier in the report, since the original consent was granted, the Club has obtained development consent to provide an additional 80 car parking spaces on the adjoining land at Nos. 2-10 Mack Street. As such, this additional parking will more than cater for any additional parking demand that may result from the 26m<sup>2</sup> increase in floor area.

*"(c) the suitability of the site for the development,"*

The Wentworthville Leagues Club has occupied its current site for more than 50 years and has operated without significant complaint since its inception. The site is readily accessible by the local road system and vehicular access will be improved through the addition of a new ingress / egress to the Great Western Highway. The Club is well served by public transport including a regular bus services and train services via Wentworthville Railway Station, approximately 1km from the Club site.

The alterations and additions approved under the original application represent a comprehensive redevelopment strategy for the Club in order to provide improved facilities for its members and guests and cater for ever increasing membership numbers. The proposed modifications are commensurate with the existing use and the site attributes. The site is considered to be suitable for ongoing use as a Registered Club with respect to surrounding land uses and public safety.

### ***Social & Economic Impacts***

The proposed modifications will not result in any additional social or economic impacts from those that were considered during the assessment and determination of the original application.

*"(d) any submissions made in accordance with this Act or the regulations,"*

The Section 96(2) application was placed on public exhibition between Wednesday 7 September and Friday 7 October 2011.

No submissions were received following the notification period.

### ***External Referrals***

#### ***Office of Water***

The Section 96 application was referred to the Office of Water as the original application was 'Integrated Development' under Section 91 of the EP&A Act. However, the Office of Water has subsequently advised that referral of this Section 96 modification and any subsequent Section 96 modifications does not require referral to the Office of Water on the basis that the site is exempt from requiring a Controlled Activity Approval under Clause 26 of Schedule 5 of the Water Management (General) Regulation because the site is *waterfront land relating to a river where the channel of the river is fully concrete lined or is a fully enclosed pipe channel*.

### ***Sydney Water***

Sydney Water has assessed the proposal and raises no objection to the proposed modifications.

### ***Internal Referrals***

#### ***Building Services***

Council's Building Services Unit raises no objections to the proposed modifications.

#### ***Development Engineer***

Council's Development Engineer raises no objections to the Section 96 application.

#### ***Environmental Health Unit***

Council's Environmental Health Unit raised no objections to the proposed modifications.

#### ***Waste Services***

Council's Waste Officer has advised that the proposed modifications to the approved development are not significant and the previously approved waste and recycling arrangements are satisfactory.

### **Conclusion**

Section 96(2) Modification (DA 2009/381/3) proposes modifications to the major alterations and additions to the existing Wenty Leagues Club premises approved by the JRPP in September 2010.

The proposed modifications have been assessed against the relevant provisions of Sections 96(2) and 79C of the Environmental Planning and Assessment Act 1979 and are considered to be satisfactory. Accordingly, the proposed modifications, as described in the revised architectural drawings are recommended for approval. However, deletion of Condition 49 is not recommended. The intent of the condition has been satisfied, however, it is not usual practice to remove a condition from a development consent simply because it has been satisfied. Notwithstanding, it is recommended that this condition be reworded to require the recommended acoustic treatments to be implemented and to restrict the post-midnight patronage of the western atrium/terrace to no greater than 20 patrons.

The Section 96(2) Modification application is referred to the Western Sydney Joint Regional Planning Panel for determination.

## Report Recommendation

That the Western Sydney Joint Regional Planning Panel approve the Section 96(2) Modification to DA 2009/381/1, proposing modifications to the approved alterations and additions to the Wentworthville Leagues Club, subject to the modifications contained in the Draft Notice of Determination (i.e., “Draft Conditions of Consent”) attached to this report and as set out below:

1. That the schedule of drawings listed under Condition 2 of Schedule B be amended to include the following:
  - *Drawing No. A110, Interim Ground Floor Design Arrangement, Revision D, dated July 2009, prepared by Altis Architecture;*
  - *Drawing No. A113, Interim Lower Ground Floor Design Arrangement, Revision A, dated July 2011 and prepared by Altis Architecture;*
  - *Drawing No. A115, Floor Plans, Revision C, dated July 2011 and prepared by Altis Architecture;*
  - *Drawing No. A203, Elevations and Sections, Revision B, dated July 2011 and prepared by Altis Architecture; and*
  - *Acoustic Report prepared by Renzo Tonin & Associates (Ref: TE191-07F02(Rev 0) Section 96 Letter.doc) dated 8 August 2011;*
2. Condition 49 of Schedule B be amended as follows:
  49. *Notwithstanding the interim use of the western atrium / terrace, due to its location in proximity to nearby residential premises, the noise attenuation measures for the western atrium / terrace recommended in the Acoustic Statement by Renzo Tonin & Associates titled ‘Wentworthville Leagues Club – Stage 2 Section 96’ (TE191-07F02 (rev 0)) and dated 8 August 2011 are to be implemented during the detailed design and construction of the atrium/terrace. Further, the maximum patronage of the terrace between midnight and 7.00am is not to exceed 20 persons.*
3. Condition 238a shall be inserted as follows: -
  - 238a. *A noise compliance report shall be submitted to Council prior to the issuing of the Occupation Certificate. The report shall state that the recommendations detailed in the Acoustical Assessment report prepared by Renzo Tonin & Associates (NSW) Pty Ltd (Ref: TE191-07F02(Rev 0) Section 96 Letter.doc) dated 8 August 2011 have been implemented, and confirm that the noise emissions from the premises complies with Council’s noise criteria specified in this consent.*
4. Condition 247 is amended to read: -
  247. *A Noise Compliance Report must be completed by a suitably qualified acoustical consultant within **3 months** from the commencement of operation of each relevant stage. The Noise Compliance Report must certify that all noise goals as outlined in the report*

*prepared by Renzo Tonin & Associates (NSW) Pty Ltd (Ref: TE191-01F05 (Rev 1) Acoustic Assessment Report.Doc) dated July 2009; as well as the Acoustic Statement prepared by Renzo Tonin & Associates (NSW) Pty Ltd (Ref: TE191-07F02(Rev 0) Section 96 Letter.doc) dated 8 August 2011 and subsequent noise reports concerning the mechanical plant and plant room have achieved the required goals. The Noise Compliance Report is required to be submitted to Council for assessment and comment.*

5. Condition 256a is inserted as follows: -

256a. *In accordance with the Acoustic Report prepared by Renzo Tonin & Associates (TE191-07F02(rev 0) Section 96 Letter.doc) dated 8 August 2011, the interim use of the western atrium/terrace shall be restricted to a maximum patronage of 20 persons between the hours of midnight and 7am. If this can not be achieved the area is to be closed to patrons between the hours of midnight and 7am. .*